

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUGHES: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-seventh day of the One Hundred Seventh Legislature, Second Session. Our chaplain for today is Senator McCollister. Please rise.

McCOLLISTER: Good morning, colleagues. Let us pray. God of many names, we come before you today asking for your guidance as we come together to discuss various issues that will impact the future of our great state. We remember the disaster that was the Exxon-Valdez, a spill that, a catastrophe that occurred 33 years ago today, spilling 11 million gallons of crude oil into the Prince William Sound. Let this tragic manmade disaster be a reminder of the fragility of our planet that we have been gifted. Lord, we pray for the guidance and bringing humanity together in order to take action to preserve the planet that we have been blessed to inhabit. Lord, we pray in your name. Amen.

HUGHES: Thank you, Senator McCollister. I recognize Senator Halloran for the Pledge of Allegiance.

HALLORAN: Please join with me in the pledge, please. 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.

HUGHES: Thank you, Senator Halloran. I call to order the forty-seventh 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.

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: Mr. President, your Committee on Judiciary reports LB921 and LB1010 both to General File with committee amendments attached. That's all I have this morning.

HUGHES: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda. Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

ASSISTANT CLERK: Mr. President, first bill this morning, LB1011 on Select File. I do have E&R amendments.

HUGHES: Senator McKinney for a motion.

McKINNEY: Mr. President, I move to adopt the E&R amendments to LB1011.

HUGHES: Colleagues, the motion before us is the adoption of E&R amendments to LB1110 [SIC--LB1011]. All those in favor say aye. All those opposed nay. E&R amendments are adopted. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Lathrop would move to amend with AM2110.

HUGHES: Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. And good morning, colleagues. Today is going to be a long day. Apparently, we've got to go till quite late tonight. And I am going to-- we're back on the mainline budget bill, and I will again resume my talk on the Department of Corrections and Corrections reform. I will have an amendment to this amendment momentarily. I wanted to refresh your recollection since it's been a couple of days and there appears to be more people on the floor than in some of my previous opportunities at the mike. Again, to take you back to where we started this conversation, Nebraska is in an overcrowded emergency. We're number one in the country in overcrowding, and we have discussed the Governor's proposal to build 1,500 beds to replace an 800-bed facility, and we have also talked about Corrections reform. I want to go back and talk for a moment during the introduction of this amendment. I want to talk about CJI and how they got here. So the CJI process, frankly, involved me looking for someone or an organization that has been into conservative states to work on overcrowding and prison and Corrections reform. The process involved contacting a conservative organization-- I'm not going to call them out by name, but a conservative organization to find out who was a leader in this area, who does a professional job when they come into the state, and that led me to CJI. CJI has been into many states and done a justice reinvestment initiative. And for those of you that weren't here when I explained this in the past, a justice reinvestment initiative is where an organization such as CJI comes into your state. They look at all your data to determine who is coming in, how long they're staying, who is diverted, how do they leave, and what are their circumstances when they leave the Department of Corrections? In this case, we brought in CJI to do the Justice Reinvestment Initiative. And you may have heard me say this before,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and I'll say it again. A Justice Reinvestment Initiative by definition means, by definition means that we are going to look at the sentences and the structure of sentences and look for opportunities to lower the average daily population at the Department of Corrections. That means we're going to look at sentencing reform. Sentencing reform is not a surprise that popped up during the CJI process, it is the point of the CJI process. And CJI came into the state at the invitation of the three branches of government. Myself and Senator Hilgers signed on behalf of the Legislature, the Governor signed, as well as the Chief Justice. And CJI has done a thorough job of examining several databases that we maintain in this state that tell us about our population. Tell us why we are going up. And what they have concluded broadly, broadly is that the number of people being incarcerated is actually going down while our average daily population goes up, which leads one to the obvious conclusion that the reason our population is going up is that individuals who are incarcerated are staying longer. The question that follows that obvious conclusion is why is that happening in Nebraska? The group that was assembled to serve on the task force, that included the Governor, the Chief Justice, myself. It also included Senator Geist and Senator McKinney, members of the court and it included prosecutors, law enforcement and at least one public defender from Douglas County. This group then broke up into-- well this group received the data in two different meetings that were held with the large groups, and that data is contained in the PowerPoint presentations. And those slides, you will find, colleagues, you will find those slides on the Judiciary Committee website. If you want to know the rationale behind the options that we will consider, the information you need to fully understand that is found in the Judiciary Committee website, where we have downloaded virtually every document that's relevant to our conversation on this topic. I would encourage you to look at that. What we learned is that we have problems with flat sentences. And by the way, everyone there, if you don't hear me say anything else, everyone there agreed that we need to prevent jam outs. So 95 percent of these people are coming back into our communities. And when they jam out, they come out accountable to no one, with no services, and they're more likely to get in trouble. If they come out on parole-- parole is the only mechanism for preventing jam outs. Parole is good. Jam outs are bad. When an individual, the 95 percent of them that will come out of the Department of Corrections, we want them to come out on parole. And why is that? Hopefully you're already answering this question because you've heard me give the explanation, but I'm going to do it again because there's more people on the floor than we've had, probably at any time since I started this. When an individual is placed on parole,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

they have to-- they become parole eligible and to be paroled, they have to be approved by the Parole Board. Three out of the five Parole Board members have to approve an eligible individual's parole. That means the individual has to have completed their clinical programming. They have to have not had misconducts. If they have failed to get out on parole, that's a consideration. If their victims come in and say he hasn't, or she hasn't been in prison long enough, that's a consideration. Ultimately, though, understand that whether someone gets parole or doesn't get parole, it's not automatic on your parole eligibility date. You still have to satisfy the Parole Board, appointed by the Governor, that you are a, a, a decent risk or a good risk for being out and returning to your community without being another person that returns because you've re-offended. Understand, being parole eligible is not the same thing as getting out on parole. We have 900 people who still are-- out of 5,500-- we have 900 people who are past their parole eligibility date and still in the Department of Corrections. When an individual is paroled, they generally have to have a plan, and they generally are accountable, or they are accountable to a parole officer. So what's that mean? A parole officer is going to require that an individual who is paroled fulfill the terms of their parole, which includes maintaining employment--

HUGHES: One minute.

LATHROP: --maintaining suitable housing. Did you say one minute?

HUGHES: One minute.

LATHROP: Maintaining suitable housing-- they may be drug tested randomly or frequently, they're subject-- they give up some of their civil rights, and so they're subject to being searched and stopped, and a parole officer can go into their house and doesn't need a warrant. In other words, it's a far superior manner of discharge than to have an individual simply jam out. But in Nebraska, we have a lot of people that are still jamming out. The solution to our overcrowding-- much of it is centered on incentivizing the inmate to parole out, to participate in programming and go out in what we know is the better alternative to jamming out, when one is not accountable to anyone in any manner.

HUGHES: Time, Senator.

LATHROP: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUGHES: Thank you, Senator Lathrop. Senator John Lowe would like to recognize Dr. John Jacobsen of Kearney, who is serving as the family physician of the day today on behalf of the Nebraska Academy of Family Physicians. Dr. Jacobsen, if you would please rise to be welcomed by your Nebraska Legislature. Debate is now open on AM2110. Mr. Clerk, please.

ASSISTANT CLERK: Mr. President, the first amendment I have to AM2110 is AM2222 from Senator Lathrop, but I understand he wishes to withdraw, and offer instead AM2465.

HUGHES: Without objection, so ordered.

ASSISTANT CLERK: In that case, Mr. President, Senator Lathrop, AM2465.

HUGHES: Senator Lathrop, you're welcome-- you're recognized to open on AM2465.

LATHROP: Thank you, Mr. President and colleagues. AM2465 is a bit of a cleanup from the Appropriations Committee. This has to do with, well, I'll have Senator-- I'll, I'll yield my time to Senator Stinner, who can explain the amendment, but this is simply a, a, a cleanup amendment, I'll describe it that way, for the Appropriations Committee. And as I've told you from the beginning, it is not my intention to frustrate the appropriations process, and this is an opportunity for the committee to clean up the appropriations bill before it advances to Final Reading. With that, I'll yield the balance of my time to Senator Stinner, who can more accurately describe the substance of AM2465. Thank you.

HUGHES: Senator Stinner, 9:10.

STINNER: Thank you, Mr. President. And thank you, Senator Lathrop. Many times, and almost consistently since I've been Chair of Appropriations, there's a cleanup in language, and that's what this amendment really is, is language, and some of the numbers that we didn't catch the first time. It comes down from Revisors, gets read in-- many times you have to read the bill three, four, five times and pick some of these items up. On the second page, there was an omission of about \$5 million transfer to the Governor's emergency cash fund, and that was in your budget information. That was for the, the levee for Peru. So that would insert that into it, otherwise, it's just really, just a cleanup, budgetary cleanup bill. So with that, I'd like your green vote. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUGHES: Thank you, Senator Stinner. Debate is now open on AM2465. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. Well, I think I'll probably vote green on the cleanup amendment. I just wanted to-- well, I appreciate Senator Lathrop's comments. I hope everybody listened. I think they were very clear and a good framework under which we should be thinking about and looking at these things. And I hope everybody took some of the time over the weekend, I know we've all been busy, to look through some of the things that are on the Judiciary website. I spent a lot of time last week talking about the quarterly census report from the Department of Corrections for the population, October through December of 2021. And what Senator Lathrop was just talking about struck me on from there, about number of inmates housed past their parole eligibility date is 968 as of the time of that census. Obviously, that's a average daily population census, which means it might be more than that some days, it might be less than that other days. But when you look at the length of time that individuals are held past their parole eligibility date, there's-- this is page 3 of that document, 146 of them are less than 6 months from their jam date, or I'm sorry, less than 6 months after their parole eligibility date. Then there's 6 months to a year, is about another 138. One to three years past their parole eligibility date, which means that's one to three years after they could be in the community on Corrections, being supervised by parole, getting a job, getting into community-based treatment facilities, getting a place to live, reconnecting with their family, doing all of those things that hopefully the programming in the Corrections has gotten them more prepared to do. And then this would be the next step. But rather, they're still sitting in the Department of Corrections causing some of that backlog in our, our availability of beds and availability of programming. That's 354 people 1 to 3 years after their parole eligibility date. And then 148 people are there for between 3 and 5 years after their parole eligibility date, and then another 124 people are there between 5 and 10 years after their parole eligibility date. And so this, as Senator Lathrop talked about, that's almost 1,000 people, 968 people are there past their parole eligibility date. And, as we've talked about, and Senator Lathrop handed out, the population constraints that we have-- we have a designed capacity of 3,643 individuals. We have an operational capacity of 4,554 individuals, and an average daily population of 5,548 individuals, which means we are about 1,000 people over our operational capacity, which is, is also the same number of people that are there past their parole eligibility date. So this is yet one more place where we can address people that we have, even

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

under our current sentencing guidelines, have determined could be eligible for release and, for whatever reason, are not being released because they haven't been able to finish their programming due to availability, because the Parole Board is not meeting with regularity, because we're not accurately administering the system. We have 1,000 people who are in custody after their parole eligibility date, which is close to, is very similar to the number which we are above our operational capacity. So we have people returning from parole for technical violations, we have people who are staying in custody for longer than their eligibility date for whatever reason, and this is one issue, one question we have--

WILLIAMS: One minute.

J. CAVANAUGH: Thank you, Mr. President. Part of what's being suggested in LB920, though, is creating a wider window of parole eligibility, which is, of course, as you can see from these numbers, 1,000 people, which is 20 percent of the whole prison population is parole eligible and not being released. So the suggestion in LB920 is that we increase parole eligibility, which means we can make sure that people have a more of an opportunity to be paroled, but it does not guarantee that they will be paroled. It means that they still have to complete the programming, that they still have to go in front of the Parole Board, as Senator Lathrop just talked about, and they still have to meet those requirements and make their case for why they should be released. And so this is a change in LB920 that is a modest change. It is a reasonable change. It is a logical change that puts us in a position to actually start to decrease some of these numbers of people who are incarcerated longer than we need them to be if they meet-- check all the boxes that we're asking them to, which is get into the programming, be-- have good behavior, have good reports, make progress.

WILLIAMS: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

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

FRIESEN: Thank you, Mr. President. I know Senator Lathrop is probably getting really tired about talking about his, his Judiciary bill, but if Senator Lathrop would yield to a question, we'll see once if we can--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: Senator Lathrop, would you yield?

FRIESEN: --check his knowledge about the budget.

LATHROP: Yes.

FRIESEN: Senator Lathrop, I know you've enjoyed talking about the Judiciary bill and things like that, but I want to focus a little bit more on the budget. And, and when you look at our budget going forward and you-- we've talked about ARPA in the past and, and now we're going to talk about our General Fund appropriations again. And when we look at all the dollars that are being put out the door of this year, do you think it's a, a responsible budget?

LATHROP: So are you asking about the budget or you asking about the ARPA dollars that we moved yesterday?

FRIESEN: Just talking the general picture of our appropriation of all funds this year.

LATHROP: I think-- you know, I've been here 12 years, and I have to tell you, Senator Friesen, I know you've served on Revenue Committee and Revenue has a pretty good eye on what's happening over in Appropriations and vice versa. I'm not-- I've never been really a money guy here at the Legislature. When you toil over in Judiciary Committee, it's a three-day committee, and mostly what you're talking about is policy relative to criminal law, civil law, probate law. And it-- and I have to tell you that I, I try to understand as best I can. I go to the budget briefings, but it's hard for me to have a full grasp. I can tell you that I've been around in years where there was no money for the floor. And I remember one year when Senator Abbie Cornett had a bill for like \$4,600 to help kids that have epileptic seizures in the classroom. And it didn't pass because it had an A bill. When I watch how much money we're dealing with this time, it is astonishing to me. And it makes it hard to say you don't make these reforms and we're buying into a billion dollar worth of prison building, right? Because it's funny money. It's, it's almost funny money as we go along, but I can't say it's not responsible under the circumstances.

FRIESEN: I mean that, that was the reason I picked on you is it's not your expertise here. You're, you're in Judiciary, but your vote is just as important as mine. And, and when we look at the, the bigger picture of how we've set up things and how the federal government has forced us to make some decisions here, I mean-- do you think there is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

a-- there could be a better plan going forward than what we have in front of us?

LATHROP: You know, Senator Clements and I have had this conversation. My concern about having it wait another year-- and I've heard you talk on this a number of times already. My concern about having it wait another year is it's only going to make the, the, the maneuvering for the money that goes on worse, and last a whole year, and bring into the process a bunch of new people who will replace a lot of people that are walking out the door who are thoughtful people, in my estimation. And it's not that I don't trust the next Legislature, but I don't know it's going to be any better, or a better circumstance a year from now than it is this year. And I know Senator Clements is desperate to have it done this year.

FRIESEN: So you're, you're, you're concerned it's going to be-- it could get worse?

LATHROP: Absolutely, I think it could get worse. And now people will have an entire year to, to angle and the summer will be spent--

WILLIAMS: One minute.

LATHROP: --and the interim will be spent trying to trade votes to get money for one's district, which I-- apparently has become the practice around here, but that's my concern.

FRIESEN: So is, is your goal in your filibuster here to not allow us to make changes to the budget in order-- I mean, is that-- in the end, the end result is--

LATHROP: No, no, it's not. And thanks for the question. No, it's not. The one thing I have a concern about is an amendment that would fund the prison because I think it is irresponsible for us to fund that prison until we decide what's the policy going to be going forward? Are we satisfied with the, with the prison population growing at 2.5 percent? And if that's the case, then we need to be talking about a billion dollars in prison building and not \$270 million.

FRIESEN: OK. Thank you, Senator Lathrop. So I, I look forward to having more debate on, on the budget and, and having more people weigh in--

WILLIAMS: Time, Senator.

FRIESEN: --on just exactly what we're doing. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: Thank you, Senator Friesen and Senator Lathrop. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good morning. I had a conversation yesterday with Senator Walz. She had showed me information to show that I had received something from the Department of Education on where the ARPA and the CARES money went. So I went back and reviewed my emails, and there was an email that was sent basically to Senator Stinner and my name was included, and I or my staff didn't pick it up to see it. I told Senator Walz I would apologize if, if I got that information, and I don't know that I can apologize because of what I received. It is such a general broad-brush explanation of where the money went. It doesn't help explain any of it. And, you know, it talks about-- they spent \$593 million in six different categories, and it's just a generalization where the money went. It has no specifics on what school it went to or any place that they spent it on, except generally, grants to LEAs-- \$491 million. OK? State flexibility funding, \$54 million; assistance in Norfolk Public Schools-- here's one, \$18 million; special education, \$17-18 million; nutrition emergency cost grants, \$7.5 million; and homeless children youth formula, \$3.6 million. So maybe that is the accounting that we're going to get. And so my apology is that I did not see the information, all right? I'm not apologizing for the poor way they presented it to me. Thank you.

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

McKINNEY: Thank you, Mr. President. I rise to continue the conversation about the prisons. And I'm not sure if anyone is aware of the data around the prisons, so I'll just go through the data to start the day. The population is up 21 percent over the last 10 years. Total admissions are down 21 percent since 2011. The length of stay for incarcerated individuals in prison custody has increased 38 percent in the last decade. Corrections' expenditures grew over 50 percent since 2011, to more than \$270 million in 2020. Recidivism rates have increased over time, with 30 percent of those released in 2018 returning to NDCS custody, up from 26 percent in 2008. Admissions, admissions have decreased 6 percent between 2011 and 2019. This is largely driven by a decrease in admissions of initial admits, whereas parole revocations are increasing. Nearly 60 percent of individuals being admitted on a new offense had no prior NDCS involvement. Admissions have increased for Native, for the Native population, and black individuals are largely overrepresented in admissions. While admissions, while admissions decrease statewide, admissions increased

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

in Douglas County, largely for person and drug offenses. More than half of initial admissions are for nonperson and nonsex offenses. Five of the top ten offenses at admissions are nonperson, nonsex offenses. More than half of initial admissions are for the lowest two felony classes-- felony IIIA and felony IV offenses. More than half of the felony IV initial admissions had no prior NDCS history. Probation admissions. Probation admissions are up 70 percent between 2011 and 2020. Thirty-seven percent are sent to prison for technical violations, largely driven by behavioral health needs and limited access to community-based alternatives. Black and Native populations are significantly overrepresented at nearly four times in a probation admissions cohort. Probation admissions are largely driven by Douglas County, where Douglas County represented a growing share of admissions compared to other counties. Time served. Minimum sentence length is up 25 percent, and that's pre-COVID. The frequency of mandatory minimums is up, but the median length of sentences has remained unchanged since 2013. The use of consecutive sentences is up 86, 86 percent, which are discretionary. Felony IIA and felony IV offense classes, which account for more than half of the admissions, are most likely to have consecutive sentences. Release mechanisms. Again, time served in NDCS is-- has increased 38 percent, while total time served in NDCS and jail is up 29 percent. Time served for sentences with mandatory minimums is up 42 percent. Time served for sentences released to parole is up 60 percent.

WILLIAMS: One minute.

McKINNEY: Time served for possession with intent to deliver drugs, up 42 percent, while time served for possession of a firearm by a, by a prohibited person has more than tripled. The per-- the percentage of cases granted parole has decreased. Parole grant rates have decreased in just three years from 78 percent in 2018, to 58 percent in 2020. And I just wanted to share this data so we got a good understanding of what's going on in our state. And I'll probably hop in again and say some more things. Again, we don't need to build a prison. We need to invest in people. Thank you.

WILLIAMS: Thank you, Senator McKinney. Senator Linehan, you're recognized.

LINEHAN: Good morning, Mr. President. Good morning, colleagues. I just have some questions on this because I did not look at this before we got here today. I don't know when it got filed, but so would-- I'm not sure who I should ask. I'm thinking I should probably ask Senator Stinner. Senator Stinner, would you yield for some questions, please?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: Senator Stinner, would you yield?

STINNER: Yes, I will.

LINEHAN: And I'm sorry, Senator Stinner, I didn't give you a heads up because I just actually got the-- I've had trouble with my electronics this morning, which wasn't my fault for a change. So on the amendment, the only-- most of this, if I'm reading it right, it says aid earmark. So it's typos, basically, isn't it, from like, on the first-- on line 4 of the amendment, it says, strike \$15,500,000 and insert \$15,580,000. But then when you look at the committee amendment, you have 580-- and is that what you say-- what do you call an earmark? When I look at a bill, what's the earmark?

STINNER: Earmark would be something that would be prescriptive in language.

LINEHAN: So it's just a, a money amount, right?

STINNER: Yes.

LINEHAN: So is there a list? Does the committee have-- if I wanted-- I said, can I have a list of all the earmarks, could the committee provide that?

STINNER: I, I think that Fiscal can, yes.

LINEHAN: OK. All right. And then on the second page of the amendment, line 14 through 17, it deals-- this is the only-- where I see language.

STINNER: Yeah, that was--

LINEHAN: So this is not a number deal. It's a--

STINNER: That was, that language was left out so that the tran-- this language makes it possible for us to transfer General Funds to the emergency funds, which will be used for Peru. The, the levee in Peru.

LINEHAN: I'm sorry, will be used for what? I'm sorry.

STINNER: It can be used-- it, it is designed to be used for the levee for Peru.

LINEHAN: So is it actually-- is there language-- and I'm sorry, again, I haven't had time to double, you know, cross-check. Is the language actually in, for the Peru levee, in the committee amendment?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

STINNER: I-- my presumption is, this puts it in the committee amendment. It is in the budget. As you looked at it, it was left out on the language basis, so.

LINEHAN: OK. All right. So now on just procedure here. So my understanding, I thought we were going to come today, and that's fine because it's the way our rules work. So Senator Lathrop, he had an amendment. But then he, he did this amendment for you, because the only way we can get to an amendment on the budget committee right now is to go through Senator Lathrop. Is that right?

STINNER: I'm sorry, I, I didn't hear the question.

LINEHAN: That's OK. Let me-- and maybe I didn't ask the question correctly. So we're on Select File. I'm just going through procedure. Actually, my grandsons and their class are going to be here today, so I'm going through procedures so-- and I'll probably punch in quite a few times, hoping that I'm on the floor speaking when they're here. So my question is, if I want to put an amendment on the committee amendment on the budget, on LB1040-- I can't read this-- LB1011, I have to go over and ask Senator Lathrop if he would accept-- pull one of his amendments so I could amend the bill?

STINNER: Yes.

LINEHAN: OK. So if we want to amend the bill, we go through Senator Lathrop.

STINNER: Yes.

LINEHAN: OK, thank you, Chairman Stinner. And thank you, Mr. President.

WILLIAMS: Thank you, Senator Linehan and Senator Stinner. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. And, Senator Linehan, just to be clear, it is not my intent to frustrate the Appropriations Committee process. My concern is with an amendment that would bring in the cost and appropriate money for the construction of the 1,500-bed prison proposed by the Governor. And I have had a number of people ask to have me substitute amendments, and if I start doing that it's going to become a problem. And so, other than trying to accommodate the Appropriations Committee, I have resisted attempts to substitute amendments, for whatever that's worth. I did want to take a moment to talk to you, colleagues, about where we're at today at the Department

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

of Corrections. So one of the things about LB920 and the whole CJI process is we, we call it a smart-on-crime approach, smart-on-crime approach, but it's about whether we're getting the best bang for our taxpayer dollar. So measured by outcomes in terms of do people get out and re-offend? Do they get out and become good citizens and integrate back into the community and into society? That is the measure. And what, what the CJI process does is look at, can we take money from all of the people that are spending all this time in there, find how long they need to be there, who needs to be there, and how are they released and take the savings and invest it in, in strategies that have proven to improve public safety. These same strategies improve safety inside the walls of the prison. So these strategies are also beneficial to those people, those men and women who I think are heroes in this state, who go into the Department of Corrections every day, punch the time clock and watch some people who we certainly want to see stay incarcerated. And so the question I think that's important is, if you don't want to do any of this, are you OK with the status quo? And I'd like to talk to you about the status quo today because it's not good. It's not enough to say, I don't want to do these things. I'm OK with where things are out right now because it's not great. It's not great. In the, in-- on the Department of Corrections' website, and by the way, I am not poking at Scott Frakes, and there are a lot of people that aren't really happy with Director Frakes. I think he's probably doing as good a job as he can under the circumstance. I'm going to say that on the record. I think that guy probably is doing as well as he can under the circumstance. We haven't done Corrections reform, and that's not his fault. And we're overcrowded, and that's not his fault either. Until we have an opportunity to do Corrections reform and engage in the discussion about how many people do we want to incarcerate, how long do we want them there, and how do we want them released, it's not his fault. So this problem is not going to improve until we do something about it. And we can't build our way out of it, so let's talk about the status quo. If we do nothing-- in the quarterly population summary issued by the Department of Corrections, which is found on the Judiciary Committee website or on the department's website, you're going to see that right now we're at 152.3 percent of design capacity. Well, well, well into an overcrowded emergency. But let's talk about--

WILLIAMS: One minute.

LATHROP: --some of the facilities. Community Corrections in Lincoln, the male facility-- maybe that's all of them. The Community Corrections Center in Lincoln is at 130 percent of design capacity. The Community Corrections Center, this is where people do work release

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and those kind of activities. They have an opportunity to go back into the community and begin the integration process. In Omaha, they're at 192 percent of design capacity. And Diagnostic and Evaluation Center-- colleagues, the Diagnostic and Evaluation Center is at 355.62 percent of design capacity. It's inhumane. It's inhumane what the conditions that people live in, and it should be a 30-day stop at D&E, but they're staying much longer than that because we don't have room to put them in.

WILLIAMS: Time, Senator.

LATHROP: Thank you, Senator Lathrop. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President, and good morning, colleagues. First and foremost, colleagues, this is, I believe, the first time I've gotten up to speak on the floor since yesterday morning when we passed my priority bill, which was LB1073, Senator Wayne's bill, that he allowed me to amend the emergency rental assistance acceptance into. First off, let me start by thanking all of those who worked with us, both in this body, in this building, and in the community. We had a strong base of advocates who worked on it. And the second thing I want to be clear is this is still an ongoing situation and we are still working on the exact details on what is going to happen. I was disappointed to not get the emergency clause. I had counted the votes well enough to know that that was unlikely, and I was not hinging everything on the emergency clause. Obviously, at the beginning of General File, I had hoped for that. But walking in yesterday morning, I kind of knew the realities. And I want to be very clear, that does not mean it's over. That does not mean we have no opportunities. That does not mean we stopped working. We've been getting some updates and I'll hopefully be-- have more specific materials to let people know soon. We've been in contact with various people in Department of Treasury and others to try and get a clear solution of what our outcomes there is. And so I think the vote yesterday, again, the vote yesterday might not matter at all if the Governor just chooses to listen to the public, and all of the nonprofits, and all of the nonadvocates, and all of the landlords who are asking on him to apply individually. But the vote yesterday might not disqualify Nebraska from all federal funds. It might just disqualify us from some of the federal funds. That's my current understanding. I hope we're going to get some more information on that soon. I can't necessarily provide numbers, but that's where my understanding was that the initial deadline potentially might just knock some off the top, but not take us all the way down to zero. So there's reason for optimism. There is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

reason for hope. We're going to keep working on this on a number of issues and a number of fronts. That being said, switching to LB1011, I do appreciate what has been going on and the discussions we've been having on Corrections, and the discussions we've been having on the focus and future of Nebraska. You know, this is something, obviously, that we've seen over a number of years-- capacity issues, release issues, all sorts of things, reentry issues have started with-- kind of, before I was here in the Legislature and appear to be continuing as I leave the Legislature. I think we've made some good progress. I've been proud of some of the work this body has done. I've been, you know, as others have talked about, I was coming in as, what ended up being LB605, was being developed by people the year I was running for my first election. And LB605 was one of the significant proposals my first year. I think we saw some of the outcomes and some of the, the changes that we made to the initial proposed copy of LB605, and I think they have proven to maybe have not made that its full potential in terms of providing a, a reduction in crowding and a reduction in capacity, or not reduction in capacity, sorry, just crowding. And I think that's something we really are going to need to look at in this body. Obviously, a lot of this discussion throughout this budget, and I really appreciate Senator Lathrop focusing in, you have been pretty clear this morning, is pretty laser focused on state prisons, state correctional institutions. Something to be mindful of, including the choices we make in this body influence the capacity, a whole number of institutions, including mental health facilities and our county jails. And those are kind of some of the areas that I've personally worked on and personally worked on throughout my tenure. And that is going to be something we're going to need to continue to--

WILLIAMS: One minute.

M. HANSEN: --focus on and need to continue prioritizing as well. So I bring all this up just to say, you know, kind of, in this context-- I know we're going to talk a lot more about Corrections, and specifically state prisons and state institutions, something this body should continue to be mindful of are our capacity at other facilities, either state-run, county-run, or private; and the choices we make on Corrections and sentencing that lead to those capacity issues and lead to those issues. With that, thank you, Mr. President.

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

ALBRECHT: Thank you, Mr. President. I do have a few questions. I understand it's very complicated in the appropriations and you're

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

going to miss a few things, but as I break down this particular amendment, I do have some questions. Would Senator Stinner please yield?

WILLIAMS: Senator Stinner, would you yield?

STINNER: Yes, I will.

ALBRECHT: OK. So I'm OK with the first one, with the Department of Veterans Affairs. The second one I, I see on LB1074, it's the Natural Resources Department for surface water is that-- I, I went over and visited a little bit with your staff, but there's actually a bill number on that one that I can reference, and the breakdown of how much they get. I'm looking at like \$77,000 for one person, does that sound right, on surface water? So that was--

STINNER: I am trying to figure out where you are at.

ALBRECHT: On page, on, on the first page--

STINNER: OK.

ALBRECHT: --line 11, we're looking at the Natural Resources. We're going to correct the salary and aid earmark to a particular person that's going to work with the surface water. I believe they were asking for \$50,000-- it looks like \$77,000 for that one. OK, and then we move down to the Game and Parks. I don't have a, a bill number to reference the Game and Parks. I don't know what that particular amount is for-- \$100,000? Do you know what it's earmarked for?

STINNER: I would have to look that up, but--

ALBRECHT: OK, I'd like to, I'd like to see that before I vote on it.

STINNER: OK.

ALBRECHT: And then can you explain on line 22, the Supreme Court, can you clarify the aid earmark? And it only says, equivalent to, and strike increase and, and, and insert increases on line 25. So from line 22-25.

STINNER: OK.

ALBRECHT: I'd like to--

STINNER: I will look both of those up and get back with you to make sure that I answer it correctly.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

ALBRECHT: OK. And then also on the-- if you can also do the State Department of Education, I'd certainly like to know what the bill number is on that one, and that's another \$100,000. I'd like to know what it's for, and a bill number to, to look at it before I make a decision on my vote. Thank you, sir.

STINNER: OK. Thank you.

ALBRECHT: Oh, I'm sorry. Can I use the rest of my time for Senator Slama if she'd like it?

WILLIAMS: Senator Slama, yielded 2:10.

SLAMA: Thank you, Mr. President. And thank you, Senator Albrecht. Good morning, colleagues. I just wanted to briefly rise and express my support for AM2465, and to answer a couple of Senator Linehan's questions about the mechanics of how this fund would operate. I could spend about an hour discussing the backstory on this off the mike, and I'm happy to go into the inside baseball on the process this has been. But long story short, Peru is protected by a federal levee. That federal levee was destroyed in the 2019 floods. Because of an oversight in paperwork, the Corps is now expecting some sort of cost share in the repair of this levee, which protects a town, a state college, all of their infrastructure. So this really is a big deal for a community along the Missouri River in my district. It would be added to the Governor's Emergency Fund and distributed by NEMA, as the Corps requested that local cost share, which is still being discussed this spring. Hopefully we can get a move on it around the time the budget adjustments go into effect. This was voted on and approved by the committee.

WILLIAMS: One minute.

SLAMA: Thank you, Mr. President. But it was accidentally left out of the final text that was brought to the floor. So I-- we all discovered that this week and very quickly addressed it. So I'd like to thank Senator Stinner for being nimble and including this, and for Senator Lathrop for allowing this cleanup amendment to be attached. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Slama and Senator Albrecht. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. So I wanted to keep talking about-- I appreciate what Senator Slama was just talking about. I thought that was interesting and I would be interested in more of

that. But going back to the criminal justice issue that we've been talking about, and again, I direct people to the Judiciary Committee's committee website where they put up a lot of these reports, and there is one called the CJI Overview Presentation for Senators, which I know many of you were at this presentation in the Judiciary Committee room a few months ago where the CJI group presented their findings. And it's a slide show. It's about 42 slides long, and they have a number of things which-- the very first ones, their objectives, which is to provide an overview of the Nebraska Justice Reinvestment Initiative and the Nebraska Justice Reinvestment Working Group process. So they did that and they talk about that they were-- the goal was to achieve-- reduce recidivism, improve public safety, and shift resources. So those are the goals which all of those things affect each other. Reducing recidivism improves public safety. We shift resources to reduce recidivism and to improve public safety. And when we improve public safety, we reduce recidivism and we don't have to spend as many resources on incarceration. So all those things feed into each other in sort of a virtuous cycle if we get on the right path. And that's the objective here, is to change the cycle of longer incarcerations with less productive outcomes. So the part I wanted to look at here is, I think, let's see, it is on page 13-- no, I'm sorry, 11, says while crime rates decrease, imprisonment, imprisonment rates climb. And so for the state of Nebraska, they have, going back to about 2010, where the crime rate was 3,000 per 100,000 residents. And then it goes to-- continues basically, well, peaks a little above 3,000 in 2012, and declines relatively steadily until it gets about-- below, looks like 2,340 in 2019, so it goes down about 700, 700 per 100,000 individuals. And at the same time, the imprisonment rate in 2012 was about 1,100 per-- I'm sorry, it was about 245 per 100,000. And even though the, the rate declines, the crime rate declines, the imprisonment rate goes up to 289. So we have essentially 700 fewer crimes per 100,000 people, but we're incarcerating, at this point, about 50 more people per 100,000. And as Senator Lathrop talked about and I think Senator McKinney talked about a little bit ago, that the issue is not the number of people going into our facilities is actually decreasing. The people entering the facility is decreasing, but the length of stay are, are increasing and the people returning for violations, technical violations continues to increase. So the prison population in that period, back when the crime rate was, as I just said, about 3,000 per 100,000, the prison population was 4,682 people. And now the crime rate has gone down to 2,340 per 100,000. The prison population is now 5,600, so it's gone up 1,000 people in that time, 20-- up 21 percent in the last ten years. So and then nearly every facility is over operating capacity and design capacity. We've

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

talked about that a lot. Everybody knows what that means. And then the next is, Corrections expenditures grew by 34 percent since 2011. So this is kind of why we're talking about this on the budget is the fact that we are making a monetary, a budgetary decision by-- in our, in our criminal justice policy.

WILLIAMS: One minute.

J. CAVANAUGH: Thank you, Mr. President. When we're deciding who to incarcerate, how long to incarcerate, when to let them out, those are budgetary questions as much as they are criminal justice questions. And so you can see on this slide, which is, I think, slide number 14, that we are spending \$272 million a year, up from \$179 million in 2011, even though crime rates have gone down. And we're talking about spending another 200 and some million, we have \$175 million in the budget sequestered for a new prison. And as Senator Lathrop just said, that will not be enough to meet the demand, the, the requirements of capacity, if we don't address it in another way. If we don't figure out-- solve this problem of why so many more people are being incarcerated despite the fact that crime rates are going down, why so many people are spending so much more time in custody, why people are getting returned from probation, why is the system-- from parole, why is the system not--

WILLIAMS: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

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

WALZ: Thank you, Mr. President. I just wanted to stand and continue the conversation about the commendable efforts that Senator Lathrop and others have made regarding prison reform and the importance of, of programming. I received a letter, and I don't know if anybody else did on the floor, but I received a letter from somebody. I'm not going to say the name, but I wanted to read the letter. She also included a personal statement, so I'm going to take some time this morning and just give you some information that's coming personally from somebody who's going through programming. She addresses this to the Nebraska Legislature, so I hope everybody takes a minute to pay attention. It's regarding prison reform, parole eligibility and community corrections. Dear Senator, my name is-- I am presently incarcerated at the Nebraska Correctional Center for Women. I have been incarcerated for 17 consecutive years as of this month. I am eligible for parole this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

August. Enclosed, you will find a list of completed programming, as well as current programming and mentoring teaching roles I assume within our facility. I have also enclosed a copy of the long form of my personal statement, which was developed while participating in the RISE program. This, of course, has been updated, and I will share that personal statement with you also. I am submitting these to you because I feel it's important that you are aware of the individuals within the Nebraska's correctional system who do change. People can be rehabilitated. We can be redeemed. We can be pro-social, proactive, productive citizens. We make living amends for the harm we have caused others, and we help others to do the same. I am a living example of this. Prison saved my life, programming saved my mind, and my soul was saved by the grace of God. I have not obtained a misconduct report since January 2016. I have volunteered my time to help others and to train service dogs for the communities of Nebraska and beyond. I seek to fulfill my duties, not for the approval of the Board of Parole nor yours, nor anyone else's for that matter. I do these things because it is the right thing to do in order that I may honor those I have harmed so deeply and so irreparably in order that I may live a life of purpose and aid others to find this as well. I support your efforts in prison reform and sentencing reform. I would like to assist you in any way I can. It is extremely difficult for individuals, it is extremely difficult for individuals to be released into Nebraska's society, much less accepted. I, however, believe in change. May God bless your efforts, and then she gives her name. So she also included a personal statement and a list of all of the programming that she went through. So I'm just going to take a minute and start with that. Again hello-- and she gives her name. I have over seven years experience as a legal aid at our local law library. During my incarceration, I maintained full-time employee-- employment and participated in and completed numerous programming opportunities. Presently, I am working full time as well as a part-time position at our facility. I have completed a two-year paralegal studies course through the Blackstone Career Institute, as well as an advanced paralegal course in civil litigation.

WILLIAMS: One minute.

WALZ: In addition, I am furthering my education by attending volunteer schooling through the ABE classes. I'm a mentor, peer facilitator through various programming opportunities in which I previously had graduated, which include Inner Circle, international peer support, as well as RISE and Prison Fellowship Academy. I volunteer by facilitating events, retreats and services through Water Walkers, Survivors Club and RISE Ambassadors, in addition to participating in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and instructing Dance to Be Free classes weekly. I feel having a balanced life and self-care is essential to being a healthy individual. Therefore, therefore, I attend yoga classes weekly, as well as having the privilege of maintaining the same mentor for the entirety of my sentence. And I'll stop here and I'll continue on when I get another chance. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Walz. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, I want to talk a little bit about some of the work that we've been doing in the Judiciary Committee for many years. And last week I talked about this a little bit, or maybe it was this week, it's all a blur now with the late nights. But in any case, in the last eight years that I've been on the Judiciary Committee, there's been a ton of effort that has been made to trying to boost up programs that provide alternatives to incarceration for folks that are nonviolent. And one of the things that's tough in Nebraska, is that we have all these different jurisdictions and different ways of doing things. Now on one hand, that's a good thing. And the fact that Lancaster County is very different than Scotts Bluff County, very different than some of the much smaller counties, even than Scotts Bluff across the state. And you need different approaches for different counties and different communities. And quite frankly, there's different resources that are available in certain counties and not available in other counties. And that's one of the reasons why I like LB920, because what that does, is it makes it so that we have some types of programs that are uniform in the different judicial districts, and ensures that there's funding and resources for those different alternatives to incarceration. That's been one of the biggest issues that we have faced is that, if you go and you're in Douglas County, there's oftentimes much different options and resources and tools that are made available to folks than when you're in Lancaster County, and particularly in some of the smaller counties. And as I discussed last week, one of the things that was most striking to me-- and I believe it was several years ago. I believe it was actually in the Education Committee, that a prosecutor came in, a deputy county attorney, actually, she may have been the county attorney, as I recall, came into committee and said, we don't have enough resources in our county for alternatives to incarceration, and we don't have enough resources in our county for mental health services as well. And so what they were faced with was their only option to get these folks help, to address their mental health needs, was to incarcerate them. And she said in some cases, we had a clear basis to do that. And in other cases, it was a bit of a stretch, but there was nothing else to do. And they felt as though they were in an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

ethical quandary because, one, they didn't feel like incarceration was what was needed and just for some of those individuals. But two, they also knew that if these people didn't get the help that they needed, that they would become a danger to the community, even though they did not feel that they were at that point in time. And so it was striking to me-- and this was, I think, three or four years ago, I'm trying to find the committee transcript in the bill. And once I do, I'll get up and I'll read from it here. But it was striking to me that we had prosecutors that did not feel comfortable with prosecuting these individuals, but knew that they would eventually be a risk to the community, but were in this in-between stage where they didn't know what to do, and they didn't know how to keep that individual safe and their community safe because there wasn't enough resources for them to be able to do that. They also knew that the jail was not a good place for somebody to get better and get the resources that they needed, even though there were limited resources available to those individuals if they were incarcerated.

WILLIAMS: One minute.

MORFELD: So colleagues, that is why some of the efforts and some of the policies in LB920 is so important. And that's why it's so important to invest on the front end with mental health, with alternatives to incarceration to ensure that folks who are struggling, folks who could be a danger to our community or to themselves but aren't yet, get the resources and the help that they need. And yes, have accountability. And that's why LB920 is so important, and that's why investing into mental health resources, into alternatives to incarceration are so important. And I'm going to talk about some of those different programs that have been proven to be successful in other states and actually lower the crime rates and increase public safety. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Morfeld. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. As I've mentioned multiple times, I would, I would no doubt be in favor of a prison if we were doing sentencing reform in a bright and smart way, and if we were doing programming to meet the, the inmates' needs and actually our communities' needs by getting them out of the-- out-- letting-- releasing them from prison as a safer, more complete person. So now I'm switching gears a little bit. I talk-- as, as most of you know, it's my last year in the Legislature. I've had two four-year terms; I'm term-limited out. And part of, part of what we do at the end of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

each-- at the end of our time here is that we, we have some time to talk and, and talk about our experiences here. I just-- I know I'm not going to have enough time, so what I've decided to do is talk a little bit about the positive things that I have experienced here in this, in this body and the gratitude that I have for this body. So I-- you're going to have to indulge me, I'm going through each of you. And first, I want to talk about, we're going to go in alphabetical order, my friend, Senator Aguilar. Senator Aguilar, it has been a privilege to work with you. You are a humble, sweet, kind man. You're the only person I know that could have beat our friend Dan Quick, and fill our hearts rapidly. You are an amazing person. You're a very bright person. You have a perspective that we all need on this floor. And I adore your wife, who's wonderful. Many of you have wives, if I forget to mention your wives, but I know that Senator Aguilar has a, a fireball for a wife, and I really enjoy her. So what I want to say to you, Senator Aguilar, that it has been an honor to serve the people of Nebraska with you. Thank you. Next in the line is Senator Albrecht. Senator Albrecht, I-- you're a tough, strong, tenacious woman and I admire that in you. You have a, you have a willingness to listen and you ask good questions. We haven't always agreed on things, but I've enjoyed knowing you and working with you on some issues together and finding common ground and you're an asset to this body, and I thank you for that. And besides that, you have great shoes. We have twin shoes on, so, so-- but I'm, I'm grateful, and it has been truly an honor to serve the people of Nebraska with you, Senator Albrecht. Thank you. Senator Blood. I'm just not going to have all this time that you're going to want me to do this, so while we're taking time, this is what I'm doing. Senator Blood, your tenacity in carrying the mantle of Mead has been incredible and so important. Your, your willingness to fight for military people and to make sure that they are represented in this body, and that, that their needs are addressed is exemplary. And I appreciate all of that effort that you continue to make, and I'm grateful to know you and to call you a friend. It's, it has been an honor to serve the people of Nebraska with you, Senator Blood. I appreciate it. OK, I'm coming back later. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Pansing Brooks. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. President. So I've been thinking about what Senator Lathrop said when he was up, and I know he's over here on the side engaged with the Speaker, but I would like to ask him a couple of questions. If somebody can tell him, I've just got a quick--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: Senator Lath-- Lathrop, would you yield?

LINEHAN: So as he's getting over to the microphone, I think-- and if he, he can hear me, what he said when I asked him when I was up previously, that the reason he has all these amendments on all the budget bills-- so therefore, we'll be here until 10:00 tonight on the budget bills if we go four hours on each one-- is because he's trying to protect, to make certain that nobody in the body, a senator, tries to actually appropriate the money that's been set aside for the prison. Is-- is that my-- is that-- did I understand you right, Senator Lathrop?

LATHROP: That would have been my primary purpose when I started this process, and I can't say that it hasn't grown since then, but it's certainly my primary purpose.

LINEHAN: So I talked to PRO and they said that they have not requested anybody in the body to do that. So, and I haven't heard anybody talking about doing that, so if we could, I don't know, somehow ensure you that that wouldn't happen, could we, maybe-- would you remove some of your amendments so other people could talk to some of the things maybe they want in the budget? Or we could take-- we wouldn't have to be here till midnight tonight, if we could assure you that that won't happen?

LATHROP: Well, I got to tell you, I got to tell you-- you and I had a conversation yesterday kind of about my philosophy, and I've watched how this place operates over four years, and I got a little trust issues, to start with. And I've also seen that the people that hold stuff up get what they want around here, and now I'm, now I'm more determined, now I am more determined to continue on the path I'm on because I'm not getting anywhere around here. And it doesn't matter how long I stand here and talk about one of the biggest problems facing the state and a solution I've been working on for four years, and particularly working on for nine months, and I can't get a dance partner. And what I get is a lot of happy talk--

LINEHAN: OK.

LATHROP: --and I'm not getting anywhere.

LINEHAN: OK, Senator Lathrop, thank you. I appreciate that. So I think that's a no. I got it. OK. I was just seeing if we could-- so the other thing and I, you don't have to respond, and I will look again, but I've heard Senator Cavanaugh get up and he's very sincere. I heard

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Senator Walz. Everybody that's been up this morning, I've listened. Senator Morfeld. I don't, I don't know how many of these amendments actually address-- I don't-- maybe I'm wrong, and you can correct me when you're up next time-- any of these amendments actually-- you're not asking for more money to address any of the things we're talking about, I don't think, and maybe I've missed an amendment, but I-- and I don't see that we're getting to a vote on any of the amendments. So I'm just confused. If we could-- and I understand the motion of this, and I, I too, understand being frustrated. And I haven't been here for 12 years, but I've been here for 6, and I understand not getting what you want and holding things up. And I'm not quite to that point yet, but I, I don't think there's really any effort-- and I would work with you to ensure that there is no effort in this body to appropriate the money. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Linehan. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. I wanted to kind of take a step back from some of the particulars of our criminal justice system and talk about how criminal justice systems in general are supposed to work, because this informs my thinking when I'm thinking about changes to the criminal justice system and helps me to kind of think through what I would like to inform those decisions. So there are sort of four goals or functions of a correctional or criminal justice system. I think we can all agree that the main thing we want out of a criminal justice system is less crime. And if that's sort of our guiding light, our, our star that we follow, there's sort of four subsets of how a criminal justice system is thought to work. One is that it has specific deterrence, so a criminal justice system is intended to find a person who transgresses the norms of society and prevent them from doing that further. That's called specific deterrence. There's general deterrence, which is to say we have a certain kind of behavior that we don't want to have happen in our society, and we're going to make it expensive in some way, difficult, whatever, for someone to do that. So we're deterring generally everyone from doing it. There's the punitive function, which is about punishment and vengeance. And then there's the rehabilitative function, which is about taking folks who have done some aberrant behavior and creating a sort of change of heart in them so that they won't do that again. So all of those functions are meant to prevent the breaking of a criminal code or the breaking of the societal norms which are codified in that criminal code. So ultimately, all are meant to prevent or deal with crime. So specific deterrence means that someone who is incarcerated cannot continue to commit crimes in society. The strength of that particular aspect of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

our criminal code is that if somebody is stealing apples from the corner store and then they are imprisoned, they cannot steal apples from the corner store. There are a couple of weaknesses with that aspect of the criminal justice system in that once they get out of their imprisonment, they can steal apples from the corner store again. Additionally, when they're in prison, crimes are continued to be committed within prison, so we see that with assaults on guards and different things like that. So it may take them out of the sort of circulation where you or I might encounter them. But it doesn't mean that citizens of our society don't encounter folks. So they would, they would be interacting with them within the prison. So then there's general deterrence. So the thing about general deterrence is that because a criminal code needs some sort of enforcement mechanism, it needs something to give it some teeth. We have the threat of prison or fines or something like that to say, you know, you-- it's not just that you can't--

WILLIAMS: One minute.

DeBOER: --do something, but that there's a reason you can't do something. And here's the consequences. That's good and bad. People do think twice when they pass a cop on the highway about the speed that they're going. But we know very well that-- I mean, all of us have had this experience where suddenly everyone's going slower on the highway and you're thinking, why is everyone going slower on the highway? And then you see the cop and then maybe two minutes later, everyone's going fast again. So general deterrence works to a point, but not entirely, because people aren't always thinking about consequences when they do things, they think about whether or not they're going to get caught. And they make judgments based on their own risk levels, whether or not they think they're going to get caught. So then there's punitive, and that's just kind of the vengeance, we're mad at people sort of aspect of things. I'm probably going to run out of time, so I'll get back on the mike.

WILLIAMS: Time, Senator.

DeBOER: Thank you, Mr. President.

WILLIAMS: Thank you, Senator DeBoer. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President and colleagues. I'd like to continue talking about the status quo. If we do nothing, let me give you the state of the state when it comes to our criminal justice system. Last

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

time I was on the mike, I was talking about the average daily population in each one of our many facilities that we operate, and I talked about D&E, Diagnostic and Evaluation Center, at 355 percent of design capacity. That means people sleep on the floor over at Diagnostic and Evaluation Center. Over at Lincoln Correctional Center, one of our bigger institutions, we are at 169 percent of design capacity. At Omaha Correctional Center-- that's down by the airport, for those of you that have never been there-- that's a lower custody level facility, we are at 195.7 percent of design capacity. And at the WEC center out in McCook-- by the way, the WEC center started out-- and I think this was a Ben Nelson idea, might not be a surprise since he was from McCook-- the Work Ethic Center [SIC]-- we call it WEC or Work Ethic Center [SIC]-- that was originally designed to be a place where we send people out there and someone would train them in a trade. And a long-- for a long time, my understanding is, at least, and Senator Hughes can talk about this if he cares to, the Work Ethic Center [SIC] had a relationship with Valmont and we were teaching people to be welders out there. That relationship ended, and now it's simply a place to house more men. That facility, which is a lower custody level, it's a barracks style-- you walk in and there, there are bunk beds all over the place. That place is now at 186 percent of design capacity. And much like Tecumseh, it was a good idea. People thought they wanted the jobs. The reality is, we ship people all the way out to the McCook area, to the Work Ethic Camp, and all they are is killing time and a long ways from family. So if you have family, driving all the way to the-- all the way to McCook to see somebody is, is a challenge. It's hard for inmates to be that far away from what is, for most of them, home in the eastern side of the state. In addition to the individuals housed at the Department of Corrections, we also have, as of the time of this report in December of 2021, 36 individuals who are confined to county jail in what we call the County Jail Prob-- Program. So when we got overcrowded, when we got overcrowded, we started to enter into contracts with some of the bigger county jails that had some capacity. So Lincoln County Jail has 23 as of the end of the year, Phelps County had 6, Platte County had 2, Dawson County had 4, and-- for a total of 36 individuals who are housed other than at the Department of Corrections. And you may think they appreciate that. The reality is, they don't. And you may not care about that, but while they're confined in a county jail, their-- their ability to be outside, to have movement, to do the things that, that they are allowed to do at the Department of Corrections and participate in programming is cut off or extremely limited. This sheet from the department, this quarterly report, also indicates the--

WILLIAMS: One minute.

LATHROP: --population by race, and I, and I think this is an important topic and, and perhaps you'll hear more about it today, but our population is 50 percent white. That, that does not match Nebraska's racial composition. And black individuals incarcerated at the Department of Corrections make up 28 percent of the population, many times more than the average population of black individuals in the state of Nebraska; Hispanic and Latino, 14 percent; American and Alaskan Native, 5 percent; and Asian, Pacific Islanders, and others. So the racial disparity at the Department of Corrections is also out of line for, or not in relationship to the overall population in the state. Of those individuals incarcerated--

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

M. HANSEN: Thank you, Mr. President. And good morning again, colleagues. I appreciate the work that everyone's doing, including Senator Lathrop. I think kind of the name and location and style of the Work Ethic Camp is interesting in the historical context of both what it was intended to be and probably what it has evolved into is important. Continuing on kind of some of the notions that I was talking earlier, we as a state-- and I am still working and we actually have an opportunity, hopefully, to discuss this later on the floor, of a bill I've brought that's been worked on and prioritized. In addition to just, kind of the raw correctional capacity in those issues-- as I've mentioned before, working at capacity issues throughout all of our systems and out all of our components, obviously, county jails, state-run hospitals, primarily the Lincoln and region-- Norfolk Regional Center, as well as any sort of private hospitals that can kind of take up some of the state burden of which there aren't very many. And I think all of these things are important because we kind of see, as Senator Lathrop was laying out, there's some catchalls, and there's some places where people just end up and they're not necessarily supposed to be there. Senator Lathrop has talked already about Diagnostic and Evaluation, the entry point to the State Department of Corrections, and perpetually one of the most crowded places in our system. I've had the opportunity to, to visit that facility. I've seen kind of the cots that people use, they call them boats. To me, they kind of looked like sleds for, you know, going down the sledding hill in winter and, you know, sleeping on the floor of a cafeteria because there's not rooms. And the reason, you know, that's full, is obviously, that's the entry point to the State Department of Corrections. When somebody has to take state custody,

usually a sheriff from whatever county they were convicted in is, you know, driving them to that facility and dropping them off there. And the state has to accept them there, but they don't necessarily have a place for them elsewhere, and that is why that is one of the bottlenecks and that place fills up. One of the other places we see perpetually is county jails in the sense of county jails are, of course, when somebody is picked up off the street, you know, an initial arrest, an arrest on a warrant, what have you-- that is the main place, or in many cases, the only place that they can be taken. And that, similarly, is just because it's the main place they can be taken, even if they ultimately are destined to or should go elsewhere, that's where another bottleneck forms. It's perpetually an issue we see in Lancaster County. I think Lancaster County has some interesting things, including the fact that we have so many of the state facilities between the Regional Center to the State Pen, CCC Lincoln and some of the other ones. We tend to be a city that people from throughout the state end up in for whatever reason. Whether they kind of come here on their own for a job or career, whether they come up, come here individually for healthcare, whether they are sent here to the Regional Center or whether they are sent here to Department of Corrections and ultimately released-- but anyway, people end up here. And then when the situation kind of continues, they often end up in the Lancaster County Jail. And I appreciate that Lancaster County has made some investments and has, you know, a good modern facility. But, you know, they are seeing an increased wait at the county jail. The other thing, and we've worked on this, is the county jail is obviously, people being held at the county jail, not because they've been sentenced to jail time, but instead because they are waiting for trial. And so pretrial detainees, in many cases, certainly innocent and not convicted or-- of the-- you know, innocent as in not yet convicted of the crime that they've been accused of, you know, you might not have a criminal record at all.

HUGHES: One minute.

M. HANSEN: But if they can't afford bail, they don't qualify for some other pretrial release, they are waiting. And that's its own bottleneck. And that's often its own bottleneck, not necessarily because there's a reason the court case needs to drag out longer. In many cases, especially somebody who is going pro se or is going to-- you know, is kind of a smaller infraction. There's not necessarily, you know, months of discovery and evidence and collection and [INAUDIBLE]. Instead, it's just simply waiting for an availability at the courthouse. And so we see a capacity issue there. It's kind of been my mindset that many times I think our criminal justice system

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

would be improved by a lot of increased capacity at a lot of these lower steps. So, you know, more courtrooms, more judges, you know, more both prosecutors and defense attorneys, maybe more space at health, you know, mental, mental healthcare facilities-- all of these places are places where we can really invest in some capacity just to get people--

HUGHES: Time, Senator.

M. HANSEN: Thank you, Mr. President.

HUGHES: Thank you, Senator Hansen. Senator John Cavanaugh, you're recognized, and this is your third opportunity.

J. CAVANAUGH: Thank you, Mr. President. So I appreciate everyone's conversation on this subject, and I, I really do think this is an important topic to talk-- spend a lot of time about and talking about what our priorities are, and Senator Matt Hansen talked about a lot of the things, the other places we could be investing. Senator Lathrop just handed out, or maybe a little bit ago handed out this packet that I have referred to a number of things in here myself. And I know others have, so I appreciate it. And you can see in here, I've referred, for the folks at home to everybody on the NDCS, Nebraska Department of Correctional Services, quarterly population summary, but we have a printout of it now. And so hopefully folks on the floor can make sure they get a chance to take a look at some of the things we've been talking about, which is-- this tells you how many people are in custody, what facilities they are, they are in, what their most serious offense they are, they are in for, how long are people there, how long past their parole eligibility date are they there? How many people are returning to custody as a result of parole violations, including technical and new law violations? The people-- what type of a release we're releasing people to, which I talked about last week. This is on page 4 of 8, but page 12 of the total handout. And we have people being released to post-release supervision, people who are passing away, people are released to parole, people are released to other jurisdictions, people doing a flat sentence and people mandatorily discharged. And as you heard Senator Lathrop talk about a few minutes ago, that 95 percent of the people that we have in the Department of Corrections are going to return to our communities. And so the question is what-- how do we want them to return? How do-- do we want to spend resources, invest in people to make sure that when people get out of custody that they are in a position, as strong a position as possible, to not re-offend? And making sure that they have the tools, be they mental health related tools, drug-- substance abuse

related tools, to not fall back into the old patterns, and make sure people are able to get jobs, get housing, and reconnect with their community. And so those are the types of things that if we focus on achieving that, we will get better outcomes, we will have less recidivism, we will need to incarcerate people less in the long run. So I think it's-- that's why it's important to look at all this data, this information and kind of take some time to digest that. I was looking through-- this is one I haven't looked at before, which is page-- starts on page 18, which is crime declines after JRI adopted. And it goes through several states, South Carolina, and it shows you where the JRI, Justice Reinvestment Initiative, was adopted and their crime rate declines after that; Georgia, crime rate declines; Oregon, crime rate declines; South Dakota, it looks like it's about flat after JRI. Mississippi was beginning to go up and then declines right after they adopt JRI. Same with Utah. And then, there's violent crime declines in five states after JRI adopted, which this begins on, maybe it's page 22, and that, you can see South Carolina, the crime rate declines after JRI is adopted and same in Georgia and then Oregon looks like it's about flat. And in South Dakota, you see the crime rate is rising and they adopt JRI and then it flattens out. Mississippi is about flat with maybe a small dip, and Utah, also flat. Maryland was beginning an uptick and then adopts JRI and looks like it's starts going down, but that's only in 2016, so there's not a lot of data there. And then Oklahoma, same as Maryland, which was adopted in 2017.

HUGHES: One minute.

J. CAVANAUGH: And there's a small dip beginning after the adoption in Oklahoma. And basically what the point of all that is, is that adopting smart on crime policies, justice reinvestment, which is investing in the things that we know decrease recidivism, help people out, decrease incarceration-- those have an effect, a positive effect on our, our budget and have an effect on the individuals who we are incarcerating, and it has an effect on crime that decreases crime and gets us to where we want to be. And that's the overall objective: less crime, which we achieve through less recidivism. We achieve that through making sure people are not in the position-- the things that we can control, which is addressing drug and alcohol, mental health issues, housing issues, instability-- those are all things, factors that can lead someone to commit a crime. And so we can--

HUGHES: Time, Senator.

J. CAVANAUGH: --address those things. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUGHES: Thank you, Senator McCollister [SIC]. Senator McKinney, you're recognized.

McKINNEY: Thank you, Mr. President. I rise to, you know, to kind of continue the conversation. And you know, I was sitting here thinking-- and there was a conversation about not pulling the money that is set aside for a prison. And I'm just wondering, OK, so, one, only one person so far, in a maybe has agreed to put a prison in their district. Two, we're not going to use \$175 million this year, so why is it set aside for a prison? We have all these individuals with these projects that we want to get off the ground. Everybody wants money across the state, and there's \$175 million that is not going to be utilized this year that we're just not going to use. I would advocate for taking that \$175 million and putting it to Offutt, putting it to the trail, wherever else, even a lake. I mean, we're not going to use \$175 million and nobody, only one person has offered to put-- well, he didn't offer, but kind of agreed to have a-- not agreed, but said he's open to it to put it in his district. And that district, just for clarity, is not between Lincoln and Omaha, where they want to put the prison. So if nobody between Lincoln and Omaha wants a prison, where are we going to put a prison? I think, you know, we're just wasting the usage of \$175 million that could go to developmental disabilities, that could go to SNAP, that could go to so many things that Nebraskans need. It could go to property tax relief. I'm just saying if we're not going to use \$175 million this year, and nobody between Omaha and Lincoln wants a prison in their district, that tells me we're not building a prison this year unless something miraculous changes over the next few weeks. Let's use the \$175 million. Let's take it out of wherever it's at and appropriate it to projects that it, it could be used for, for good purposes. Because what's the purpose of setting aside that much money, and we're not going to use it? Nobody wants a prison. I'm still waiting for somebody between Omaha and Lincoln to stand up and say, I want a prison in my district. It is yet to happen. So I don't know, it's just a suggestion that, you know, we all could huddle up and look at \$175 million and say, what can we do? There's 49 senators in here, I don't got the division on that, but we could all break it down, and all of our districts could get something because we're not using \$175 million this year, and nobody wants a prison in their district. If somebody between Omaha and Lincoln would stand up and say, I want a prison, please do it. If not, that's just an indication that nobody wants a prison. Building a prison isn't a smart idea anyway, because even if we were to build a prison, it would take years, which means we'll still be overcrowded, which is inhumane. And we'll have to build another one because the one that-- even if we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

decided to build one, would be full day one. So just a suggestion for those out there. If you have any suggestions on how could the state use \$175 million because nobody between Omaha and Lincoln wants a prison? Nobody between-- nobody--

HUGHES: One minute.

McKINNEY: --that represent a district between Omaha and Lincoln has stood up and said they want a prison yet, and we have all of these projects that need money. Senator Brandt want money for the small meat processors. Let's use it for something that could go a long way for Nebraskans. Thank you.

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

M. CAVANAUGH: Thank you, Mr. President. Mr. President, I did want to note that the speaker before Senator McKinney was Senator John Cavanaugh, not Senator McCollister. Although Senator McCollister would have looked-- probably been a lot younger then. Anyway, sorry. I rise-- I don't actually know what Senator Lathrop's amendment is. I haven't supported the budget, not because I don't appreciate all the work that everyone put into the budget. It's not meant to be a criticism of anybody's work and efforts. I do appreciate it. I especially appreciate our Fiscal Office. There's just things in this budget that I don't think reflect the values of what we should be doing with taxpayer dollars. And to the-- if Senator Lathrop were to pull his amendments and let other amendments come forward, that doesn't mean that I would let that happen. So I mean, Senator Lathrop has put up these amendments for a reason, and I appreciate that. And if he were to withdraw them, that doesn't mean that I would be standing for other things coming onto this. So I just wanted to make sure that people understood that there's, there's others waiting in the wings. So with that, I'll yield the remainder of my time to Senator Lathrop if he would like it.

HUGHES: Senator Lathrop, 3:35.

LATHROP: Well thank you, Mr. President. And, Senator Machaela Cavanaugh, thank you for that. In the handout, I know that I've dropped a lot of stuff on your desk. There's another one that you were provided with this morning. It, too, has the graph that I keep going back to. If you open that up to page ten, actually page nine, you will see sort of the Department of Corrections' dashboard. That dashboard tells you what's going on over at the Department of Corrections. It's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

on their-- on the department website, and the information we are talking about this morning, or that I've been talking about with respect to how are we doing today-- the state of the state at the Department of Corrections, if you will, is found on page nine and the-- and about four or five pages that follow it. So if you-- you're wondering where this is coming from, that's it. The one thing that I'd like to point out, and that's on page ten of the handout, is the number of people that are incarcerated for a drug offense. Believe me, I understand there's differences in drug offenses, right? You have people that may have been arrested and convicted of a Class IV felony for possession, and you have people that are distributing and manufacturing this stuff. So there's a big difference between some of them. But a lot of these people, a lot of these people over at the Department of Corrections are there on a Class IV felony drug offense. And you will see of our population at the Department of Corrections as of the time of this report, 770 of them, 770 out of the 5,500 were there on a drug offense. Now, we go back to the, the-- what I talked about before, which is, how's that "war on drugs" worked out for us? The reality, colleagues, is for somebody to end up at the Department on a drug offense-- county attorneys will tell you, most county attorneys, certainly in Douglas County, that somebody, to go down to the Department of Corrections on a drug offense, has to have been caught a number of times. Like generally, in Douglas County-- Don Kleine's the prosecutor-- if you get caught with a small quantity of a controlled substance, they'll try to put you on probation, put you in diversion. They'll try to do things, but when you show up for the third time, they're going to hit you with a felony and send you down to the Department of Corrections. And I say third time, it's flexible. It depends on the guy's story and--

HUGHES: One minute.

LATHROP: --and that sort of thing. So I'm not telling you he's got a hard and fast rule. But these people that are ending up at the Department of Corrections for a drug possession, they have an addiction, and we're trying to treat it down at the Department of Corrections. And a lot of the people that are clogging up the beds that we need for serious offenders are people that actually need to go into treatment. And not everybody is going to accept that treatment and not everybody is going to buy into the treatment program. But man, we are, we are trying to treat a medical issue, an epidemic in this country with addiction, we're trying to treat it by punishing people. And, and here's the, here's the irony of that: that when they get down to the Department, they have access to contraband. They can find drugs

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

down at the Department of Corrections. It's a huge issue in the community correction centers. And again, I'm not--

HUGHES: Time, Senator.

LATHROP: --faulting Scott Frakes. Thank you.

HUGHES: Thank you, Senator Lathrop. Senator McCollister, you're recognized.

McCOLLISTER: Good morning, Mr. President. Good morning, colleagues. First time I've spoken on this issue this morning. I think it's obvious to all that the elephant in the room is LB920. That's what we're talking about this morning. And I would offer to you is that I have a unique vantage point in this discussion. Most of you know, I worked for the Platte Institute, starting in 2009, ended up four years later. And the president of that organization-- I was the executive director-- was Pete Ricketts, Pete Ricketts, our current Governor. And my charge from the Governor was to engage scholars and find topics of interest that related to the national government, the state, and also local politics. So I'd engage these scholars and they would write reports that covered those particular topics. And the thing that then president Ricketts would tell me is yes, find good policy, write about good policy, not about politics. We're going to disregard politics. We're going to find good policy and write about that. And we covered a variety of topics-- taxation, we talked about metro area transit, we talked about education. So we covered a wide variety of topics. And of course, one of those issues back then was criminal justice reform. And we discussed that, that as well. And we talked about the Texas Public Policy Foundation and what they've discovered about criminal justice reform. So what's the situation now? CJI came into Nebraska, gave us 21 recommendations, and the parties-- the executive branch and the legislative branch-- agreed on 17 of those policies. We have four policies that they couldn't come to agreement on. So I would invite the Governor to engage in this process, talk about those four remaining topics that will actually bend the curve about our prison population, and we haven't done that. So I think the parties need to engage and we need to resolve this issue, and maybe we can move this legislative session forward. There's very little risk on what we're doing here. Thirty-five states have engaged with this same process and discovered that the system works. Even those four areas that we don't have agreement, engage with those areas and we can bend the curve on our prison population. Thank you, colleagues. I yield the balance of my time to Speaker Hilgers.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUGHES: Speaker Hilgers, 1:54.

HILGERS: Thank you, Mr. President. Thank you, Senator McCollister. I just want to make a couple of brief comments. I heard Senator Lathrop's comments a minute ago, and I just want to briefly respond. First, I think everyone should be under no illusions that the budget will go the full amount of time, whether it's on Select or Final or General, and there's nothing wrong with that. This is an important document that spends hundreds of millions of dollars, and whether it's on Senator Lathrop's amendments, or as Senator Machaela Cavanaugh mentioned, her amendments, I fully expect that we'll take the full amount of time, and that's OK. I think that's baked into the schedule. The second thing is, and I think Senator McCollister is right, that a lot of the discussion is on LB920. And I just want to make really clear that we should, for the good of the body and good of the state, try to find good policy solutions. And that should be the reason that animates our work. And if there is a compromise that can be had on LB920, I'm confident that this body working together will find one. But I want to make clear that that will happen if we all get together and work together, but it is not going to happen because someone is trying to take things hostage in the body or suggest that--

HUGHES: One minute.

HILGERS: --way you get things accomplished here is by slowing things down. I want to make really clear, if you slow things down, you're hurting the body. You're not gaining leverage over my process, you're not gaining leverage over the work that I do, and you're not forcing me to compromise with you on another issue. I'm not going to incentivize people to take time on the floor to just get what they want. We work together because it's the right thing to do. I've had some conversations with Senator Lathrop-- if there is a path on LB920 that he would be comfortable with, I hope that we can find it. It's not because anyone comes on the floor and threatens it. To the contrary, if you take time, the only person you're hurting, the only people you're hurting are the other members of the body, and the bills that they are bringing and are trying to get passed before day 60. Thank you, Mr. President.

HUGHES: Thank you, Speaker Hilgers. Senator Walz, you're recognized.

WALZ: Thank you. I just wanted to emphasize again the importance of prison reform and, and programming. When I sit in hearings and I listen to people testify, really I think that the testifiers that affect me the most are those that have the personal stories. So I want

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

to just continue with the, the letter that I received from a person who is presently incarcerated at NCCW, and this is part of her personal statement. She continues on and says: It would be nice to say that I've always been a prosocial, proactive citizen, but unfortunately this is not true. As a result, I have spent over 17 years learning how to become one. I have made very poor decisions that led to terrible mistakes, for which I am deeply remorseful. I now choose to live my life as a living amends to those I have harmed. I'm working toward becoming a person of sincerity and integrity by choosing to grow through therapy and programming participation. Throughout the last 17 years, I have learned that the worst thing a person has done does not need to be the last thing a person does. I strive to incorporate that in every activity involvement and to encourage others to do the same. As a child, I suffered abuse in various forms and did not seek help for those afflictions. I suffered from severe abandonment and rejection issues, as well as a compacted, complex trauma. As I began to mature, my in-- my issues matured into depression, anxiety and post-traumatic stress disorder that went untreated. I developed an addictive personality along with codependency issues. I never talked about the trauma I had suffered. And over time, I lost myself. As I went through the high school, my high school, my sense of self-worth had diminished to dangerous levels. I began to associate with individuals who did not have my best interest in mind. I sought only to appease the shame and hurt I felt inside, as well as escape from the reality I could not stand to live in. I never asked questions, had extreme poor boundaries, and no was not in my vocabulary. I lived a double life. To some, I was going to school and working while attempting to find a decent partner to start a life with, and to others I was a lost and wild girl who had few morals and down for whatever. I graduated high school and graduated to full-blown alcoholism by 2003. I opted for vocational college at this age, and graduated with a technical cert-- certificate as a certified nursing assistant. I went on to be nationally certified as the patient care technician and was licensed. Despite these successes and a subsequent enrollment in college in pursuit of a nursing degree, I continued to spiral. I developed a deep-- deeper tissue of codependency than I had in my younger years. My addiction worsened and my choice and association did too. By January 2005, I was out of control and not even going to class. I partied hard and lost any self-worth who-- self-worth I had left. During the destruction of my high school years and early college, college years, I made terrible decisions that would hurt my friends and family deeply. I became a master manipulator. Within a month, I was arrested along with two other individuals for a string of robberies that resulted in two

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

homicides and an attempted homicide. I had done irreparable, irreparable damage. I had selfishly placed myself in a situation with people that were not trusted. I had failed to stand up for what was right. I had failed to seek help. Instead, I took a man's life to protect my own. I was a coward and I had no one to blame but myself. It was at this point that I made a commitment to live my life as a living amends for the wrongs I'd committed. I pled guilty to second-degree murder and two courts-- counts of conspiracy to commit murder.

HUGHES: One minute.

WALZ: I was convicted and sentenced to 30 to 70 years in prison. I cannot change my past, however I-- however, since my incarceration, I have seized every opportunity to grow and change as an individual. As a result, I have participated [RECORDER MALFUNCTION] completed over 65 programs. These programs vary in subject matter from mental health programming, programming and substance abuse treatment, to programmings-- to programs regarding domestic abuse and self-betterment clubs. I have taken programs in positive approaches in communication and relationships and spiritual growth to victim impact, offender accountability, and employability skills. And I'm going to stop there and I'll push my button. I'll finish this up when I have another chance. Thank you, Mr. President.

HUGHES: Thank you, Senator Walz. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, I want to talk a little bit about what's happened in other states after JRI has been adopted. So I want to read from some of the statistics here. The Justice Reinvestment Initiative was launched by the Bureau of Justice Assistance to combat the nation's incarceration crisis. Since its inception in 2010, JRI has yielded sensible legislative reforms across the country designed to safely reduce the size of the prison population while protecting public safety. Now, more than a decade in, which is a great sample size at that point, here's a look at crime in relation to JRI efforts. Data is sourced from the BJS and FBI's UCR program. So, Mississippi 2014, since JRI was enacted in 2014, Mississippi's crime rate has decreased by 17 percent, while its arrest rate remained steady, although imprisonment rates increased by 6 percent, so crime has decreased in Mississippi since JRI. Utah, 2015, since JRI was enacted in 2015, Utah's crime rate has decreased by 26 percent, while its arrest rate has decreased by 19 percent and imprisonment rates have declined by 4 percent, a pretty clear decrease in crime and good, positive outcomes. The passage and implementation

of data-driven policies through JRI has not caused an increase in the trajectory of crime rate in the states that have gone through this process and adopted new policy as a result. In fact, in five of the eight states analyzed, violent crime declined after JRI. In addition, in Georgia, slight increases in violent crime were consistent with the national uptick in the years following JRI's passage. In the remaining two states, Oregon and South Dakota, violent crime rates were increasing prior to JRI and greatly outpacing the national average. However, after JRI, the state's trends shifted to align more closely with the national average. Notably, in spite of the trends, these two states remained at or below the national average in 2019. In the five years prior to JRI, the change in Oregon's violent crime rate was 10 percentage points higher than the national average, but in five years after the JRI, the change in Oregon's violent crime rate was only 8.5 percent points higher. In the five years prior to JRI, the change in South Dakota's violent crime rate was 32.5 percentage points higher than the national average, but in the five years after JRI, the change in South Dakota's crime rate was 26 points higher than the national average, so you saw overall decreases in those. Colleagues, I just want to point all of that out, and we've got some other states that I'll go through in a minute, because the data doesn't lie and the data is from reputable sources such as the FBI and some other federal sources. And the data clearly shows that adopting these types of policies that are in LB920 actually decrease crime rates, make our communities safer, and inject more funds and have policies that are more friendly towards ensuring that people get the help that they need, that they reduce their recidivism rates because they have those supports and all of that mental health needs taken care of that then keep our communities safe. And so these are data-driven results. The data does not lie. We need to look at a different approach in our state when it comes to criminal justice. We need to look at one that, yes, emphasizes accountability, but also public safety and also ensuring that people who need help get that help so that more people are not victimized and we have less victims, which also leads to less people committing crimes down the road, as well, because we also know that people that are victimized--

HUGHES: One minute.

MORFLED: --oftentimes face their own mental health crises that can sometimes lead to crime as well. And so we need to take a more holistic approach. And when I get on the mike, I'm going to talk about the success in some of the other states, and I also want to talk about some personal experiences with family members that have experienced addiction and other issues, issues that, quite frankly, are a public

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

safety concern, but not a public safety concern that will be solved by sending people to prison. Thank you.

HUGHES: Thank you, Senator Morfeld. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. I want to talk for a second about something different. I wanted to say thank you to the Appropriations Committee because there really are these much-needed provider rate increases that are given to many providers in this budget. I will, however, note that hospitals were not included in the Medicaid reimbursement rate incre-- increases, so I wanted to support the provider rates that are not invi-- included in this budget that we're working on right now, but also flag for my colleagues that, in the future, we're really going to have to look at giving consideration to increasing Medicaid provider rates for hospitals throughout the state. Hospitals and their employees have been on the front lines of the pandemics-- and the pandemic, and the hospitals are not immune from the same wage pressures that everyone else have been experiencing. Along with many care providers, hospitals have experienced a 15.6 percent increase in labor expenses. And on top of the rising staff expenses, their overall expenses are also increasing. The reimbursement rates that hospitals receive from serving Medicaid patients are less than the costs that the hospitals incur to provide care for these patients. I don't think everyone realizes that. So the reimbursement rate that they get for caring for Medicaid patients is actually less than the cost that they incur to provide care for these pa-- patients. So Nebraska hospitals experience negative margins of 17 percent for Medicaid with disproportionate share hospital payment, which is called the DSH payment, or 27 percent without the DSH payments, so 17 percent in some cases, 27 percent in other cases. So it's kind of concerning when you consider that 53 percent of Nebraska's critical access hospitals are facing financial stress. For example, MercyOne Hospital in Oakland closed last June because of financial reasons. So without increases in Medicaid reimbursement rates, hospitals will have to make difficult financial decisions, affecting services and impacting access to care throughout our state. And I think that, colleagues, is a situation that we should do everything we can to prevent in Nebraska. So this budget does include the second of the two-year, 2 percent provider rate inc-- increases put in place last session, but I would encourage us as a body to consider needed increases for hospitals as we move forward because this is one of those things where, as we get out into the rural parts of the states, it's increasingly difficult to keep hospitals open. And that's something that will-- I mean, if you don't have access to medical care in some parts of the state, it's going to be a further, I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

don't know, impetus to move into the more populated parts of the states. And I think that's-- we see the inefficiencies that happen from that. So one of the things that we can do to slow that down is to increase the provider rates for those hospitals, so I'm very strongly in support of the increases in provider rates that we do see in this budget. I'm very thankful to the Appropriations Committee for including those, because we saw all sorts of problems when those were low. But I do want us to think about in future years how we might include provider rate increases for the hospitals throughout our state. So, Mr. President, how much time do I have left?

HUGHES: One minute.

DeBOER: OK. Well, on my last time on the microphone, I was talking about criminal justice reforms. I guess I will come back to that on my third time since I don't have a lot of time now. Thank you, Mr. President.

HUGHES: Thank you, Senator DeBoer. Senator Moser would like to announce the following guests visiting the Legislature. We have 12 fourth-grade students from Immanuel Lutheran School in Columbus. They're seated in the north balcony. If you would please rise to be recognized by your Nebraska Legislature. Thank you for coming. Returning to debate. Senator Day, you're recognized.

DAY: Thank you, Mr. President. I would like to yield my time to Senator Lathrop.

HUGHES: Senator Lathrop, 4:50.

LATHROP: Thank you, Mr. President. I appreciate that. And, Senator Day, thank you for the time. I would like to-- I intended to stand up here and continue through sort of the state of the state, but I want to make sure that we don't leave a misimpression with the Speaker's comments. I know the difference between a threat and a course of action. I've been doing trial work for over 40 years and I don't-- I don't make threats and I'm not threatening in this circumstance. This is not a threat, and I haven't threatened or stood up here and said, by God, I'm going to get this or I'm going to do that. What I am is on a course of action that I think is now necessary given the way this place functions. You've heard me talk about the old days. Is this a violation of the norms? If we were-- if we were judging this course by the norms of 10 or 20 years ago, probably, but I don't see it a violation of the norms any longer. I have a point to make. I am frustrated and I'm not going to go into the how come and how did I get

here and what efforts that I made to try to get people engaged in this topic and get somebody to talk to and the people who have frustrated that process. I'm not doing that today. I'm not going into personal attacks and I'm not going to do that. But I'm going to continue on this course because, after being back here for four years, I've seen how the place works. I'm disappointed with that. I should be able to talk to my colleagues about a significant problem facing the state and a solution that many of us have spent a great deal of time coming up with and the merits of that, but too often the merits aren't enough to carry the day, at least that's been my experience. So I will continue on this course, and I'm happy to talk to somebody about trying to work through LB920 if-- if I find an interested party that can speak and-- and reach some kind of an agreement. Until then, I will talk on the budget bills and I will talk when LB920 is scheduled. Back to the state of the state of the Department of Corrections. In that handout that I gave you, and if you go to page ten of that handout, you'll see on there the three-year recidivism rate, and you'll notice and this is a Department of Corrections issued report, that our recidivism rate has gone up since 2010. By the way, when you measure recidivism, you do it looking three years back, so we won't have '21-- 2021 data until like 2024, then we'll know how many people over the last three years that were discharged in 2021 were returned to the Department of Corrections. So this represents the growth in our recidivism rate from 2010 to 2018, and we've grown from 27 percent to 30 percent. So our recidivism rate, colleagues, in the status quo is getting worse. That should be concerning. That should tell you that the status quo is not sufficient, that we could find a better way using our recidivism rate as a measure of public safety--

HUGHES: One minute.

LATHROP: --using it as a measure for our effectiveness in providing the rehabilitation at the Department of Corrections. We're going in the wrong direction, so we have fewer people, fewer people incarcerated, people are staying longer, and our outcomes are getting worse. That's the state of the state at the Department of Corrections. I do want to-- I do want to talk about Director Frakes for a moment. If you sat in the Judiciary Committee over the last four years, you will know that Senat-- Director Frakes and I have had some very difficult questions asked and answered in that committee. We don't simply accept what we're told when a department head comes into the Judiciary Committee, and in some cases I've made Senator-- or, pardon me, Director Frakes uncomfortable with the questions. But we understand the issues over at the department and I appreciate the work that he's trying to do over there.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUGHES: Time, Senator. Thank you, Senator Lathrop. Colleagues, Senator Slama would like to introduce 15 members associated with the Nebraska Public Power District. They are seated in the north balcony. If you would please rise to be recognized by your Nebraska Legislature. Thank you for coming. Returning to the debate. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I support Senator Lathrop's efforts and the underlying LB1011. And I am just going to say, before I yield my time to Senator Lathrop, that this is a problem that has been festering yet again here in Nebraska for decades. When I worked there several decades ago, there was overcrowding. There was an issue with the recidivism rate. There was issue with helping our inmates move forward to become better citizens so we can get them back out onto the streets. And I think it's depressing and sad that we've wasted taxpayer dollars to not make it better, a little bit better, but we are nowhere where we should be after decades of this issue. With that, I would yield any time I have left to Senator Lathrop.

HUGHES: Senator Lathrop, 4:05.

LATHROP: Thank you. And thank you, Senator Blood. I appreciate the time. I-- I was just a moment ago talking about Director Frakes. We've had sort of a-- a difficult relationship over in Judiciary Committee when he comes in to testify in support or in opposition to different bills that are there. We usually get off the topic and ask questions that-- that seem to be timely at the-- at the moment. Maybe it's staffing issues; maybe it's recidivism; it's certainly about overcrowding, programming and the like. That committee has-- has been very thoughtful, and I think now informed, and I appreciate that Director Frakes has no control over how many people come in or how long they stay. He's had very little to say about what the wage rate will be for his staff. I think he's tried diligently to keep COVID out of the place and to retain staff as well as he could. I also appreciate that ultimately he prevailed and that we have increased the rate of pay for our security staff, who-- who, I will tell you, we had a hearing back in September, incredible men and women dedicated to the call, dedicated to the call. They go into that place and they're working mandatory overtime. Most people would leave that position. A lot of people did, and those that remained are very, very dedicated people working in a difficult circumstance and, in many cases, working with very difficult people. So I appreciate the staff at the department, and-- and for the most part, I appreciate what Director Frakes has tried to do, given the limitations and the fact that he

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

can't control how many people come in there and how many people or how long they stay or the circumstances of their discharge. What we're trying to do today is to right the ship to establish a long-term course for criminal justice and for the department before we haul off and try to build 1,500 beds and call it mission accomplished. That's what we're here to talk about today. Back to the state of the state of the Department of Corrections, if you look on page 12 of the handout, I want to talk about how people leave the department for a moment and what the data shows. In that chart on page 12 of the handout, you will see it covers the discharge of individuals leaving the department in October, November, and December of 2021. That's the last report we have. In October of 2021, 72 individuals were released on parole, but 22 people jammed out; in November, 78 people were released on parole, 30 people jammed out; and in December, 65 people were released on parole and 33 jammed out. And what you see--

HUGHES: One minute.

LATHROP: --when you look at that data, step back and look at that data, is about a third of the people are leaving by jamming out. That is a failure of our system. They have not been properly incentivized to be in the column of those released to parole. Now I will acknowledge some of them, it doesn't matter what you do, they're not going to parole; perhaps they simply won't buy into the programming. But the vast majority of them, the vast majority of them, it is a function of not having a sentence structure that will incentivize a path to parole. And I-- and I-- at the risk of repeating myself, we don't want people to jam out. Those 30 people a month that are jamming out are accountable to no one. We don't know where they're going to live, what they're going to do, and what activities they're going to engage in--

HUGHES: Time, Senator.

LATHROP: --and they're accountable to no one. Thank you.

HUGHES: Thank you, Senator Lathrop. Senator Matt Hansen, you're recognized and this is your third opportunity.

M. HANSEN: All right. Thank you, Mr. President. Good morning again, colleagues. I appreciate that I got the opportunity to speak right after Senator Lathrop because I think the issue related to jam-outs is similar to what I've been talking about or trying to talk about for my first two times in the morning, and that's a little bit of just the overlapping layers of all these different systems that are connected

to each other and feed into each other just within kind of the state and county-level bureaucracy. And you see, I was talking-- about earlier about, you know, pretrial detainees sitting in county jail simply because they're waiting for a spot at the Regional Center or they're waiting for a day in court. There's nothing that-- we don't necessarily need them to be waiting. We need them to get their day in court or get their bed at the Regional Center. But instead, because of capacity issues and the wait times on both sides, you know, they have to be sitting in the county jail because they can't afford bail, they didn't qualify for some sort of other pretrial release like supervision or, you know, drug and alcohol monitoring. We see that on the other side, too, with people who are jamming out in the sense that they either can't or don't or won't, or whatever the system is, qualify for any sort of post-release supervision to help, you know, facilitate them back into the community. Sometimes throughout this time in my tenure, we've heard about, you know, we simply didn't have time for people to take drug and alcohol classes because we, like, didn't physically have, like, enough classroom space or some of those things, or enough teachers, and so it was on no fault of the individual who was wanting to, or potentially needed to, take some of this counseling in order to have them qualify. And I bring all this up to say that there's so many things in here that is, you know, a byproduct of kind of essentially bureaucracy, wait times, and other things that are catching people in some pretty lengthy waits for pretty much no benefit. It's not necessarily-- we're not rehabilitating them. We're not even directly punishing them other than just incarcerating them. Sometimes we're incarcerating them without necessarily having convicted them or sentenced them to that, which is a problem in its own right, and so on and so on and so on. And so you have all of these layers going on where there are individuals, you know, in the county jail waiting for a bed at the Regional Center; there are individuals who are in the county jail who are there for, you know-- you know, awaiting trial. They're individuals, you know, at D&E who are waiting for an actual bed at one of the other, you know, state-run correctional facilities. There are people-- all sorts of things. We even had a situation that I tried to improve where, you know, we had people waiting to get into the Regional Center and we had people waiting to get out of the Regional Center, and they were waiting both directions, and so that just only increased the backlog. We tried to increase some more supervision and-- sorry, not supervision, but more review and made it more easy-- quick-- made it easier to get in front of a judge quicker to have some of those cases move. But, I mean, we just see this kind of logjam of this bureaucracy over and over and over again. And it's one thing to look at and say,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

you know, OK, there's a wait time, OK, there's some things, you know, we maybe don't have full capacity, maybe we don't want to, you know, spend too much on-- on-- on the Regional Center. We don't want to spend too much. We don't want to give too many people pretrial release; you know, we have some reservations in that. And that's-- that's worth noting. But again, this is individuals who then get caught up in the system and kind of, you know, maybe more so than their own ultimate sentence. This is something we've seen where people will spend weeks and weeks and months or a year bouncing around between county jail, Regional Center, back and forth, back and forth, and ultimately they get sentenced to like a \$500 fine or-- or, you know, a week in jail and they get credit for their, you know, nine months of time served or something--

WILLIAMS: One minute.

M. HANSEN: --absurd like that. We've made some improvements in the last few years to really cut that down and make sure that that's not happening, that people aren't, because of just pure bureaucracy, waiting longer than their ultimate conviction. But that's the type of things that we have to look at, at all systems. And again, I'm talking largely at the non-state-run correctional institutions for the most part. I'm talking about, you know, the intersection of county jails and the regional centers and courts. And so we see that issue down there. We see all these issues at the state level, and there is so much we can do and continue to improve to just, even if nothing else, just make this more efficient and that we are not spending time kind of warehousing people for just like lack of clear procedure, not necessarily because it's their actual conviction or their actual punishment. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hansen. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Been anxiously awaiting my opportunity at the mike. I want to talk about the budget. I just want to, I guess, talk about things in general, and I think the public, you know, some people like watching this place and seeing what we do and they're interested in how our money is being spent. So I want to talk a little bit about TEEOSA, which is the state aid to schools. We're funding that at roughly, you know, in year or '23-24, it'll be \$1.084 billion, and there's 165 schools who really don't get hardly any of that. It all goes to about 80-some schools, and it's a major component of our budget. And so how it's decided is it's your needs of your school. It's a complicated formula and a lot of people say they don't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

understand it, but you don't really have to understand it, but you just have to see how it works. And it takes your needs of your school district minus the resources you have, and then that's what determines whether or not you get state aid. So an example out in-- in rural Nebraska, the unequalized schools, is their-- their needs are determined by comparing them to school districts of comparable size, ten above, ten below. They come up with a number that's called the needs part of the formula. It's maybe a little more complicated than that. But then they take the resources, which is your ability to raise taxes. And so you have a valuation that the county assessor puts on all real property and personal property in the state, and your valuation then determines your resources and your levy. We have a cap on that, so the most you can charge is \$1.05. So if you take \$1.05 times your-- your valuation, that is your ability to raise taxes. And then it gets-- you know, there's caps that we put in place. But basically, it says that if you have resources that exceeds your needs, then you don't get any state aid. And so in rural Nebraska, when ag land in the 2010 to 2014 area, when ag land values almost tripled and quadrupled, our valuations went up and our taxes in some cases-- the taxes, not the valuation, the taxes we paid tripled. And so the-- the state aid would say that we had the resources to tax out there, and so they did. And ag land, you know, is taxed at 75 percent of its real value. Our homes, residential and commercial buildings, all of that property that we have, is taxed at 100 percent just like everything else, like a residential home in the urban areas. And so what happened is the values in rural Nebraska exceeded-- just-- just just started jumping because of a number of things that happened in the ag economy. It was different scenarios. It was weather. It was exports. It was different scenarios that just, one after-- year after year, drove up the commodity prices, which drove up land prices. It didn't mean that the land was any better. It wasn't improved or anything. It's just its value increased. And at the same time, and during that time period, in-- in most areas of the state residential housing was extremely flat. It didn't go up really at all. It was having a-- a percent or two increase, and in a lot of rural communities the housing values actually dropped. And so as you know that school budgets always increase, their costs increase. Back in the day, their health insurance costs went up terribly much. I mean, it was-- I don't know what percent it increased, but they had huge budget increases just because of health insurance and-- and we are never going to see property taxes that don't go up because our--

WILLIAMS: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

FRIESEN: --our costs go up. And so all of that increase in education's costs, whether you can argue that they were needed or not, is beside the point. Those were shifted onto ag producers. And so my goal has always been to talk about the TEEOSA formula and get it so that each school some-- gets at least some state aid so the state at least can say that they are responsible to some extent for all children's education in this state, not just some of them. So as I get back on the mic, I'm going to talk a little bit further about how this process has worked and we're going to get into TIF financing, a lot of those other things that do affect the valuations that are able to be taxed and given to schools. Thank you, Mr. President.

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

M. CAVANAUGH: Thank you, Mr. President. Colleagues, I really appreciate the comments that Senator Friesen just made because I had this little slip of paper from last night that I wrote down "no state aid to rural schools," and I couldn't remember why I had written that down, and I think it was because of remarks Senator Friesen had made last night. So thank you for that, Senator Friesen, sparking my memory. And I do remember now why I-- I had that written down as something that I wanted to be sure to talk about on the budget, because I-- I understand where Senator Friesen is coming from in the no state aid to rural schools, which has been my objection all along to the property tax incentive pro-- pot of money, because apparently that is what we are viewing as our state aid to schools, so that we are not 47th or 48th in the country in state aid to schools because we do this property tax reimbursement, so that makes us not as low down. So it's kind of like this depends on how you look at it, half glass, half full. Maybe we are doing property tax relief and state aid; maybe we're doing neither. It's hard to tell. I know the intention behind that-- that program, and it's from the LB1107 back in 2020, was to create a pot of money to reimburse property owners for their contribution to education through their local property taxes. So it's a state reimbursement of a local tax that's intended to be reimbursing your portion or a portion of your contribution to education at a state level. So you need kind of an org chart for it. It is a valid argument in both directions, I believe. It's just complicated. So I agree that we don't do enough state aid to rural schools, and I also disagree because I would say that we do state aid to rural schools because we're doing it through Property Tax Relief Fund, but it's kind of just a mash-up. And I realize now that I'm talking about something that I learned from Senator Linehan to explain-- she has explained this to me many, many times, very patiently, because I didn't always quite

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

understand how this was acting as state aid. But I do see the method behind-- behind it. It's just we're kind of in murky waters, and so we do have state aid, but we also don't have state aid, but we have property tax relief. So really, you just have to kind of dig down deep into it, and maybe we all need a Venn diagram. So on LB1011, I heard the Speaker make a comment about that there's a lot of conversation about a bill, LB920, and I have-- and not quite so much about the budget. So I have my budget. LB11-- LB1011 is very marked up from our previous conversations, and I'm happy to talk at length about my concerns about the budget. I feel like I had already expressed them, and I didn't feel like it was that maybe I should be beating up on the Appropriations Committee and the Fiscal Office, which is of course not my intention at all because they've all worked very hard. But I do have issues with the budget. On page 23--

WILLIAMS: One minute.

M. CAVANAUGH: --thank you-- there's the-- wait, is it 23? Sorry, it's on page 24 at the top. Lines 3 through 7 is about the trails, and then-- I think it's the whole page-- there's a lot of money going into water recreation enhancement and then the canal. I had questions previously about the NU ag program, but I believe those were answered during the last round of debate. The Crime Lab, now that's something that I probably on my next turn will talk about because I do have some questions about what we're doing with the Crime Lab, especially as it pertains to testing of sexual assault kits and capacity and how this investment is going to impact that and what the-- what that actually is going to look like. So I have plenty to say, more than four hours' worth to say about the budget. I already said a lot of it.

WILLIAMS: Time, Senator.

M. CAVANAUGH: Thank you.

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

McCOLLISTER: Thank you, Mr. President, colleagues. This is my eighth legislative session and, boy, I have seen it all feast and famine. We had to cut a billion dollars out of the budget, and now we are floating in money. But of course, this year, the quintessential issue before us are the ARPA funds that we need to spend in a good way and LB920. The LB920 issue has been with us for at least one decade, if not longer. Governor Heineman blew the issue off when he was Governor, and unfortunately in Governor Ricketts' eight years, we've let the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

issue languish as well. When I go to legislative conferences for NCSL and CSG, I talk about the wonderful Nebraska system, the Nebraska one-house, nonpartisan Unicameral. We talk about the fact that we have no caucus system and the fact that we-- every bill gets a hearing in front of a committee. We have a unique and productive legislative session in the Legislature. But what we can't deal with, it seems like, are the issues between the legislative and the executive branch, and we have a conundrum right now with regard to LB920. We have a pathway. We truly have a pathway. Groups have come in here and has shown us the way to deal with this issue and have given us 21-- 21 recommendations that would bend the curve on our prison population. But we can only agree on 17. But I appeal to the Governor and to the Legislature to get together and deal with this problem finally. We can't continue to kick the can down the road. The Legislature needs to deal with this. And I know Pete Ricketts. As I told you earlier, I worked for him for four years, and I found Pete Ricketts to be an intelligent, good employer, read a balance sheet better than anybody else I've ever seen, honorable and keeps his word. And when I worked with him, we would deal with issues and problems, and we need to do that now. We need to appeal to our better angels and move this issue forward and put it on the front burner and come to a conclusion. We can't continue to push this issue onto other Legislatures that aren't as well prepared to deal with it as we are now. So I appeal to those involved with this issue. Let's come together and deal with it in some kind of positive way. Thank you, Mr. President.

WILLIAMS: Thank you, Senator McCollister. Senator Walz, you're recognized and this is your third opportunity.

WALZ: Thank you, Mr. President. Senator McCollister, you are right. There is a pathway. When I look again at the Nebraska Criminal Justice Reinvestment Working Group, I look at all of the experts that were included in, you know, putting together this report and coming up with the number of options that they did: the Office of the Governor, the Nebraska Department of Correctional Services, law enforcement roundtables, victim survivor roundtables, directly impacted persons and reentry service providers, Omaha Police Department, problem-solving courts. There is a pathway. You are absolutely right, Senator McCollister. I just want to continue on with the personal statement from the person who was incarcerated in the N-- let's see, Nebraska women's-- I can't remember what it's called-- correctional center. Just to continue on: I have taken correspondence courses, college courses, and have even graduated from a career institute with a paralegal certificate. I have volunteered in different areas through self-betterment clubs and organizations and served our community in

prison and community outside the prison. I'm now known as a dependable woman of integrity. I am responsible and punctual. I'm a leader in my community and strive to encourage others to seek positive change in their lives. I am trusted to facilitate events alongside other inmates and staff. I now realize that those-- that those who you associate with become your future. Therefore, I am purposeful in my approach to relationships with the world around me. I use this realization to be the person who others can associate with, and I know what it means and feels like to be productive, proactive, and pros-- and a prosocial person with bounds of healthy relationships. I am not perfect, but continue on a progressive path that serves my community. For the first time in my life, I am confident in the direction my life is heading. I am a principles-centered woman with-- who balances evaluated experiences with healthy reasoning to make decisions that are value based. Depression, anxiety, and trauma do not rule my decisions. Addiction is a reality in my life, but it is not the only reality. I have a new reality that is filled with hope. I have been able to work through my addiction and codependency issues to discover a life that is full of hope and possibilities. I am centered and focused on what benefits I can bring to the table at any organization. I am adaptable-- adaptable, teachable and understanding. I look forward to opportunities where I can help others and change the world for better. It may sound like a tall order, but I believe that changing the world starts with changing oneself. Changing oneself leads to changing those in close pro-- proximity. If you change just one person for the better, the world is already a better place. I will be an amazing asset to any organization because I have firsthand account and experience of reform, both personal and within the prison system. People are redeemable, restorable, and worthy of an opportunity. I am the proof-- proof of that. I hope to have the opportunity to assist in the efforts for social and justice reform through your organization. If given the opportunity, I will bring not only my personal experience, but over seven years' experience in legal research and issues with various areas of law and regarding the-- and regarding the prison system to prison advocacy teams. I will do so with consciousness and a victim-- and victim empathy. I am organized and a detailed hard worker who will strive for societies and reforms goal-- and reform goals. I will give my--

WILLIAMS: One minute.

WALZ: --remaining life to fulfill those endeavors with honor and respect for those who-- who I have harmed. Thank you for the opportunity to present myself to you today. I am confident that, if given an opportunity, I will sur-- surpass all your expectations with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

gratitude and change the world for better. I just wanted to take a minute again to read that personal story. I think that it really does prove just how important, when given a chance, how important programming and training and rehabilitation and just giving somebody hope that-- that they do have a future. So thank you, Mr. President.

WILLIAMS: Thank you, Senator Walz. Members, Senator Friesen would like to introduce 90 fourth graders from the Aurora Public Schools in Aurora. They are seated in the north balcony. Would you please rise and be recognized by your Nebraska Legislature. Returning to debate. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Mr. Pre-- thank you, Mr. President. So just as a reminder, on the last day of the Legislature, as we-- as we are seniors, we will get to stand to talk about some of the positive experiences. Unfortunately, we are not given all the time in the world, so I had talked to the Speaker about that and what I decided to do because I wanted to talk about the value and friendship that I have made with each of you here, my legislative colleagues. So I'm going to continue with that. I've already spoken about Senator Aguilar, Senator Albrecht and Senator Blood. I'm trying to do it when people are here. And my next one is Senator Arch. I want to talk about the fact that Senator Arch is always willing to work with all people, no matter what. Senator Arch cochaired the investigative committee with me, the YRTC committee. There were a lot of really good changes that happened with the youth rehabilitation centers there, and I'm so grateful for his vision on that, his thoughtful, considerate, nonpartisan leadership on that, and he has been a joy to work with and I'm-- I'm very grateful to Senator Arch. And it has been an honor to serve with you and to be able to serve the people of Nebraska with you. Thank you, Senator Arch, appreciate it. OK, the next one that I wanted to talk to-- about is Senator Bostelman. That's the next one and I told him not to leave, so I'm going to have to skip over. People are not following instructions. So, OK, Senator Brandt, you're here. Senator Brandt, I've had the great good fortune of-- of being on the Judiciary Committee with Senator Brandt. Senator Brandt listens and learns and studies really hard in an area that has not been his first-- first area or first-- first area of knowledge. And he has worked really hard in that committee to understand all the issues, understand some of the legal ramifications, to understand the technicalities of the law, and I truly appreciate his leadership. And because of his willingness to listen and to get up to speed on things, I've learned from him to do that as well, and he's convinced me to support the right to repair. So that's one of his issues that he's really cared about and, because of his willingness to listen to others, I've really worked to listen and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

understand that and changed my position on that. So Senator Brandt is a wonderful person. We love Sandra significantly. She's amazing, probably his best attribute, but that's OK. Anyway, Senator-- Senator Brandt, it really has been an honor to serve the people of Nebraska with you. Thank you, appreciate it. The next one, let's see, is-- oh, Senator Brewer, you're next, buddy. Oh, this is a hard one. Senator Brewer has a heart of gold. Not only is he a hero in our country, he is also a hero in the Legislature. From the beginning, Senator Brewer came into my office and we hit it off right away. He has an amazing ability to connect with people, to serve the state, to serve our country, to serve this whole world, and I feel so honored to have been able to do the Standing Bear story with him--

WILLIAMS: One minute.

PANSING BROOKS: --on the floor of the Legislature the day before the sesquicentennial, and it was really appropriate to do it then because it was honoring our First Peoples, who should be honored prior to our-- our big celebration. I've been able to work on Whiteclay with him, getting the-- the Native flags both up on the 14th Floor and in the Warner Chamber, getting the laws to align on the Bridge to Independence so those kids don't fall through the cracks in foster care, the missing and murdered Indigenous women, a military bill which is on workforce development. This guy cares about people. He cares so much about making sure that we can work together and find common ground, and he is a friend among all-- among all of us, a true friend and-- and-- and just truly one of the amazing hearts in this body. Thank you, Mr. President. Oh, and I wanted to say that it's been an honor, Senator Brewer, to serve the people of Nebraska with you. Thank you.

WILLIAMS: Thank you, Senator Pansing Brooks. Senator DeBoer, you're recognized and this is your third opportunity.

DeBOER: Thank you, Mr. President. Well, now it feels weird, because we've got the sentimental stuff, to go back to what we were talking about. Maybe I should start that. That seems like that might be kind of fun. So we were talking about the four different aspects of a criminal justice system, the specific deterrence, general deterrence, the punitive, and the rehabilitative, and the sort of strengths and weaknesses of these various aspects of a criminal justice system and then how they might be sort of in-- informational to us as we're thinking about what kind of reforms we will or won't make in our system. So a reminder that specific deterrence has to do with if someone is incarcerated, they're not able to be committing crimes,

except of course we know that they can within the prison. And again, the strength was that they-- they are sort of taken outside of the general population. The weaknesses are that they will get out. So as a specific deterrence, a criminal justice system only works insofar as the person is-- is in prison, and even then it doesn't actually stop them, necessarily. General deterrence, we were talking about how, if you've ever passed a speed trap, as they call them on the highway, you see that people are scared of speeding if they see a cop and maybe a little bit otherwise, but that there are plenty of people who will speed on the highway and there are plenty of people that will pass a speed trap, slow down when sort of they see the cop. I mean, it's so funny to me. People will be driving, they'll see this, the police officer, they'll slow down, but they've already passed at that point, like, it's kind of too late at that point. I just want to make that point too. But you can see that as a general deterrence effect, our criminal justice system, there is some general deterrence, but-- but there are limits to how general deterrence works. If people are risk averse, maybe it works a little better; if they are not, then maybe it works a little less well. And that's because people believe, oh, I won't get caught if I do this thing, right? So there's always that sort of aspect of how much people think they'll-- they'll really get caught. And-- and also we know that this is true, especially of younger folks. One of the things about juveniles that we know is that the way their brain chemistry works, they're influenced by reward but not so much by-- by punishments or threat of punishments. They just don't have the brain capacity yet that makes them think about negative future consequences. It's-- you know, my mom always says that teenagers think they're invincible. Well, that's sort of that aspect of things where you think about the good things and you can-- you think you can have all the good things, but you don't spend as much time thinking about the consequences that might be negative. The punitive aspect of things, I think that one of the strengths of this might be that victims' families might feel like that they've-- they sort of, I don't-- I don't know, had some recompense. But honestly, if you talk to any victim's family and you say, would you rather have someone be punished or would you rather have the thing not have been done, I think most of them would say I'd rather have had the thing not be done. When I was in law school, I wrote a paper on criminal justice systems--

WILLIAMS: One minute.

DeBOER: --that looked at this punitive aspect of things, and it was very interesting because it talked about moving the-- the sort of responsibility for punishing aberrant behavior to the government

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

because otherwise what you have is you have sort of blood feuds. So if Senator Lowe and I are the heads of competing families and one of his cousins does something to one of my cousins, then we're going to send one of my cousins over to do something to one of his uncles who's going to send something back, and it just sort of goes on and on and on. The idea is to put it in the government, who's faceless in terms of you can't go and, you know, get the government's uncle or something like that. And so that was the idea of moving that aspect of things away, into the government's hand. And then rehabilitation, I can't think of a downside to rehabilitation. It has long-term specific deterrence--

WILLIAMS: Time, Senator.

DeBOER: Thank you, Mr. President.

WILLIAMS: Thank you, Senator DeBoer. Senator Friesen, you're recognized and this is your third opportunity.

FRIESEN: Thank you, Mr. President. So colleagues, I-- I'd-- I'd urge you to look up in the balcony at those school kids up there. And I was talking about school funding, and there's a group of kids up there who the state really takes no part in helping fund their education. I think Senator Linehan has some grandkids up there, too, I believe, so, again, those are-- those are a group of kids who the state doesn't feel that they need to-- to help fund any part of their education. It's all funded at the local level. So I'm going to talk again about the TIF financing and how it impacts valuations. And when we look at Omaha and OPS schools, we have \$2 billion of excess value in TIF, and so that means that \$2 billion doesn't count as a resource when OPS has to calculate their needs minus their resources. And so again, in a equalized school like OPS, if you can take resources off the table, it gives them more state aid. In rural areas where they're nonequalized, you can do TIF projects. It's an economic development tool for small cities and-- but when you do a TIF project out there, since they're nonequalized, they don't receive any more or less state aid to education. It's-- it's-- it-- all it does is push that taxation back onto the existing property owners there, and it makes them pay more taxes. And so when you start using TIF financing for residential developments, for instance, you're now adding more kids to a school system, but you're not adding any more property tax value to that school system's budget. So you'll have kids that can enter kindergarten, graduate from there, and that residential home will still contribute no property taxes toward the education of that kid. And that's what's wrong with how we look at our system and how we fund

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

it. I will say that the state could care less about some of the kids in this state, and yet our constitution says that we're responsible for the free instruction of our K-12. We are for some of our kids, but we're not for all of them, and the state has chosen that this is the way we're going to do it. And so me, like Senator Lathrop, I've spent eight years now trying to change the TEEOSA formula. I have not gotten it changed. We have got schools like OPS and LPS and the bigger schools who constantly fight my efforts to give money to small schools. They adamantly object to giving one single dollar to nonequalized schools because it puts their funding in jeopardy when they take money out of the Treasury. So when we talk about education, caring about kids' education, that's a lie. All we care about is our money. You keep giving us our money, we'll keep running our failing schools that OPS has. We have an 80 percent graduation rate. Some places we're sending kids out that can't read, and we continue to do that. And so we don't want to address our education system. We don't want to address that we're 49th in the country in how we fund K-12. And we can talk about the LB1107, the refundable tax credits. That's the only method of property tax relief that I've been able to work on to get through in this body. And at some point after I'm gone, I'm hoping that somebody in Education can take over and address our TEEOSA formula. It needs to be redone, and we have enough money now set aside that it could be redone.

WILLIAMS: One minute.

FRIESEN: But I just want to impress upon everyone that the state should be responsible for every student's education costs as much as-- you know, as-- as fair as possible. We're always going to have equalization needs. I'm not saying that I want to take money away from anyone, but I think we have the resources set aside. LB1107 credits are a little bit cumbersome to use. They're working. People are liking it. But it could be done a lot simpler if we would just do it in how we fund our K-12. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Friesen. Senator Machaela Cavanaugh, you're recognized and this is your third opportunity.

M. CAVANAUGH: Thank you, Mr. President. I would like to yield my time to Senator Linehan.

WILLIAMS: Senator Linehan, you're yield-- yielded 4:55.

LINEHAN: Thank you, Mr. President, and thank you very much, Senator Machaela Cavanaugh. Senator Cavanaugh yielded me some time so I could

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

talk about some people that are visiting us today in the north balcony, and I'd like to start with the teachers, if they would stand up. The teachers, they're from Aurora Public School, and I was with this group earlier today and the Governor made clear that they were all supposed to thank their teachers for bringing them today. Then there's some oth-- other adults, I think, with these young people. I don't know if they're up there. Are there other parents that are with these young people? Like to thank them and the classmates. I-- I would like you to note-- this is the first thing I noticed this morning when I saw this group-- is the number of kids, 90, I think you said, and the fact that those 90 kids behave well enough that there is less than a 10:1 ratio up, there and when you're running all over a Capitol and driving from Aurora, I think that's pretty impressive. So to all the classmates, thank you for being so well behaved. And then three very special people up there, Jack and Mitch Linehan, if they'd stand up, are my grandsons, and probably the most special person-- no, you are the most special, but their mom is up there, I think, Alexis. She's here somewhere. And Alexis has-- she's married to my son, Patrick, who is deployed right now at the border in Texas. He's in the Nebraska National Guard. Before that, he was in the Marines. And I can't remember because Alexis and Patrick have four children. The first three are like within three years, and when the twins were born, Patrick was not deployed but he was, I think, somewhere in the mountains in northwest United States. And he had been promised that you can go, because even though your wife's going to have a baby, we fly-- we fly the Ospreys, so don't worry, we can get you home. Well, what they didn't plan on, there was forest fires, so they couldn't get him home, so he had to get commercial all the way, but he got there in time to see his grandsons [SIC] born. And they have big sister, Annie, who is 11 and they have a little brother, Lucas, and I want to thank the twins and their mom for doing such a great job of taking care of each other when their dad's away. Thank you. Now you get to go eat lunch. See, it wasn't as boring as you thought it would be. I yield my time back to the President.

WILLIAMS: Thank you, Senator Linehan. Mr. Clerk, for items.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Education reports LR335 to the full Legislature for further consideration. Amendments to be printed: Senator Matt Hansen to LB919; Senator Day to LB852; Senator Friesen to LB1014; Senator Brewer to LB512. Name adds: Senator Flood to LB1241. And finally, a priority motion, Senator Linehan would move to recess until 1:00 p.m.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: Members, you've heard the motion to recess until 1:00 p.m. All those in favor say aye. Opposed say nay. We are in recess.

[RECESS]

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

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

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

ASSISTANT CLERK: Not at this time.

HUGHES: Thank you, Mr. Clerk. We will proceed to the first item on the afternoon's agenda. Mr. Clerk.

ASSISTANT CLERK: Mr. President, when the body recessed for lunch, we were considering a Lathrop amendment to the Lathrop amendment, but I now have a priority motion. Senator John Cavanaugh would move to bracket the bill until March 25.

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

J. CAVANAUGH: Thank you, Mr. President. Senator John Cavanaugh. Thank you. Colleagues, I rise in support of AM24-- AM2465, but I-- we've been having this conversation about LB920 and about the CJI and Senator Lathrop, I think, has done a Herculean effort of explaining the process, the project, the problem to all of us and laying out the solution. And so I wanted to make sure that I had a little bit of time here to kind of just go through the proposals that are in LB920. Senator Lathrop has done that, but I was walking around the floor and I was talking to quite a few people-- colleagues who just didn't really know what was in it. So Senator Lathrop has handed out this handout with a chart on the front. It's 27 pages long, but just on page two, it says LB920. And then there's working group consensus items, there's working group nonconsensus items, and then there are things not included in LB920. And so I just wanted to make sure we had some time to kind of ruminate on these items and so I'll kind of go quickly through consensus items because most people I talked to said they were in support of the consensus items. But it's important to get the whole picture to talk about all of the items together. So we've have expanding problem-solving courts, which I think generally

everybody understands. But just to refresh your recollection, problem-solving courts are drug court, young adult court, veterans court, and then we have DUI court, mental health court. These are courts that are designed to help people deal with a specific issue that led to their offense. So for drug court, people with drug issues that led to either a possession offense or a-- maybe a theft offense or some other lower-level felony. They get into this court, they plead guilty preadmission to the court and then before sentencing, they suspend sentencing for a period of time for a person to engage in the programming of the, the problem-solving court. And then if they successfully complete all the programming they get to withdraw the plea and not have the conviction on their record. So it is a good system, helps people maintain a clean record. It helps people stay out of custody and it gets people into the help and services that they need so this is expanding that. Making court probation space available for access to behavioral health. Basically, that is to say that we need-- well, behavioral telehealth. That is to say a space where people can come in and meet with a mental health counselor and still enjoy the privacy, the privilege of a private conversation. And by privilege, I mean actually having it private so it is a privileged conversation in terms of a medical process. This next one creates second-degree and third-degree burglary for nondwelling/unoccupied dwellings. That is on page 13. This one I marked out which page it was on of the committee amendment. I thought it might be good for people to look at. And I haven't talked about this before, but ultimately what we have right now in our statute is one level of burglary offense, which means if somebody breaks into a dwelling, a building, a structure that-- to, to commit a-- to steal something of value or to commit a felony therein, that is burglary. So one example is somebody breaks into an abandoned property to take something of value. That's a burglary. And by breaking, we mean removing any impediment, opening a door; counts as a burglary. And there-- we can all agree there is a distinction between breaking into an unoccupied dwelling or unoccupied building or an abandoned building and breaking into a home when somebody's sleeping at night. When you think of burglary, you think of burglarizing homes. So this bifurcates those two, keeps the current standard on those more serious ones, creates a lower threshold on that, that burglary. That's a consensus item. Limits the use of prior theft convictions to enhancement to theft to a felony for ten years. What this means is if you have-- a, a theft offense is a felony when you get to a third offense. So you have to have two prior convictions for theft and then the third offense can be charged as a felony. So right now, that is over the whole period of your life. I have seen it where a person had a shoplifting in 1980, one in 1997, and then one in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

2012 and that one in 2012 was charged as a felony. Under this statute, this change, that would not be-- that that, that person would still be charged with a misdemeanor because it wouldn't be enhanceable. We have these sort of lookback periods is what we call it for offenses like DUIs. So DUI, we have enhanceability and that is a 15-year lookback period for those. And so that's saying if you get a first-offense DUI and then you get another one in 14 years, it's a second offense, but if you get it in 16 years, it's another first offense. So this is not something new to our statutes. This is common sense sort of thing and it, of course, is in the consensus. Require sentencing court to provide notice of process to set aside convictions; makes perfect sense. We just noti-- make sure that everybody gets notified of the process to go through to get the civil-- not get it-- not get a, a, a pardon or anything like that. This is just restoring the civil rights that are associated or limited by a conviction with a set aside. Create a pilot project to assist-- hire more assistant probation officers; self-explanatory. Create a pilot project for probation incentive program. I think that's self-explanatory too. Apply partial payments made by defendants to restitution before fines and courts. So this is one-- I think Senator DeBoer talked about this a little bit before lunch. Basically, when-- they're, they're court fines and fees that are associated with any penalty or most penalties and sometimes there's restitution, including in theft offenses or damage to properties. This would say we would apply that money, those monies that are paid into the court to that restitution to make the victim whole before we pay the court fees and fines out of it. Prohibit pretrial diversion guidelines from categorically excluding Class IV felonies for people without a previous felony conviction or completing diversion program. So what this is saying is we are, we're saying that you cannot specifically exclude someone from pretrial diversion on a felony offense, that they can make, I guess, case-by-case guidelines. But of course, you can't exclude somebody with a prior felony conviction. Require improved record keeping for NDCS and DHHS related to suspending/restarting Medicaid for existing inmates. And this one is-- takes a little bit of explaining. So basically, when somebody goes into custody, if they have Medicaid, it automatically gets suspended and then they become eligible to get Medicaid again once they get out of custody. I actually have a bill, LB921, that was just-- was reported out of committee that would require us to facilitate those individuals reapplying for Medicaid when they get out. So it's not saying that we're giving Medicaid to anybody-- expanding qualifications or anything like that. It is merely saying those people who are already qualified for Medicaid, we are making sure when they leave the Department of Corrections, they sign up. They

have accurately and adequately filled out the forms to make sure that they are eligible for Medicaid. And what that does is gets these people the services that they're entitled to and those services allow them to get drug and alcohol treatment, residential beds for treatment, medical treatment, get their medications. So if somebody has a mental health issue, they can get their, their meds and we connect them with those services before-- as they walk out the door because that may be the last time-- if they're jamming out in particular, that may be the last time we get to-- we're having any contact with them and the more we could-- support we can give people when they walk out the door, the less likely they're going to be to re-offend. And so that is why getting people access to Medicaid when they're leaving custody is an important part of this-- solving this problem of over-- overcrowding in our prison system of recidivism. So that's an important one. Let's see, increasing student loan assistance for people who devote a majority of their practice of serving community supervised population. I think that one is self-explanatory. Modernizing parole supervision practices to include assessment of responsive-- responsivity factors. Well, that one I might not be able to have time to explain right now so somebody else might have to get on and talk about that. Make offenders, offenders eligible for parole no less than two years before their mandatory discharge date. So what this is-- this is one we've talked about a lot, the importance of create--

HUGHES: One minute.

J. CAVANAUGH: --thank you, Mr. President-- creating a distinction, a difference between the top number and the bottom number-- and I guess ten minutes wasn't enough so I'll push my light again-- distinction between the top number and the bottom number to create a window of eligibility, not a mandatory release, not a obligation of the state to, to release people, but to create an opportunity for people to be placed on community-based supervision as a step down. And so this creates a two years, for anybody who doesn't have it, to get into parole, to be parole eligible, to make the case to the Parole Board that they have done all of the treatment and programs available in custody, that they are ready for the community-based corrections portion of their, their program, and then they can make that case to the Parole Board and the Parole Board can make the determination based on that person's record and that person's particular situation to determine whether or not they are deserving and should be released into the community for community-based corrections.

HUGHES: Time, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

J. CAVANAUGH: Thank you, Mr. President.

HUGHES: Thank you, good Senator John Cavanaugh. Senator Moser, you're recognized.

MOSER: Good afternoon, colleagues, and thank you, Mr. President. You know, there are some really smart people in this body and normally I listen and I, I learn from my colleagues, but talking about judicial reform at the same time, opposing improving the physical plant of the prisons are not congruent. We can't build beds fast enough to house all the inmates that we're going to have. Maybe I would stipulate to that, but the judicial reforms are not going to do it either. It's going to take both. And we had a situation last session where we had a judicial reform bill and it got down toward the end and the deal fell apart and we got nothing done. And that's where we're headed right now. I think we're headed to the cliff again. And are we going to keep pulling up on the nose of the plane hoping we clear the cliff or are we going to go crash right into it? I think that's where we're headed. There are consensus items on the judicial reform that we should adopt. Let's take what we can get and let's come up with a commonsense expansion plan or improvement plan for Corrections. I took a tour earlier with several senators and we didn't get into the most dangerous parts of the prison, but the parts that we did see are badly needing some expansion, improvement. They had one section where they had rooms about, I don't know, eight by ten and there were two cots in there and not much else, maybe a little desk and a chair for each inmate, but for quite a number of hours of the day, they're locked in that cell with somebody else. And I can't think of anybody I'd want to be in a cell with for 10, 12 hours a day, even among my friends, let alone, you know, somebody who's in prison for doing something wrong, something I did wrong. We need to do something about that prison and to hold those improve-- prison improvements hostage with a filibuster, I think is wrong. You know, like I said, we have some really smart people in here, but when you do something so illogical, it just causes me to wonder. Thank you, Mr. President.

HUGHES: Thank you, Senator Moser. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President, I'm glad I had a chance to follow Senator Moser because I think he's starting to get it. He may be a little misguided, but I think he's starting to get it. I don't have a problem building a new prison, OK, and I, I've said from the very beginning I think this is the opportunity to set a long-term course for the Department of Corrections. And I've been consistent saying it involves some capital improvements and it involves some reform. So

there's nothing illogical about what I'm doing because there are people who do not want to do the reforms, but they want to build. And the reality is if we don't do reforms-- and the consensus items, Senator Moser, I'm glad you brought this up-- they don't move the needle. It isn't going to change our overcrowding situation to pass a law that says expand problem-solving courts or give us assistant probation officers. Those are nice things to do that came out of the working group. I respect those recommendations, but they don't change the growth rate at which our population is going. And if we are to build, what should we build? Should we build just a plan that somebody is offering or should we, as policymakers, decide how many beds we need and which kind of beds do we want? That's the issue and that's what we're here to talk about and that's why I feel so unbelievably passionate about this because I don't have a problem with building and I've, I've read the Alvine report from cover to cover. That place is a mess. I get that too, but what would you build and how much would you build? We can't answer those until we get done with LB920. And if you are committed to doing what I will call items that don't move the needle, then we need, as Senator Stinner has said, \$1 billion worth of prison. We need three times what's been proposed. And so it's a very, very, very important question and we are putting-- we are putting the first question up for our consideration. What direction do we want to go in and what's our growth in population going to look like between now and 2030, '35, '40, and '50? Because we should be making those long-term, long-term policy decisions about the Department of Corrections. Once we get done with LB920, if you guys want to spend \$1 billion on prison space, go ahead because that's what you're going to have to do if you don't want to do anything that affects sentencing reform. That's what it'll take. And that's why this is such a serious, serious conversation we're having, very serious. To set the long-term course and the can-- to quote somebody that was in the paper the other day, we're kicking the can down the road. We're kick-- we've been kicking the can down the road for decades. We built Tecumseh and we thought the problem was solved. No, we filled it and now we're way, way over capacity. We need to know what our population is going to look like ten years from now and that's the LB920 conversation. And when we get done with the LB920 conversation, then we'll know as policymakers what we need to build. But if you think it's 1,500 beds and we can get by for \$270 million, you're wrong. You're wrong because if we maintain the status quo and--

HUGHES: One minute.

LATHROP: --pass a couple of fluffy things that look like we've done something and our population is still going to be 7,300 people in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

2030, then we're going to be 1,300 beds short of operational capacity and that doesn't make sense. And the reason we're talking about it on a budget is because this is a money issue. This is a money issue. How much do we need to set aside? How much do we need to appropriate? How much do we need to build going forward for our future needs? And Corrections reform is what other states have done before they build, decide to build, or close space and that's the conversation we need to have. And I'm glad you're engaged, Senator Moser. I'm very glad you're engaged as you always are. I'm happy to answer questions about these items in here, but we need a long-term strategy.

HUGHES: Time, Senator.

LATHROP: Thank you.

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

M. CAVANAUGH: Thank you, Mr. President. Colleagues, I know we all just came back from lunch and I actually did have a Snickers, Mr. President, over lunch, but I am looking through where we left off or where I left off in the budget, LB1011, and I'm trying to just figure out-- so there-- I brought up previously the crime lab because we are appropriating \$16 million to the crime lab. And I, unfortunately, in my enormous stack of papers over here, have misplaced the explanation about some of these things so I will have to, when I have a moment, pop over and talk to the Fiscal Analysts about it. But my-- it's not, like, a massive concern, but something that we've talked about is-- with the crime lab is investing more in it so that they can process assault-- sexual assault kits at a much faster rate, but then there was the issue of investing more, but not having the people to do the work. And so I would like to learn more about what this new expansion means and what it's going to cover, so-- and I, I meant to do that over lunch, but just didn't get to it in time to be back here so I will be doing that in the next few minutes before we come back. But there are still items in this budget that I very much disagree with and as I've said before, I don't think reflect good stewardship of the tax dollars because again, this budget, LB1011, is our cash and General Funds. It's not the federal funds. And so I know that the canal and the lake, where multiple water projects were put into the cash fund and originally when they were introduced, I believe they were intended to come from the federal ARPA funds, but then it turned out that they didn't qualify and so they were moved over to the cash fund instead. And I would just like to see us doing different things with our dollars. I think that if we really want to have an economic

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

investment in this state, we need to be investing in the people that are struggling the most. And when we look at how our state's economy did over the last couple of years when low-income households such as my own were receiving a monthly check from the federal government if you had children, that was, for me, personally huge. That was a huge help for my family and it would have been very difficult to stay home with my children and educate them without that extra support. So I know just for me alone, and I know that's anecdotal, but when you look at how our revenue was during this time, it's because we were putting money in the hands of lower-income families and those families were able to be more stabilized. They were able to pay their bills, maybe get their credit in better condition and start to sort of grow their equity. And so when I'm looking at what this budget is, I don't really see us focusing on how we can raise up those in those positions. It's got a lot of interesting projects and I love interesting projects, but we've spent a lot of time-- I think Senator McCollister talked about this, about how not that long ago, we were cutting \$1 billion from a budget. So we spend a lot--

HUGHES: One minute.

M. CAVANAUGH: --thank you-- we spend a lot of time not funding things that help people directly. And even in the last two weeks, we've had a struggle with rental assistance and SNAP and we even have a struggle with Medicaid coverage, postpartum and childcare subsidies and access to all of these things. And so for me, if we have tax dollars, we should be using them to address those immediate needs before we do anything else and that's one of the reasons that I haven't been supporting the budget. I know that there are things in this budget that are really important and essential and I'm happy to have them moving forward. I just would have liked to see more to help individual people with--

HUGHES: Time, Senator.

M. CAVANAUGH: Thank you.

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

McCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. Senator Moser made some very sage comments. He said we have some-- many intelligent people in this body and, boy, I can't dispute that a bit. And those colleagues of ours have a wealth of experience. I look around this body and I, and I see Senator Moser, a mayor of Columbus,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and the way he would deal with problems in the city of Columbus, I am sure when problems would appear, he would deal with those problems decisively and not half way. No halfway measures. Don't, don't do it just sort of, go half-- go full on. Who else should I call on? Senator Stinner managed banks, dealt with problem banks. How did Senator Stinner get through the mid-1980s with those five banks that he dealt with in, in Iowa? Did he mess around? Did he not deal with the problems that appeared? No, he dealt with them decisively, full on. I look around the body some more. I see Senator Arch and what a beautiful example he is, worked at Boys Town, managed a fairly large enterprise. When the Saint Francis problem came up, he organized a committee to deal with it, resumed-- researched all the information he could find, and then he came up with a decisive plan to reform state purchasing and that's the kind of activity and that's the kind of thing we need to be doing right now with LB920. We need to face the problem decisively and don't go half way. To only go with the 17 measures is not going to change the population of the Nebraska State Prison. As we say, with no vision, the people perish. What is the plan? How big a prison should we develop? How big a prison should we build? Tell me that. And as Senator Lathrop indicated, if you need \$1 billion when this body makes a good decision about the size of the prison, go for it. But if you want to use some of that money for other purposes, tax relief, who knows what other projects people have, provider rate increases, all good. Property tax relief, income tax relief, Social Security tax relief, all good things, but you crowd out that possibility if you use \$1 billion for a prison system. Does that make any sense? Yeah, let's talk about how big a prison we want to build. I'm not hearing the body talk about that. Senator Brandt, how big a prison should we build? Senator Hunt, how big a prison should we build? Senator Bostar is not here, but how big a prison should we, should we build? Senator Friesen, how big a prison should we build? Senator Moser, how big a prison should we build? Senator Geist, how big a prison should we build? I'm asking. Nobody-- let's have those answers come forth so we can have an intelligent conversation about how to deal with LB920 and the state budget. These are unanswered issues. Thank you, Mr. President.

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

J. CAVANAUGH: Thank you, Mr. President. And my understanding is that we're going to get to a vote on this in about a half an hour so I don't know if I'll get to talk again. So I just want to make clear that I'm not-- I didn't put up my bracket motion to try to hurt this bill. I know that this is a bill that we feel needs to pass, including

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

AM2465 that includes money for the levies in Peru, the city of Peru in Nebraska, not the country of Peru. But so I just want to be clear that I-- if the-- my amendment is still up when we get to cloture, that I would not vote for the bracket motion. So I was going through the consensus items. I didn't really get very far. I thought ten minutes would be longer, feels longer. So I just wanted to get down to the nonconsensus item and kind of talk through some of those. And one that gets a lot of sticking point, I think, when you talk to people is possession-- let's see, where is it-- new misdemeanor level of offense for possession of less than half a gram of controlled substance, fentanyl excluded by a committee amendment. So this is one I wanted to talk about. So fentanyl, we all know there's serious crisis with fentanyl overdoses. Fentanyl is an extremely potent, powerful drug that has taken a lot of lives tragically so we're not bringing that down to that 0.5 grams. But for these other substances we're talking about, methamphetamine, cocaine, things like that, I thought it would be instructive to give people an idea of how much we're talking about here. So first off, marijuana less than an ounce is a \$300 fine currently. So that-- and then an ounce to less than a pound is a Class I misdemeanor and then over a pound is a felony for that. But when we talk about other felonies, there is possession with intent to distribute and there are other ways in which people are charged with that, even with small amounts of-- smaller amounts of these substances. So I've seen individuals charged with possession with intent to distribute marijuana when they've had less than a pound, which if they were charged, it would be a misdemeanor. So for your reference, a gram is about the size of a paperclip. So we're talking about half a paperclip worth of some of these substances like methamphetamine. So I just kind of pulled a couple closed cases of individuals, one charged with possession with intent to distribute, mandatory minimum 3 to 50 years. This person had more than 10 grams, which for-- again, for your reference, 10 grams-- an ounce is 28 grams. So marijuana less an ounce could be up to 28 grams. Ten grams of methamphetamine is a Class ID felony. That-- so that is intent to distribute based off weight, OK? And so that carries a minimum of three years, up to 50 years. So that's one that would not be changed by this, right? And then we're talking about possession of a controlled substance by weight. So-- or I'm-- of-- by simple possession, not with intent to distribute-- and a case where somebody here had 3.5 grams. And so that is still an individual user amount, not a, not a distribution amount, selling amount, that they, they were charged with still a felony and that would still be a felony under this new change. The-- we're just talking about when we get down to these very small amounts that in many cases, people would say is a, a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

user-- one, one user, one day amount of a substance is what 0.5 grams would be. So somebody who has a serious drug problem, the amount that they would use that day. So we're talking about just addressing individuals with a drug problem, not people engaged in the distribution of drugs, not people engaged in selling drugs or harming other people. People who are in-- who are just undertaking their own self harm that we want to get them help for.

HUGHES: One minute.

J. CAVANAUGH: And so not getting them a felony, not sending them to prison is what we're talking about here. And when somebody gets charged with a felony, if we're talking about getting them help on a Class IV felony, they're only going to-- the maximum penalty is two years, which is a year with good time. If they take it to trial and, and spend their time in county jail, they're basically going to be done with their sentence by the time they got to D&E. So that's what we're talking about. I didn't get to-- probably won't get through all these. There's another-- other example of with intent to distribute by indicia, meaning that somebody could have a small-- even at this 0.5 grams amount, but if they have a scale and baggies and other things and money, they could still be charged with intent to distribute under the current statute, under this, this change. This is just if they only have a possessory amount with no other indications that they are engaged in the distribution of narcotics. So this is, this is a commonsense solution to address--

HUGHES: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

HUGHES: Thank you, Senator Cavanaugh. Senator Arch, you're recognized.

ARCH: Thank you, Mr. President. I, I would like to have a conversation with Senator Lathrop if he would yield.

HUGHES: Senator Lathrop, will you yield?

LATHROP: I would be happy to.

ARCH: Senator Lathrop, I have gone through this-- the working group final report and I guess I-- the conversation I want to have with you centers around the issue of recidivism.

LATHROP: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

ARCH: What, what impact does recidivism have on our population, our current population?

LATHROP: So our current population-- not everybody who has a violation is going to go back to prison, right? Many of them will, however, and when you look at our chart and, and I think it's, like, page ten of the handout that I gave you, you'll see the recidivism and recidivism in this context is return to the Department of Corrections. Some of that can be for a new felony. Some of it can be for violations, technical or otherwise. And so what does-- your question is--

ARCH: Is there an estimate as to the percent of our population-- the issues that we have is, is a result of recidivism?

LATHROP: Yes, I can't tell you how many of those people that are filling up the place are actually being returned for violations other than a new felony. I know it's in the data, Senator Arch. I can probably dig it out, but.

ARCH: OK, I would like to, I would like to have some of that information, some of the statistics there, because my, my, my question really centers around treatment. And I know that there's, there is nothing magic about treatment. I'm not naive enough to believe that. Certainly, we see that with the YRTC's. I have seen that at Boys Town. It, it-- without treatment, I think we can say that it, it, it-- the chance of success is, is much less. Recidivism could be much higher without treatment and, and my, my, my focus as we consider reducing the long-term issue that we have with our, with our census is that we pay enough attention to treatment; substance abuse, mental health, certainly, job/vocational, all of that. Your understanding of where we are right now with our facility, does our facility that we currently have support treatment options? Is there space? Is there capacity for treatment options in our current facility?

LATHROP: So they do have programs and if you look at the rest of that dashboard, there's information in there on substance abuse and anger management, the, the clinical programs, the sex offenders. We do have that-- we do have programming. Like a lot of places, we're understaffed when it comes to the mental health component to the Department of Corrections. But do we have the programs? Yes, we do. Have there been challenges getting people to them? There's always been challenges and we always try to prioritize the people about to get out. Part of the challenge has been with staffing, right? Part of it is a space issue, but a lot of it has been staffing over the years and then we tried to deal with COVID on top of that. But our problems

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

precede COVID and they precede a lot of the staffing issues that we have. It's just hard to get everybody through because most of these people have some underlying issue that needs to be addressed that leads to their criminal behavior, whether that's a sexual deviancy, some type of substance abuse or mental health issues.

ARCH: We've also had-- this was, this was perhaps my first year here, you and I had a conversation regarding a program in Tennessee--

HUGHES: One minute.

ARCH: --where they have, where they have been successful in getting a waiver for substance abuse treatment in corrections funded by Medicaid. And that, and that, of course, is, is a large-- I mean, that has a lot of potential if, if we were able to do something like that if we have the staff, if we have the facility, and the ability to have, to have that kind of a program. Comment?

LATHROP: Challenge-- absolutely a challenge. So Senator John Cavanaugh has a bill that's in LB921 that we put out yesterday that would have each person who is leaving the department be enrolled in Medicaid 30 days before they leave.

ARCH: Right.

LATHROP: So that when they're on parole, when their parole requires outpatient substance abuse, they can get right to it instead of--

ARCH: So I guess, I guess in summary, my, my focus, my concern is that we have the treatment ready for these-- for the inmates, that we have the treatment in place so that we can successfully transition, reduce recidivism, and--

HUGHES: Time, time, Senator.

ARCH: --so we can have more conversations. Thank you.

HUGHES: Thank you, Senator-- Senators Arch and Lathrop. Senator Albrecht would like to introduce five fifth- and sixth-grade students from Pender Public Schools, two teachers, and one sponsor. They're seated in the north balcony. If they would please rise to be recognized by your Nebraska Legislature. Thank you for being here. Returning to debate. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. President. Good afternoon, colleagues and Nebraskans. I have not been very engaged in this debate, but it

doesn't mean that I don't have strong opinions about it. I understand rhetorically the different reasons to talk. I mean, folks like Senator John Cavanaugh and Senator Lathrop are making excellent points from their experience. Folks have been asking wonderful questions. There's a need to take up time so people have been sharing a lot of views and my view on this is I really don't get the problem. And bills like this contribute so deeply to my disillusionment with this institution, with the political process in Nebraska in general. It's got me laying on my floor in my office going, why am I here? This is exactly one of those bills. Can't reasonable people get together and agree that different things can be true at the same time? It can be true that we need more beds for, for criminals, for incarcerated people to, to put people in our prisons because we're out of room. Can we not also agree that we want to treat these people humanely and with respect and, you know, not give them a horrible quality of life and that that can be a motivation for wanting to do some capital improvements in our prisons? I don't want people to be in rundown, dangerous facilities. I don't want them to have plumbing problems like they had in the last year. I don't want anything like that. I want them to have a safe place to rehabilitate and prepare to reenter society. And at the same time that we acknowledge, OK, maybe it's true that we need to do some prison construction-- I don't know if that's a new prison. I don't know if that's some renovations or some investments in the facilities we have. I have opinions about that, but I'm not-- my opinions are all from an ideological place. They're not from a place of having done any research or gathered any evidence around this stuff so that's my view. But can it be true that we need to build new beds, but we also need to do reforms? And we need to do substantive reforms, not just the consensus, you know, quote unquote, consensus items which don't move the needle, which don't actually end up solving our problem, but it lets a lot of you in here pat yourselves on the back and go, boy, I really compromised. I really helped Senator Lathrop there with his criminal justice reform bill. We totally did something when we know that the research and the numbers say that it's not going to do anything. You're deluding yourselves and you know it. And that's what gets me so disillusioned and makes me go, what are we doing here? Like, this is so literally unserious. It's a joke to me. It should be a joke to any reasonable Nebraskan watching us. This is not adult stuff. This is a joke. It's political stuff and I don't understand the need for a prison without reforms. What is the argument? You want to, you want to allocate all of this taxpayer money that could be allocated to a thousand other things that you care about also to building a big concrete box to hide people away in because you don't like something they did. OK. And then at the same time, you don't want

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

to enact any changes to our laws or to our system or to our, our justice process that we know is going to prevent people from having to go in there and having to spend more taxpayer dollars to build more concrete boxes for people who you want to put away. It's, it's a banana cycle that makes no sense. Be reasonable. We need to enact reforms. Maybe you need to build a concrete box or two, but we need to enact reforms or we're just going to be building more concrete boxes till kingdom come. We won't be able to build enough of them. All of the laws that people break that end up getting them put in a concrete box are laws that we make up. They're just based on, you know, a social compact, a social agreement--

HUGHES: One minute.

HUNT: --that we make that-- you know, we can agree on some things. Like, OK, you're not going to kill people. You're not going to steal people's stuff. You're not going to abuse people. Like, these are things that like, yeah, that's definitely a crime. But then we've got all kinds of things and we-- like, like drug possession and we add in things like mandatory minimums where we're saying, well, what you did was worse. And then they continue to pay for their crimes after they're released when we say, oh, and now we're in a pandemic and you're a single mom and you need food assistance, which is a social safety net that we've put together for you, but you can't have it because you did drugs. Like, that doesn't make any sense. Please make sense.

HUGHES: Time, Senator.

HUNT: Please try to make sense. Thank you.

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

LATHROP: Thank you, Mr. President and colleagues. A couple of things: I'm not sure I'm going to have an opportunity to speak again before we get to cloture and I want to clarify a couple of things. One is I stand in opposition to the bracket motion filed by Senator Cavanaugh. As you know, I'm not trying to scuttle the budget. We have a substantive amendment in AM2465 that is, as you heard, Senator Slama talk about, important to the folks in Peru. It also fixes some technical changes for the budget. AM2465, to be clear, is a, is a substitute for AM2110. This is just the order that they came in, but it is our intention that AM2465 replace AM2110. We'll end up voting on these, but ultimately it is the substance of AM2465 that we are after in this process once we get to cloture. I appreciate your attention. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

very much appreciate those of you who have engaged during the course of this process. We'll have another opportunity later on today. During that, I hope that you will come with questions. I'm happy to answer questions about LB920, about the CJI process, about the Department of Corrections, about building more facilities and so forth. I'm, I'm pleased that we're starting to get people engaged. I appreciate Senator Moser and Senator Arch asking questions and providing me with an opportunity to answer concerns that they've expressed. Now we're back to a point where we will be at cloture, I think, in about 15 minutes. And when that happens again, to be clear, no on the bracket motion, yes on AM2465 and AM2110. And we will have AM2465, the substance of that is what we're after, and then we can move LB1011 on to Final Reading. I thought about this over the lunch hour, going back to the-- sort of the substance of what we've been talking about. I thought about this over the lunch hour that we've been talking about the problems at the Department of Corrections; overcrowding, the challenges in getting to programming. They're doing some things-- some things are happening at the Department of Corrections that are very good. If you saw the, the men and the women who were involved in peer-to-peer mentoring, you would be moved by their dedication, by their, by their determination to find meaning in this life behind bars, their willing-- willingness to mentor younger people. They, they established a program and they train these men-- I say men because I saw the graduation of these guys who went through this program. And as you might expect, there's a lot of younger people that come into the Department of Corrections. Many of them have mental problems. Many of them are suicidal. And to see the peers that go in to speak to the other inmates where the guards, the mental health professionals can't, it's the peer-to-peer things that are happening at the department, the programs that are nonclinical programs, what we generally refer to as pro-social programs. There's a lot of good things and a lot of people are getting the message in the Department of Corrections and a lot of them are being well rehabilitated. They see the error of their ways. They make a determination that they don't want to go down that road again. And good things happen to many of the people who are confined at the Department of Corrections.

HUGHES: One minute.

LATHROP: The question is how long should they stay? And I don't want this conversation about the troubles at the Department of Corrections and the need for a longer-term strategy to be drowned out or to drown out the fact that some things are happening that are very, very impressive and they are supported by the department to the extent they have the resources to do that. Another example is the RISE program.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

That's a nonprofit that goes into the Department of Corrections. They hold classes and I've been to them. It is impressive, impressive what the older mentoring members of the RISE programs are helping to teach, to challenge, to improve the lives of individuals who are incarcerated. These things are happening and not everybody that's going to get out is going to re-offend. They're doing good things and I think it's important that I share that with you too so that you don't think--

HUGHES: Time, Senator.

LATHROP: --everybody that goes in is going to be a problem when they get out. Thank you.

HUGHES: Thank you, Senator Lathrop. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. It's an awkward silence. We're going to talk about the budget again, but Senator Lathrop's piece evidently is a part of the budget because we are going to talk about whether or not to build a new prison. I'm one of those who is convinced we need a new prison, not for adding capacity or anything, but I look at the age of facilities and at some time, you have to replace them with new, new equipment. You let stuff get so and so old and at some point to remodel an old barn or building, it comes too a high a cost to remodel versus building new. So I'm looking at this as I think it's prudent now with all this money. If we're going to pick a wise use to spend this huge influx of cash-- and if, you know, if they've done a proper study-- and I want to make sure that they have done a, a good study of the old prison to make sure that this is something we couldn't remodel, but if it is to the point where I'm hearing it is and the study that I've seen kind of showed it was, but I, I question a few things there. But let's just go on the premise that we do need a new prison. And I know where Senator Lathrop is heading with this because if we don't do reform, he says we'll be full. I get that. But at this point, if, if, if-- we are always going to have a prison and if we at some point down the road have to find the money for this and in the meantime, we have spent this money that we have now on other things that are not as important as a new prison, we will come up with the money then and some programs are going to suffer or we'll have to raise taxes or do something else. This is an opportune time to discuss do we need a new prison? And if we leave out the fact of the judicial reform that we need to make, I will make the case that I think this is the time to build a new prison. What I've heard about the old one-- and I've toured it a long time ago. It's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

been a while, but there are components of it that are, are ancient. There's a lot of infrastructure there that probably is-- would be too costly to try and find room for prisoners while you're remodeling. How do you, how do you accomplish that? So I look at this as, as an opportunity and I, I don't think that there has been any decision yet to build a prison, but it would be prudent to set aside some money in case we did. Hopefully, if all of a sudden the decision was there that we didn't need to do this longer term, we can repurpose that money. But the discussion in our budget is-- and when we look at all this is we're spending a lot of money. We had a 5.7 percent increase in our spending this year. We're increasing spending on a lot of things. What are our priorities? Is the prison system a priority? You can go down a long list and I think each of us would probably have a different list of priorities of what we think is the number one issue in our district or any other district out there. Each group of citizens probably has different ideas. In my area, my district, we, we don't have need for ARPA money.

HUGHES: One minute.

FRIESEN: I don't have a, an A bill to spend anything on. When a community wants something, they build it. I, I remember a city manager telling me one time, you know, he says, you know, he kind of hated to say it, but he goes, Senator Friesen, I really don't want to say this, but we don't really pay attention to what they do in Lincoln anymore. We just find ways to work around what you guys do. And I thought that was a pretty profound statement for a city manager, but it's true. He is frustrated, our a lack of getting an overpass over railroad tracks and they've worked on this for probably 20 years and still have nothing and so his frustration grows. They just do it their own way and they ignore what the state's doing. They just hope we don't do harm and they try to maintain and do what they need to do with their budget. Thank you, Mr. President.

HUGHES: Thank you, Senator Friesen. Senator Geist would like to announce the following guests visiting the Legislature: we have 125 fourth graders from Waverly Intermediate School in Waverly, several teachers and sponsors. If you would all like to rise to be recognized by your Nebraska Legislature. Thank you for coming today. Returning to debate. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. Colleagues, I want to tell you about one of the things that-- being on Judiciary Committee sort of really, really reframed things for me with respect to our Corrections system. There was a young man who came in to testify and I'll tell you what,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

what he presented as in the moment. He was a, I don't know, mid-20s, young 20s-- I call him kid-- who was very, very sensitive, kind of soft spoken, all this sort of thing. I didn't know who he was. He came up, he started testifying, and he was a former incarcerated, had not gotten out long before, and he spoke to the committee about-- I think there were four older men who had mentored him in the prison. So he started out in the prison causing all kinds of trouble is what he said. And then after he'd been in there for a while, these four men who are all serving life sentences decided-- and he told the story with tears-- they decided to take him under their wing. He was getting into all kinds of trouble. By his own account, he was quite a violent man. And they took him under their wing and they turned him around. He was-- he said he learned from them, that they acted as father figures to him. These are guys who had been in prison for life sentences so not for, you know, stealing apples from the corner store and they had no hope of ever getting on parole. They had no hope of ever getting out of their system, of the correctional system and yet they were there-- I just-- I find this fascinating-- doing good work to change our community for the better. Even though they were never going to get out, this young man was going to get out. They knew he was going to get out. They knew that the prison system wasn't rehabilitating him the way it was going so, so far, until they got a hold of him, and then they did and they mentored him and they helped him and they provided the kind of leadership or role model for him that they needed-- that he needed, sorry. And he was out a few weeks and he was crying because he couldn't-- as one of the conditions of his parole or his release was that he couldn't speak to other felons so now he was out of the prison and he could no longer speak to these four gentlemen who had acted as his mentors. I was worried that something would happen to him and he would go back to the life that he had led before because he didn't have that support system, but I'm very happy to report that he's been in front of our committee again and he's still doing very well several years later. So it worked out for him. He's no longer on parole and he's able to talk to these guys via letters. But when folks say to me, oh, the prisons are overcrowded, who cares these people are in there. They deserve it. I think about those four gentlemen who won't get anything out of helping this young man, won't get anything out of helping all the other young men that they help. This is not the only guy--

HUGHES: One minute.

DeBOER: --they helped. And I think about how they're making our society better through their mentorship. There are-- I'm on the-- was on the restrictive housing work group before it was disbanded and that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

kind of mentorship program is happening over and over and over again in our system of Corrections. I think giving the ability for folks to be able to do that kind of work-- maybe some of these kids haven't had those kinds of role models in the past and now people serving life in prison are changing people's lives. I think it's, it's just-- it's sort of fascinating to me. It's, it's moving to me in a very, very deep way that these folks are able to do that. And I think we need to remember this story or I, I think about this story when I think about--

HUGHES: Time, Senator.

DeBOER: Thank you, President.

HUGHES: Thank you, Senator DeBoer. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. I want to pick up a little bit where I left off and, in particular, talk a little bit about addiction. And I think one of-- I think reading a little bit from an email from one of our former state senators, Senator Annette Dubas, that was sent to us over, I believe, the lunch hour-- I want to talk a little bit about what addiction is and, and to, to really hammer home, I think, that addiction really is a disease. And I'm going to read some excerpts from the email, which she gave me permission to read. Addiction is a classified disease in the DSM 5. It's a mental illness that lives in the brainstem, the same brainstem that serves a critical role in regulating certain involuntary actions of the body, including heartbeat and breathing. Addicts feel their drug of choice the same way they feel the need to breathe. Addiction is defined as a chronic relapsing disorder characterized by compulsive drug seeking, continued use despite harmful consequences, and long-lasting changes in the brain. It is considered both a complex brain disorder and a mental illness. And I'm skipping down a little bit, but I think, I think there's some other good points in here too to point out. The two biggest factors that make an addict are genetic predisposition and childhood trauma. So genetic predisposition and, second, childhood trauma. It is not due to a lack of morality or willpower. As a comparison, the genetic predisposition for breast cancer is 5 to 10 percent versus 50 percent for addiction and I think that that's pretty compelling, colleagues. Addiction is a disease much like diabetes, high blood pressure. It has to be monitored every day for the rest of their lives. It takes support and unrelenting diligence and like cancer, can always reoccur. And colleagues, I bring that up just to note that when you look at the population of folks that are in our prisons and in our jails, a lot of it, the foundation of what led to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

them there, is often addiction. And when we talk about having interventions, when we talk about having the right kind of supports to help make sure that people have the resources to be successful, it oftentimes starts before there's any, quote, criminal activity that occurs in the first place. And oftentimes, it's people that are seeking resources, seeking help, but simply cannot receive it because we don't have the systems or the folks in the right places to be able to provide those services, to provide those services to those individuals so that they can get the help that they need in order to be successful. And I think the thing that's most disturbing to me is when you look at the population of folks that we have sitting in our county jails and we have sitting in our prison system, yes, some are very violent, but there are many, a surprising number, which we have gone in-depth on in this floor debate and previous ones, there's a surprising number, colleagues, that are nonviolent and are down there simply because they are addicted to a drug or they're addicted to alcohol and they made bad choices or they just simply got caught with a drug. There are people in our state that are being charged with felonies for trace amounts of drugs that aren't even usable--

HUGHES: One minute.

MORFELD: --a felony. No, no other violent crime that was committed. They just got caught because they were addicted to a drug and they had a trace amount and they're automatically charged with a felony in some counties. That happens in Lancaster County. And that kind of, that kind of solution to nonviolent addiction is the wrong path and it's the wrong choice. And that's what's leading us to this prison overcrowding problem, it's what's leading to jails being overcrowded in some cases, and it's why LB920 is really important. It's also why it's really important that we need to start investing in community health and that's something that we have failed to do for at least two decades and perhaps longer. And so I hope that we all take a step back and realize that there are some serious things that we can do, first, by passing LB920, but second, by taking a new approach, a new approach in defining who are the people that we're mad at--

HUGHES: Time, Senator.

MORFELD: --and who are the people that we're scared of? Thank you, Mr. President.

HUGHES: Thank you, Senator Morfeld. Mr. Clerk, you have a motion on the desk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

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

HUGHES: It is the ruling of the Chair that there has been full and fair debate afforded to LB1011. Senator Stinner, for what purpose do you rise?

STINNER: I would like a call of the house and a roll call in reverse order, please.

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

ASSISTANT CLERK: 30 ayes, 2 nays on the call of the house.

HUGHES: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Geist, would you please check in. Senators Pansing Brooks, McDonnell, Brewer, and Ben Hansen, the house is under call. Senator Stinner, Senator Ben Hansen-- no one's answering his office. Do you wish to wait or proceed? Senator Stinner, you said go ahead? Very good. Members, the first vote is the motion to invoke cloture. There's been a request for a roll call vote in reverse order. Mr. Clerk.

ASSISTANT CLERK: Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne. 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. Senator Murman voting yes. Senator Moser voting yes. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe voting yes. Senator Linehan voting yes. Senator Lindstrom. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Jacobson voting yes. Senator Hunt voting yes. Senator Hughes not voting. Senator Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen not voting. 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 not voting. Senator John Cavanaugh voting yes. Senator Briese voting yes. Senator Brewer voting yes. Senator Brandt voting yes. Senator Bostelman voting yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Senator Bostar voting yes. Senator Blood voting yes. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting yes. Vote is 42 ayes, 1 nay on the motion to invoke cloture, Mr. President.

HUGHES: The motion to invoke cloture is adopted. Colleagues, the next vote is on Senator Cavanaugh's bracket motion. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

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

HUGHES: The motion to bracket fails. The next vote is on AM2465. All those in favor vote aye; all those opposed to vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 42 ayes, 0 nays on the motion to adopt the amendment.

HUGHES: AM2465 is adopted. Colleagues, our next vote is the adoption of AM2110. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 2 nays on the adoption of the amendment.

HUGHES: The amendment is adopted. Colleagues, our last vote is the advancement of LB1011. All those in favor say aye. All opposed nay. LB1011 is advanced. Next item, Mr. Clerk. I raise the call.

ASSISTANT CLERK: Mr. President, next bill, LB1012. There are E&R amendments.

HUGHES: Senator McKinney for a motion.

McKINNEY: Mr. President, I move to adopt the E&R amendments to LB1012.

HUGHES: Colleagues, the question is the adoption of E&R amendments to LB1012. All those in favor say aye. Opposed nay. E&R amendments are adopted. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first amendment I have is offered by Senator Friesen, AM2351.

HUGHES: Senator Friesen, you're welcome to open on your amendment, AM2351.

FRIESEN: Thank you, Mr. President. If I recall correctly, this amendment would strike section 31 of the transfers and I think that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

refers to a transfer that Senator McDonnell was doing to the NUSF fund. Would that be correct? So one, one of the things that we have is that the Nebraska Universal Service Fund was established quite a few years ago, and what it does is provide ongoing support for incumbent telecommunications carriers. It puts out the broadband out there. They build cell phone towers. They help low-income people with their phone rates. There's a subsidy there. Some of the other things, the emergency call buttons, those types of programs are funded through our Nebraska Universal Service Fund. And so Senator McDonnell was looking for money, I think, for his 211 service and so he was looking for dollars and he has stepped into the NUSF fund and wants to take and transfer 900-and-some thousand dollars from that fund. I am kind of protective of that fund, a little bit like the Health Care Cash Fund. This is for broadband uses and things like that. Been talking to Senator McDonnell. We reached an agreement with him to where he would take the funding this year, but down the road, he said next year, he will bring a bill that finds funding from some other source and he will leave the NUSF fund alone after that. And so if he would want to step forward, I would let him talk about that a little bit and if he'd yield some time back to me. Thank you, Senator McDonnell.

ARCH: Senator McDonnell, you are welcome.

McDONNELL: Thank you, Mr. President. Yes, Senator Friesen is, is correct. We've had this discussion and, and the idea of the 211 helpline, assistance line, I believe, through the state of Nebraska has grown based on 70-some thousand calls two years ago and, and well over 250,000-- close to 250,000 calls this year. And based on, on the idea and looking forward and into the future and making sure that we keep this private-public partnership funded and going forward for those people in the, the state that need that, that assistance line 24 hours a day, 7 days a week, 365 days a year, I did agree with Senator Friesen that I will next year continue to try to support financially through the state the 211 system, but we would look at possibly the General File [SIC], some other funding outside of the interest off the Universal Service Fund. Thank you, Mr. President.

ARCH: Thank you, Senator. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Friesen would move to amend his amendment with FA147.

ARCH: Senator Friesen, you're welcome to open.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

FRIESEN: Thank you, Mr. President. So what, what the amendment was doing, since I'm, I'm allowing him to keep that money, I want to-- on page 1, line 1 strike 31 and insert section 7. So if you look at the AM2330, I think, is the amendment that we're amending to. Oh, no, AM2000. So if you go on there and you get down to strike section 7-- or bring section 7 into this, that would be the-- brings in the jobs amendment to that, jobs and economic development. It substitutes this amendment into that. So when we're talking about our cash transfers here, we were looking at a lot of dollars moving-- this is what transfers the cash to get it to the bills that we've created in the appropriations process in our regular mainstream budget. We've created programs. And so in those programs, now we need to make cash transfers from our Cash Reserves. And so that's what this whole bill does is we're talking about Cash Reserves. It transfers to those bills where we've created accounts. So by making some of these changes here, what I'm looking at doing is there were certain things in there that I talked about. We brought up all these different items in the first round of debate. We talked about trails. We talked about transfers to Offutt Air Force Base. We talked about transfers to lots of other different programs and we brought those up and we spent eight hours talking about those transfers. So now I was hoping people would bring ideas of what they wanted, how much they wanted to transfer and what they wanted to do with that. And so I'm going to have-- I have a couple of amendments here coming up that change some of those transfers and how they happen. Thank you, Mr. President.

ARCH: Thank you, Senator. Before we continue with debate, Senator Aguilar would like to welcome 25 Leadership Tomorrow members from Grand Island. They are in the north balcony. Please rise and be recognized by your Nebraska Legislature. We will now continue with debate. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. President. Good afternoon, colleagues. So I think I understand the conversation between Senator McDonnell and Senator Friesen, but if Senator Friesen would yield for a couple of questions, I'd appreciate it.

ARCH: Senator Friesen, will you yield to questions?

FRIESEN: I think so.

LINEHAN: It's actually just to kind of educate the body because you both were talking about the Universal Service Fund.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

FRIESEN: The initial section 31 was talking about the Nebraska Universal Service Fund.

LINEHAN: So isn't-- would you explain to me where that money comes from?

FRIESEN: So the Nebraska Universal Service Fund is a, is a phone charge. It's a tax on your landlines and that money goes into the Nebraska Universal Service Fund. And what he was doing, he cannot take the principal, but he can sweep the interest off of that account. And so the Public Service Commission holds in the account, the NUSF fund, for projects that have probably been left already, but they have not had to pay out to incumbent carriers to make improvements or put out broadband or build a cell tower and that account accrues interest. And so what he is wanting to do is sweep the interest off of that account and use it to fund 211 call centers.

LINEHAN: So is the universal fund just a tax on landlines only?

FRIESEN: I believe it's on landlines only.

LINEHAN: So it's not the tax on our cell phones?

FRIESEN: I don't think so.

LINEHAN: OK.

FRIESEN: That might be confused with the federal universal service fund, which I'm not sure about that one, but the NUSF fund is based on landlines.

LINEHAN: So obviously, the Revenue Committee has interest when we talk about taxes and how the money is getting used. So before we-- can you have staffers, someone let me know exactly what the money in the fund that we're taking the interest from, what taxes are involved there?

FRIESEN: Well, this would-- the money taken here is strictly from the NUSF fund, interest accrued on that, and that is that tax on your landline. It's called the NUSF fund and that is the money that's in this account. And then companies apply for this to either build cell towers out in the state and common carriers use it-- they use money for long-term maintenance of their phone systems. When you got a high-cost carrier, this is a cost share.

LINEHAN: OK. All right, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

FRIESEN: That's what this pot of money does.

LINEHAN: Thank you. So-- but it's, it's a tax we charge on people to--

FRIESEN: Yes.

LINEHAN: --accomplish a goal and now we're siphoning-- I understand it's just the interest, but I'm assuming this is a pretty big fund, right?

FRIESEN: Yes, it's a-- it can be at times a pretty substantial fund, depending on when contracts are completed. Nowadays, we pay out--

LINEHAN: So is there a cap on how much interest can be swepted?

FRIESEN: No, there's no cap. You can sweep all of the interest, but you cannot touch the principal by law. That tax is dedicated to this use, but the interest is not.

LINEHAN: OK. Well, I would like some clarification on how much money we're talking about.

FRIESEN: It was, if I remember right, 900-and-some thousand dollars.

LINEHAN: OK. Yeah. We'll just-- we can just talk offline. OK, thank you, Mr. President.

ARCH: Thank you, Senator Linehan, Senator Friesen. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. President. I stand opposed to both the amendments. NUSF fund is pretty critical to the state of Nebraska and that interest on there is needed. We have critical infrastructure across the state that needs upkeep and maintenance on it continually and I don't think there's ever enough funds to do that. I have-- you know, I talked about broadband a lot, but let me talk about cell phone service, landline service. Where I'm at in my area, it's pretty poor. It's pretty bad. And now we want to take funds away from that may upkeep some of those services, provide for some of those services. I don't think that's proper. I don't think we should do that. I know Senator McDonnell, we did 211 a couple of years ago after the flood, I think it was. I was not a big supporter of it at that point in time. This is a problem we're going to have now with this. We're always going to have to find money to, to fund it. And when we have something that's as, as significantly needed across the state by our telecoms and others to provide upkeep on systems are getting old and are aging

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

out and they need new hardware, software to those systems that are costly and when we keep taking money away from accounts such as this, it becomes further extremely problematic as far as I'm concerned. I think that we need to keep that in mind as, as we move forward and perhaps Senator Friesen would yield to a question.

ARCH: Senator Friesen, will you yield to a question?

FRIESEN: Yes, I would.

BOSTELMAN: Thank you, Senator Friesen. Does-- so the funds we're talking about apply to copper, copper lines?

FRIESEN: It could be fiber or copper.

BOSTELMAN: Fiber or copper.

FRIESEN: It's telephone landlines, whatever it's delivered on.

BOSTELMAN: Does this-- and, and we didn't talk about this off the mike, but I'm, I'm sure we're comfortable talking about it beforehand. So and we did mention it a little bit before. Like, 25/3, is this something that supports 25/3, the systems that are out there already.

FRIESEN: It, it could support systems out there that are 25/3 because in the past, we have allowed those types of systems to be built. They've entered into agreements to put those in place. So yes, that's possible that this money could be used for that.

BOSTELMAN: Right and part of, part of the thing that I've talked about for quite a while in Transportation and Telecommunications and many others is I think it's time to age out our 25/3 and, and we move into other systems, more advanced systems, fiber or whatever it might be. And when we go into those type of systems, these type of funds are, are pretty instrumental in maintaining an upgrade and keeping those systems as they come along. Thank you, Senator Friesen. I appreciate that. So again, I would be opposed, as it stands right now-- my understanding that FA147 and AM2351 is going to sweep those interests on NUSF funds, which I believe if our telecoms were probably out in the lobby, they would probably be pulling you all out pretty fast right now saying we need that. So I would encourage you to vote red on both the floor amendments. I do support LB1012. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Clements, you are recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

CLEMENTS: Thank you, Mr. President. It's refreshing to be talking about the budget actually, item in the budget. And so I am aware of this 211 funding, as Senator McDonnell has been working on this. It was privately funded in the past from, I believe, United Way of Omaha, and they were running out of money and wanting some extra funds. And I believe it was a pretty big increase from last year to this year. Would-- I'd like-- would Senator McDonnell yield to a question?

ARCH: Senator McDonnell, will you yield?

McDONNELL: Yes.

CLEMENTS: Thank you. Thank you, Senator McDonnell. Would you describe the change in funding from the state level from last year to this year and if-- whether there's private funding that also contributes to the 211 service?

McDONNELL: Yes, thank you, Senator Clements, for the question. So approximately two and a half years ago, the funding for 211 we, we discussed based on the idea that we wanted the service to be 24 hours a day, 7 days a week, 365 days a year. And this is a number that is east, west, north, south in the state of Nebraska. If you need assistance outside, of course, emergency assistance, outside of the idea of a fire, someone breaking into your home, you call 211 and they're an assistance line to hook you into millions and millions of dollars from the private sector of people that want to help if it's rental assistance or you're having employment issues. So what we did was we said we'd try to develop a public-private partnership with 60 percent of the money coming from the private sector, 40 percent coming from the state of Nebraska. So that began at \$300,000 based on roughly 70-- 70-some thousand calls that year. Over the last two and a half years, those calls have gone up to almost approximately 240,000 calls. So that private-public partnership has moved up, still 60 percent coming from the private sector. So we took interest off of the, the Universal Service Fund, which moved us up to \$955,000 for our 40 percent of the private-public partnership. Again, 60 percent coming from the private sector.

CLEMENTS: So this-- the state is 40 percent and the private is 60 percent, is that right?

McDONNELL: Yes.

CLEMENTS: OK so that would be-- the private is going to be \$2.4 million, it looks to me-- or the total would be \$2.4 million and the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

60 percent private would be \$1.4 million. Thank you, Senator McDonnell. And would Senator Friesen yield to a question?

ARCH: Senator Friesen, will you yield?

FRIESEN: Yes, I would.

CLEMENTS: Can you explain what you're doing with the funding, the, the \$900,000 with these amendments, which one does what?

FRIESEN: Well, exactly what's going to happen is I've reached an agreement with Senator McDonnell to allow that to happen and what this floor amendment does is-- when I get up on the mike next, I'm going to remove FA147 and put in another one that will explain what I'm going to be doing with this bill. As far as the money, it's going to continue to go to Senator McDonnell to fund his 211 call center for this year.

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

ARCH: Thank you, Senator Clements, McDonnell, and Friesen. Mr. Clerk.

ASSISTANT CLERK: Senator Friesen, to make sure that the record is correct, you are withdrawing FA147 and offering in instead AM2576, which is also an amendment to AM2351.

FRIESEN: Yes.

ARCH: Senator Friesen, you're welcome to open on AM2576.

FRIESEN: OK, thank you, colleagues. There was a little confusion there while I was waiting for an amendment to get drafted and be brought down. So this is where I wanted to end up. And what this amendment does-- and you'll see it on your machines if you look-- it makes a transfer-- on page 10, line 11, it talks about a transfer from the Cash Reserve Fund into the General Fund and what I'm doing, I think it involves \$14 million and I'm changing that cash transfer and I'm transferring it into the property tax credit relief fund. So since we've been finding little pots of money to spend everywhere and we've got money for north Omaha and south Omaha and we have money for the canals, I just happened to run across this one and it seemed like a, a meager amount for the amounts we're talking. We've been talking hundreds of millions of dollars. This is only \$14 million and it would just go into the, the, the property tax credit relief fund. It would just be a one-time transfer. It's not an ongoing increasing transfer. It's a one-time transfer into that first tier of what we call the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

property tax credit relief fund. So again, as we find solutions all across the state, you know, we're going to, we're going to help north Omaha in economic development. We're going to, we're going to build recreation centers all over the state with turnback tax. There's lots of things we're going to do out there, but this is again just one of those small ways that we can return some money back to the property taxpayer. And so again, I'm going through the budget. We're looking at these transfers. These programs are all in place. It shouldn't make a huge dent in our budget. We seem to have a lot of money to play with and maybe it would turn my red vote at the top of that green Christmas tree, it might turn it green and that would be worth it right there, wouldn't it? Thank you, Mr. President.

ARCH: Thank you, Senator Friesen. Senator Friesen, you are actually next in the queue as well.

FRIESEN: Wow, that's even better. So as we move forward today, I mean, obviously, I think we need to spend at least four hours on this budget part because it's as important as any of the others. As we talk about what we want to accomplish and what we want to spend as our priority, this, to me, is one of my priorities. This is where I'd like to see some more done. It would again set aside a little bit more money to redo the TEEOSA formula someday when I'm not here. We'll have a different Education Committee. We'll have a different Appropriations Committee. Maybe someday somebody can get together and actually reform how we fund K-12 and we'll give credit-- in the, in the country, we won't be number 48 or 49. Right now, we are giving a lot of money in property tax relief, but we don't get credit for it when people look at what we pay for our schools, we're still shown as number 48 and 49 in the country on how we fund K-12 and that is misleading. We are putting a lot of money into education now. So at some point in time, again, I would like to see this body change TEEOSA so that we can get money out to those nonequalized schools and the state would have some interest in educating all of our kids. That's been my theme from day one. I think the state has some responsibility there and I'm just-- keep-- that's my goal. I've kept working for that. I've been working on this for eight years and out of the goodness of your heart, surely you'll just give me that. It's just \$14 million. I'm not even holding anybody ransom. I'm just-- found this pot of gold and I thought it would be appropriate to put it somewhere else and I'm sure all of you will agree. Thank you, Mr. President.

ARCH: Thank you, Senator. Before we continue debate, Senator Ben Hansen would like to welcome 25 members of the Leadership Class of Washington County from Blair. They are seated in the north balcony.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Members, would you please rise and be welcomed by your Nebraska Legislature. We will continue debate. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, President. Colleagues, I have a question. I have many questions about the 211 money. I know when we talked about it last time, I had contacted the folks in northeast Nebraska to ask them about the calls that they received. And at that point, they were not able to generate any type of information that I could look at. I'm really surprised to hear that they have so much money in their account already, but I also understand that during COVID, there was some money I'm thinking. I'm, I'm-- would like to visit with Senator McDonnell if he would yield.

ARCH: Senator McDonnell, would you yield to a question?

McDONNELL: Yes.

ALBRECHT: Senator McDonnell, I know that this is really important to you and to the state of Nebraska, but do you have any information that you can share with us-- was this in a committee that you actually had a bill brought forward and could you give me a bill number on it so that I could research it?

McDONNELL: Yes, not only will I get you that information, but I will also get you information based on the call volume of each legislative district.

ALBRECHT: OK and then I would like to ask Senator Friesen a question if he'd yield.

ARCH: Senator Friesen, will you yield?

FRIESEN: Yes, I would.

ALBRECHT: Senator Friesen, has anyone ever taken the interest off of those funds that you're wanting to share with 211? Has anybody else ever taken that interest and if so, who?

FRIESEN: I, I believe-- and I, and I don't know about this specific fund, but the Governor has numerous times swept the interest off of lots of cash-funded agencies.

ALBRECHT: OK so I'd be able to find out where those interest funds would have gone?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

FRIESEN: It can vary from year to year. I've been watching this for numerous times. Back when we had to cut spending, all of those funds were swept from everywhere he could get his hands on. I remember even back in the day, they tried to sweep corn from the-- money from the Corn Board and it was interest off of that fund. And, you know, we raised a big stink over it and I don't think it happened back then, but this has happened before. When we run short of, of money in the budget, we go and we sweep all the closets out. We check the drawers. We check under the mattress. That's what this is.

ALBRECHT: OK, thank you. Again, can I speak with Senator McDonnell one more time, ask a few questions if he'd yield?

ARCH: Senator McDonnell, will you yield?

McDONNELL: Yes.

ALBRECHT: OK, so how many more employees do we have in 211 and how many locations throughout the state?

McDONNELL: So the, the main call center is through the United Way of the Midlands in Omaha that functions as the call center for the whole state of Nebraska. Exact employees, I, I will get that for you, but it has increased based on remember prior to this legislation approximately three years ago, there was-- actually, they weren't 24 hours a day, 7 days a week, 365 days a year. So we wanted to make sure that people had access to this assistance helpline 24 hours a day. So at that point, as you mentioned already about the-- what we've all experienced with the, the pandemic, of course, the call volume increased, but it also was being increased based on people becoming aware of the assistance helpline and the millions, approximately \$30 million, that they could be outside of coming from the private sector that they had for assistance. As I emphasized earlier, there was calls from-- based on the idea of assistance for utilities, rental assistance, getting-- going back to jobs, tax questions.

ALBRECHT: And that's, that's what I'd like to be able to see. Did they receive any funds from the federal government because of the COVID pandemic?

McDONNELL: I don't know the answer to that.

ALBRECHT: OK, if I could find that out before I would vote, that would be helpful. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

ARCH: Thank you, Senator Albrecht, McDonnell, and Friesen. Senator Pansing Brooks, you are recognized.

PANSING BROOKS: Thank you, Mr. President. So I will have to keep repeating this because people are in and out. On the last day, the seniors in the Legislature-- and I am one-- get to talk about the positive experiences and we aren't given very much time to do so. So I've decided, since I don't feel like there's enough time to talk about the value of this body and the friendships that I've made here, that I want to, to take this time now to talk about those who are at least in this room right now. So-- and I am going to go through everybody so I've, I've gone through Senators Aguilar, Albrecht, Arch, Blood. I don't see Senator Bostar right now. Is Senator Bostelman here? He is. OK, so Senator Bostelman and I got to cochair the flood committee together after the terrible floods that happened a couple of years ago. He is one of the most generous, bright, kind, just amazing people. We got to go visit the sides-- all, all the sites of the places that were affected. We went up to the dam to look at that. We visited the Lincoln Water System area that had been almost overrun. Senator Bostelman was so bright on all sorts of things about the land and the water and I learned to respect him significantly. And though we don't always vote on the same side of issues, he is an amazing person. His wife is an amazing person, her-- nuclear physicist. She's just-- really, they are both special people to Nebraska and Senator Bostelman, I, I just want to say that it has been an honor to serve the people of Nebraska with you. Thank you. Next, I wanted to say something about-- is Senator Briese here? Nope. Senator John Cavanaugh, where did he go? Oh, Senator Cavanaugh is here. So Senator Cavanaugh is, is one of the people-- Senator John Cavanaugh is one of the people with a huge heart. He cares about kids. He cares about the people in his district. He's very bright. And when I think of the work that I've been able to do in juvenile justice, I, I feel really hopeful because I know that Senator, Senator John Cavanaugh cares a lot about those issues and about taking care of kids and making sure that our most vulnerable Nebraskans have laws that protect them and make sure that they are treated appropriately so that they're ready to go back out in the workforce. And, you know, he, he is-- this, this man is able to work with everyone. He is a mediator. Senator Cavanaugh is, I think, arguably one of the best at finding common ground in this body. And I would say he's probably one of the most trustworthy senators in this body and I am-- it has been such an honor, Senator John Cavanaugh, to be able to serve the people of Nebraska with you so thank you very much. And let's see, this-- is Senator Machaela Cavanaugh here? I'm going in alphabetical order. Do we see her? Well,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

I'll come back to her then. Senator Clements? Senator Clements. When I think of Senator Clements, I think of, of a very humble man. He-- his stories about his dad and his grandfather, his grandfather in the, in the military, the Civil War, right, and World War I? Oh, great-great uncle. And also, the stories about his dad who passed this year sadly have been heartwarming. They've, they've given us a side to Senator Clements that--

ARCH: One minute.

PANSING BROOKS: --we haven't been able to know or see without his willingness to share those experiences. And it's touching to me because my dad was in World War II and so hearing a lot-- and my grandfather was in the Civil War, so it-- hearing some of these things really do-- those stories touched my heart and I'm, I'm so grateful. He also has a wonderful sense of humor and what I remember is that Ernie-- Senator Ernie Chambers teased him once because Senator Clements brought him a cookie one time. And Senator Chambers brought it back at the end of the year uneaten and said, here, here it is back for you. Is that right? So he-- something like that, but anyway, Senator Clements has a wonderful sense of humor that you don't always see with his kind, quiet personality. Thank you, Mr. President. And, oh, Senator Clements, I, I've, I have found it a complete honor to serve the people of Nebraska with you. Thank you, Senator Clements.

ARCH: Thank you, Senator. Senator Stinner, you're recognized.

STINNER: Thank you, Mr. President. I've been intentionally trying to stay off the mike today, but sometimes I get provoked. I think-- just the history behind the Governor's emergency fund, I think if you can think back, we originally set the Governor's emergency-- coronavirus emergency fund up for \$83 million. Last session, we actually took back \$60 million of what we thought to be unused funds and restored it back to the Cash Reserve because that's where we took the money out of. Obviously, as, as we evolved, ARPA came in, coronavirus money came in, and we deemed that this emergency fund was no longer necessary and did the invest-- Fiscal did the investigation. So we're bringing that and restoring it back to the Cash Reserve. Obviously, if this goes for property taxes sold over to \$1,329,000,000 today-- and there are several bills out there, several asks out there. We're going to chip away, chip away, chip away. And did I not say that we had to have a buffer over and above the normal fully funded reserve in order to execute this tax plan? So chip away, chip away, chip away. Property tax, property tax, property tax. That's all I hear of it. I'm sick of it. We got \$1 billion of state money going out, projected to go out

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

for property tax relief. That's enough. Anyhow, I, I am opposed to this. Like I said, there's other bills that, that are going to probably look toward the Cash Reserve for funding. We'll just continue to work it down to where nothing's workable. With that, I would ask that you have a red vote on this.

ARCH: Thank you, Senator. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. President. So I, I understand Senator Stinner's frustration. I do. So we've been working very hard on a compromise on taxes and the compromise that when we go forward, we would keep it kind of even between income tax to the best of our ability. It's hard because we're all working with numbers here that are projections into the future. We're not sure what it is. Right now, the reality of this amendment is the Cash Reserve is projected this year to be \$1.329 billion. And what Senator Friesen's amendment does is take \$14 million out of that so that would bring it down to \$3.15 billion [SIC]. It hardly breaks the bank, just to keep perspective here. So and I think some of what we're hearing-- and I think Senator Friesen said that and if I'm right, he follows me so he can respond-- is we've had eight hours on a budget, the first bill, and now we're going to do four hours on this budget. Maybe you don't have to do four hours. I'd be happy to speed it along here, but four hours on this budget. And it's the first time that Senator Friesen has got to offer amendment that actually does something to the budget. And he did the work and he looked and he found \$14 million and he's making a suggestion that we could do something else with it. It's not a crime. That's why the budget is on the floor. Each and every one of us in here can look at that budget and think, well, there's \$1 million or \$10 million, \$20 million, and I could do this with it. This is-- we're spending, between ARPA and this budget, somewhere between \$1.6 and \$1.7 billion. And I'm thrilled about many of those projects, but we shouldn't act like nobody else can touch it. That's ridiculous. And it's not breaking the bank. Again, we're talking about \$14 million-- and I'm not even sure I'm going to support it because I've got lots of people-- we're trying to keep everybody happy here. Well, let's-- don't overreact. It's not-- he's not taking it from nursing homes. He's not taking it from community colleges. He's not taking it from anybody. It's in the Cash Reserve. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Bostelman, you're recognized. Senator Bostelman waives. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Again, when we're looking at what we're doing this year, this is the one thing that you could say will

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

spur economic development. People will have a little more money in their checking account when they have to pay their taxes next year. They won't have to file for a refundable tax credit. It will just happen automatically. There will be no slippage. One of the complaints that was heard in LB1107 is we had \$125 million in there the first year and there was \$50 million left at the end of the year. And some of that could be claimed yet this year. This fund here, at least 100 percent of it went out. Everyone got it. No slippage, 100 percent usage. LB1107, people were complaining they had to talk to their accountant. They had to file for it. They had to look up the amount. This year, with the fund where it's at, at least it's substantial enough that people are looking at it. [RECORDER MALFUNCTION] this one here, this fund here is an automatic one. It is-- you don't have to do anything to get it. Whatever the amount is in there, that's the amount that goes out into the property tax credit relief fund, which is taken off of your statement right from the assessor's office and the Treasurer won't collect it. You don't have to write a bigger check, you'll write a smaller check. It doesn't go directly to the schools. We don't have to worry about giving them more money, so they spend too much. This is just a direct way of injecting some money into the system, into people's pockets who pay property taxes. And I do think that it holds down rent. It helps when we have construction costs and maintenance costs skyrocketing, you know that rent costs are going to go up. And when property taxes on those buildings go up, they have to raise their rents. So this is really for a lot of people. And I know it may not be dollar for dollar. I agree with that, but it does help hold down rents when you don't have high property taxes. It might encourage people to build more rental units if they don't have to pay such a high property tax. When we complain about our housing shortage in this state, we've got to remember that the reason for some of that is that property taxes are so high that even if you have your house paid for, if you're on a fixed income, there are people who can lose their house because they can't pay their property taxes anymore. And so we need to stay focused on that. This is a small sum of money. I don't think it changes anybody's bottom line anywhere. We can work it into the budget. It's not going to break us and down the road we all know that these changes are not permanent. Some future Legislature can change it, and hopefully some future Legislature will change the TEEOSA formula and we won't have to have these funds. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Clements, you are recognized.

CLEMENTS: Thank you, Mr. President. Well, this is an interesting thing. I do really like the property tax credit fund and my tax

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

clients really like it this year, getting 25.3 percent of their education tax back. But I'm not going to support this proposal. The-- this is coming from the Governor's emergency fund. Back when COVID hit, the Governor needed, I think he asked us for about \$80 million and to-- for emergency funds, for PPE equipment, for supporting COVID relief. And we did provide that even when there wasn't a lot of money to be found. We took it out of the Cash Reserve. Then the Governor used some of it but he didn't use all of it, and there's some, this \$14 million left over that was unused. And so it's the-- in the budget is putting the \$14 million back in to the Cash Reserve where it came from. And I would rather fund the property tax credit with the property tax bill. And there is a bill, I believe it's Senator Briese's, that will, will increase the property tax credit incentive fund somewhat. And I would rather go through that process than to use it this way. Thank you, Mr. President.

ARCH: Thank you, Senator. Seeing no one left in the queue, Senator Friesen, you're welcome to close on AM2576. Senator Friesen waives close, so the question is, shall AM2576 be adopted? All those in favor vote aye; all those opposed vote nay. There has been a request to place the house under call. The question before the body is, shall the house go under call? All those in favor vote aye; opposed nay. Mr. Clerk.

ASSISTANT CLERK: 27 ayes, 3 nays, Mr. President.

ARCH: 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. Senators, the house is under call. Please return to the house and record your presence. Senator Geist, Senator Machaela Cavanaugh, please return to the Chamber. The house is under call. Senator Friesen, all members are now present. Mr. Clerk, roll call in regular order.

CLERK: Senator Aguilar voting yes. Senator Albrecht voting yes. Senator Arch voting no. Senator Blood voting no. Senator Bostar not voting. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting no. Senator Day voting no. Senator DeBoer voting no. Senator Dorn voting no. Senator Erdman voting yes. Senator Flood voting yes. Senator Friesen voting yes. Senator Geist voting yes. Senator Gragert voting yes. Senator Halloran voting yes. Senator Ben Hansen voting yes. Senator Matt Hansen not voting. Senator Hilgers voting no.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Senator Hilkemann voting no. Senator Hughes voting yes. Senator Hunt not voting. Senator Jacobson voting yes. Senator Kolterman voting no. Senator Lathrop not voting. Senator Lindstrom. Senator Linehan voting yes. Senator Lowe voting yes. Senator McCollister voting no. Senator McDonnell voting no. Senator McKinney not voting. Senator Morfeld not voting. Senator Moser voting yes. Senator Murman voting yes. Senator Pahls. Senator Pansing Brooks. I'm sorry, Senator, not voting. Senator Sanders voting yes. Senator Slama voting yes. Senator Stinner voting no. Senator Vargas voting no. Senator Walz not voting. Senator Wayne. Senator Williams voting no. Senator Wishart voting no. Senator Williams, I'm sorry, did you vote no? Thank you. 20-- yeah, I'm sorry, I got it. Thanks for catching that. 20 ayes, 17 nays, Mr. President, on the amendment to the amendment.

ARCH: AM2576 is not adopted. We'll now proceed to AM2351. Senator Friesen, you're welcome to close. The call is raised.

FRIESEN: I think I would be willing to withdraw this amendment.

ARCH: AM2351 is withdrawn. Mr. Clerk.

CLERK: Mr. President, the next amendment I have to the bill, Senator Friesen AM2344, Senator.

ARCH: Senator Friesen, you're welcome to open on AM2344.

FRIESEN: Thank you, Mr. President. I believe this one strikes Section 5. So if we're looking at saving some money and I, you know, I was trying to get \$14 million, obviously that didn't work. So I'm going to try again to-- let's, let's cut some spending. Since we're a conservative body, let's cut some spending by striking Section 5 and this deals with the Offutt Air Force Base improvements in that we put in the cash transfers. So going back to last year, I believe it was, when we put \$50 million into Space Command and we were hoping that we would get chosen for that. We were not. And so the purpose of putting that money there to me was to try and attract the Space Command to Omaha. It didn't work out. We tried. At that point the money really should come back to the Cash Reserve and be reappropriated into some other use where we can all make some choices. To say that we're just always going to repurpose money that we have placed out there and continue to use it at the same place because the one thing didn't work out, we're going to do another thing. That means that down the road, the \$300 million that we're going to give to Omaha for the medical center there, if that project doesn't work out, are we just going to repurpose \$300 million again for Omaha? That's what we're doing these

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

days. I no longer can trust the system if that's how we're going to work. I was willing, I believe, back in the day just say, OK, if \$50 million would entice the federal government to locate another command there, the employees they bring, the development that would happen, that was worth my investment. But now what we're saying is that it didn't work out, let's just spend the money there anyhow. They need some improvements. I'm looking back and I think we've done a lot to help people at Offutt help the employees stay there. We've cut their taxes on their retirement pay. We've done a lot of things to keep service members in Omaha, keep them at Offutt. And now what I'm saying, it's just-- it's a step too far to say that we have to keep spending those funds there in order to improve that base when we have done a lot in the past and we do have other priorities. And is this one of those that should rise to the top or should we have that discussion? We had that discussion in the first round. So I want to keep it simple. I'm not really trying to filibuster. The reason for this today is to actually vote. Last time when we went the eight hours, we talked about each one of these components and we had, I thought, a great discussion and no votes. Now, all I'm asking for is votes. I want to see where people stand on how we spend our money. This is one of those things. Thank you, Mr. President.

ARCH: Thank you, Senator. We'll now open for debate. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I appreciate the points that Senator Friesen is making in debate today. I think it's a very valuable discussion to have, and I'm grateful for his thoughtfulness in approaching this budget. This really is an unprecedented time for our state. Thanks to responsible spending and unprecedented revenue levels, we are in the best financial position arguably at any other time in our state, but we must be responsible with how we're spending the money of the taxpayers. And I appreciate Senator Friesen's thoughts and his amendments that he's brought on LB1012 and I'd like to yield the remainder of my time to him to discuss this a little bit further.

ARCH: Senator Friesen, you're yielded 4:10.

FRIESEN: If you, if you go through this where it's spent on, there's a, a nice list in the amendment that talks about some of the projects there. And again, I'm, I'm of the, just to the opinion that when we have talked about doing things, what, what is the, the priorities that we have in the state? We've got western Nebraska obviously looking for a lot of dollars in fixing up their canal system. We've got the, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

maintenance that they wanted out there. Those are, those are priorities that I feel are, you know, western Nebraska really needs. There's a lot of demand there. Those, those systems are old. I brought up the point last time that I thought maybe that they should have been charging more for their water and putting money aside. But I get that they're to the point they either need some money and they need some help. What are, what are our priorities in the state? Is it, is it to fund an outdoor airman amenity pavilion, a track and field stadium improvements, parade ground walking trail, improvements at Willow Lakes Golf Course, landscape enhancements, Looking Glass Heritage Park. These are things that I feel that are-- yeah, one of the others is a rooftop garden. These are, these are things that I think maybe the city of Omaha or Sarpy County, Douglas County, maybe that area, they could fund some of these things to keep the base looking great. This doesn't do a lot for people out in Scottsbluff or Grand Island even. Most of the employees that are attracted back do end up in the Omaha area, and they're excellent employees. That's why we want to keep them there, but they don't tend to drift out into the other parts of the state, so I do feel at times that maybe Omaha, Douglas County, Sarpy County, maybe they need to step up a little bit, put some money into this to make things, make the base more amenable to those employees that are supposed to stay there. You know, one time in, in Revenue, we had a testimony on whether or not to take the taxes off of retirement from the military and there was one gentleman, an officer came in and testified against it. And his point was it costs money to maintain the amenities in Omaha, and he felt that he was in a better position to pay for those amenities and pay the taxes than his kids were. And the reason he stayed in Omaha were his kids and grandkids were in Omaha. If his grandkids and kids left, he was leaving. It didn't matter he was making a six-figure salary at, at Offutt working for a private contractor. So we are maintaining keeping those people there, and they're-- they-- there's a reason for us trying to keep them there, but they're staying for other reasons.

ARCH: One minute.

FRIESEN: And so I look at this as is should the local area help with fixing up some of this? We have spent a lot of money on dikes helping with the flood control there. We do our part as a state to help maintain that facility. And I'm thinking that this is a step too far. This isn't something that is going to change the direction of Offutt Air Force Base and not bring in the Space Command or not bring in some other command down the road. If that opportunity rises up, we'll be there again to help them out. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: Thank you, Senator Friesen. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, President. Colleagues, I just rise to-- in not in support of AM2344, but I'm just going to say, you know, my, my home stomping grounds were Sarpy County, and I had a lot of friends and neighbors who worked at Offutt Air Force Base. And, you know, when I think of what that had brought, all of the business and all of the friendships and all of the protection for our country is right there at Offutt. You know, when the twin towers were hit, it was the big plane with the President on it came to Offutt Air Force Base. Offutt Air Force Base, to me, is a staple in the state of Nebraska. And I'm here to say that I believe deep down in my heart that that particular project that we're talking about in-- at Offutt is so imperative that we do enhance that. If you go to any other air base around the country, I believe that Nebraska is lacking. And while we do have the funds, I'm all in. I'm going to switch gears here from being the, the cheerleader for that particular project to going to Section 1 and 2 of LB1012. The State Treasurer is going to transfer a half a million dollars from the General Fund to the community colleges, and they're also going to transfer a million dollars from the General Fund to the community colleges. You know, I remember going to visit my community colleges and they were saying with some of the funds that they had, they had to give it back because they, they couldn't spend it as fast as it was coming in. Now, you know, I'm doing everything I can to try to find some money to take care of the children that need to be educated as quickly as possible and caught up because of COVID-19. But this is our time on the mike, folks, to get up and talk about what we couldn't talk about in the last three days. You know, I mean, we're all in or we're all out. But this is your chance to talk about what may give you heartburn in these budgets because we didn't get to be a part of it. We didn't get to spend the time on the mike talking about all of this. So to Senator Friesen, I appreciate what you're doing here and what you're bringing to light. But I will tell you, I am all in on the Strategic Air Command, and they deserve to have a facelift. They deserve to take care of the people who are fighting for our country. The things that happen on that base, we don't have a clue, but I'm here to tell you we're protected in the United States of America because of that base. Thank you.

WILLIAMS: Thank you, Senator Albrecht. Senator Brewer, you're recognized.

BREWER: Thank you, Mr. President. Well, it seems like we have to keep returning to the issue of Offutt. The thing that we talked about last

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

time, that everyone needs to remember, is that you have to separate Offutt from U.S. Strategic Command. Why is that? One is a base that maintains the aircraft. The other is a four-star command. So Wyoming would love to have a four-star command. South Dakota would love to have a four-star command. South Dakota has F.E.-- or Wyoming has F.E. Warren; South Dakota has Ellsworth. That is simply a Air Force base with a headquarters there. So Nebraska has this prize. Now what is, what is this prize? What is in it? Well, the ability to control the release of all the thermal nuclear weapons of the United States of America. The submarines, the bombers, the silo missiles, that is what they do. They determine whether or not the situation is such that we change our DEFCON and at what point things go out to sea, bombers go into the air. So if what we're asking is as simple as a running track and you say, well, why, why would we want to build a running track? Well, for one, there is a requirement for a physical fitness test and you have to do that somewhere. You can't run them down the streets. Would we not be wiser to use our money, the Air Force money, for a war-fighting mission rather than some of these extras? And I am-- I-- I guess I'm just shocked that we're willing to say, listen, this, this prize that we have here in Nebraska, we're going to, we're going to put in jeopardy because we're going to try and figure out how to shift funds or grab some money here, grab some money there. We've got a great relationship with Offutt and the U.S. Strategic Command. So what we're going to do now in this process we're going through is relook whether or not we want to support them. Again, the footprint at Offutt is small, so a lot of this stuff has to be moved off base because there's nowhere else to put it. Now does that mean we should quit funding it? No. I wish we could talk more about the mission there, but that mission, for the most part, is either secret or top secret. The aircraft that they have, the mission that those aircraft have, cannot be discussed because there are people who want to know what they do. But I will guarantee you that there are planes from Offutt that are patrolling near the Ukraine right now, passing information and making sure that that constant watch that they have is being conducted. There is no other mission we do across Nebraska that is this significant to our nation and to the world, and this is such a small piece of, of the budget that we're talking about here. The idea that that's the quick go-to place to steal money from the purse, I think, is wrongheaded, and I think that the fact that we're even discussing it puts us in a bad light with those that are watching what's going on with the Department of Defense. Nebraska has stood up and done well, and I'm not, I'm not going to be the one that allows us to go through a process here where we're going to--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: One minute.

BREWER: --we're going to take this prize that we have with U.S. STRATCOM headquarters and Offutt Air Force Base and sacrifice it simply over a budget maneuver that we're wanting to do. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer. Senator Flood, you're recognized.

FLOOD: Thank you, Mr. President and members. I also oppose Senator Friesen's AM2344. As a member of the Revenue Committee, we often see Sarpy County Board of Commissioner members, Sarpy County county officials that come in and talk about that county's dedication to the men and women in uniform and veterans. In fact, this session, at one of our hearings, one of the Sarpy County commissioners testified in front of the Revenue Committee. I think they had something like 1,900 applications for veterans' homestead benefits in front of the Sarpy County Board. That entire county has built itself around one of the jewels of our United States Air Force, Strategic Command, a four-star command. The entire county is built to support it. And did you know that it has a \$2 billion impact in Nebraska and 10,000 employees, 5,000 active military, 5,000-- up to 5,000 contractors that are in eastern Nebraska because of Offutt Air Force Base? I remember growing up when sen-- the U.S. Senators in the state of South Dakota got wind that Ellsworth Air Force Base was on the chopping block, and Senator Brewer probably knows all about this. Bases can be closed on a whim, and I remember, being so close to the South Dakota border, how the entire state apparatus of South Dakota basically stopped everything they were doing in the state of South Dakota. And Senator Linehan would know this, having worked on the hill, and the entire focus of the entire state of South Dakota was to protect Ellsworth Air Force Base. And I think at the time, Senator Daschle was one of their representatives. You couldn't get any higher as a ranking member of the United States Senate. We have something here that is so precious as it relates to our ability to contribute both to our nation's defense, our local economy where it gets \$2 billion, we have built an entire county out-- not we, they, the people of Sarpy County have, to support the missions, multiple, at Offutt Air Force Base. To take this money out would be a significant step backward for the state of Nebraska. It would also send the absolute wrong message to the Department of Defense, to the President, to the people that make decisions about where our bases go, and it would be embarrassing. And I agree with everything Senator Brewer just said. The last thing I will leave you with, and, and this really struck me, I was, I was just starting out at-- with my ownership of the radio station in Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

City, and there was a huge fire in Plattsmouth, Nebraska. A church in downtown Plattsmouth was ablaze, and it was January 2, 2014. And I had just began my affiliation with KNCY, and so I myself rushed up to Plattsmouth to cover this fire. And the first aerial truck on the scene was Offutt Air Force Base fire division, applying all the water they could from the hydrants on top of the church that was ablaze. And I remember thinking and talking to firefighters that were on the scene who were so proud to have Offutt Air Force Base being a mutual-aid partner to the Plattsmouth Volunteer Fire Department. We oftentimes don't talk enough about what the base does as it relates to interfacing with our local communities, but here's yet another example of what Offutt's value is to the rest of us in Nebraska and how they have been there for us, and we need to be there for them.

WILLIAMS: One minute.

FLOOD: So with that, I want to also finally say I am also inspired to vote for this because I think, and I share Senator Linehan's view on this, Senator Rita Sanders has dedicated her professional life to supporting Offutt Air Force Base and the, the men and women of our Armed Forces. And if you've met her, you've probably talked about Offutt Air Force Base as a member of the Legislature, as has Senator Carol Blood, who has long time-- provided longtime service on the Bellevue City Council. With that, I want to say I am opposed to AM2344 and will be voting no. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Flood. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. President. I, too, rise-- I'm going to be against AM2344. I, I do want to say, though, that I understand Senator Friesen's frustrations. I think if we have had a more open process when it came to the floor and we could have gotten amendments and talked about these things, we probably wouldn't be talking about this right now. When you, when you hold people back and you don't let them into the process you create frustrations. I mean, all of us that have ever managed a group of people or even in our own families, if you make decisions and you don't include them in the decisions people get frustrated. So I clearly have great empathy for Senator Frieson's frustrations. But with that said, Senator Flood is right. The whole time I worked in Washington, I-- it was like the constant. We had to, we had to keep Offutt. We had to be focused on that. And there was the one thing, the delegation, even if they didn't get along and trust me they don't always get along even though there's five of them, I don't know about today but when I was there they did not always get along,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

but they get along when it came to this because it is so important to Nebraska. The other thing I would like to comment on this is, this is a considerable sum of money. I'm not arguing that. But Senator Sanders has done something that we don't see in the rest of the bill at all. She's been very specific about what the purpose of this funding is, very specific. It's actually listed in the bill. Now we are sending tens of millions, if not hundreds of millions to other projects, where it's like one line, there's no specifics. We don't know where, we don't know exactly. And I'm not going to pick out any certain one, but you can pick up this bill or the bill we had this morning or the ARPA bill and it's like \$20 million for this. But you don't, you don't have any feeling for what it-- what is this? If we give-- I will mention this because I, I think we need to relook at it, but community colleges, I love community colleges. I have family connections in three of them, so it's very kind of touchy for me to talk about it, but what exactly, what exactly is \$75 million going to do? We don't have any, at least I've read the bill. I don't see any specifics in there. It's to-- I'll go back to the provider rates. I'm great on the provider rates. Maybe it's-- I'm-- you know, we caught all kinds of grief yesterday talking about \$55 million for premium pay, but there's no language in there that says it has to go to employee salaries. So I think the fact that Senator Sanders has been so specific, so transparent, should be applauded, and we should support her bill. So thank you, Mr. President.

WILLIAMS: Thank you, Senator Linehan. Senator McDonnell, you're recognized.

McDONNELL: Thank you, Mr. President. Good afternoon, colleagues. The budget process is interesting, this is, this is part of it, and I, I respect that process. And when Senator Sanders brought this legislation to the Appropriations Committee, there was, of course, a number of questions. But you start learning, all of us learn as we, we spend more time here from the people that are bringing the legislation or the citizens that we're serving. And you start asking questions, and I, I mentioned this before when we had this discussion. The idea of the people that, that served this country, I never, I never served. I'm proud of my son who's serving right now. But the idea that there was a group of them when we were talking, and so around the country, they look at the different bases and they said, OK, and they put him in three categories. Is this a, a base where the community wants us here? Yes, they can fill it based on the idea of how they treat them, but also how they provide for them. Now remember, this is, this is people that are serving their country that are not always going to be on that base. Now their families are, but they're going to be putting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

themselves in harm's way. So if I was serving and I left, I knew my family was being provided for and the community embraced them and wanted to support them, that sure would make it a lot easier for me to serve. And the amenities, and we're going to talk about the amenities. Now, you know, Senator Sanders and we were talking about this others, you know, she could have played hide the ball a little bit with her bill. She could have not had been so detailed. She could have said, I want-- I just want X. It's for the base and, and just gave kind of an overview. But she was detailed and we're having that discussion because of the details in her bill. The idea of having that for your family, for those people that serve and come back and have that opportunity to spend time with their family when they're not in harm's way, but they're training to go back, I think that's something we should do. Now also they talked about the communities that don't embrace them. They talked about the communities that you can get a lukewarm. You're like, yeah, OK, you're here. That's fine. We really don't care if you stay or, or leave or what, what you do. And then I never, I didn't expect this part. There is the communities that say get out, we don't want you here, by the way they treat them when they're off base, also by the way they partner with them, they don't. And I just didn't expect that. But one thing that was relayed to me was that our community, our state, embraces them. And this is another step forward with Senator Sanders is doing to embrace them and their families and know that we are supportive of them. We want them to be here. Now let's talk about economics. Well, the largest employers, if not the largest employer, second probably in the state of Nebraska. At any given time roughly between people that military personnel and civilians, 10,000 people employed. Thirty-some thousand people that retired and stayed in our community, stayed here in our state, weren't from the state. Most of them weren't born here, most of them had no connections here, but because of their service here and the way we treated them in a positive way, they decided to retire here. And I think that's very telling in such a positive way that how they embraced us also as a community because of, of how we, we approach things. I am so-- I'm opposed to AM2344, but I'm, I'm proud of Senator Sanders and this legislation. She brought in the detail. She gave us and all the amenities that we'll be helping with, but also remember, it's a private-public partnership because those millions of dollars are going to be coming from the, the private sector--

WILLIAMS: One minute.

McDONNELL: --that also-- thank you, Mr. President-- that also tells those people that not only a state government with our commonwealth, what we're putting in from our, our taxpayers, but also from that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

private sector for those individuals that are stepping up and saying, we also want to help and make sure that you stay here in our community and you're supported here, you and your family, while you serve. Thank you, Mr. President.

WILLIAMS: Thank you, Senator McDonnell. Senator Gragert, you're recognized.

GRAGERT: Thank you, Mr. President. Well, I stood up on this one on the first go around, and I feel I just have to stand up on this one again. I stand in opposition of AM2344. Offutt has a mission, and like Senator-- Colonel Brewer has said, that mission is a, a very important mission or it wouldn't be top secret. But more than that, that goes on at Offutt in the, in the times that I've even been to Offutt myself as a medevac helicopter pilot on a standby, I, I remember the air shows that go on at Offutt Air Force Base and the thousands of people that attend that air show. Just things like that for the community and, and what goes on for the community and traveling the world and being in the military, you know, for 40 years and traveling the world and going to different Air Force bases and living through the '80s when they were closing down Air Force bases and, and Army posts. This is, this is like I, I tell my wife many of times her purchases are spending and my purchases are investment. And, and the thing is, what we do here today is we're investing in Offutt. We're not, this isn't \$50 million that we're looking to spend. This is an investment and we need to, we need to keep that money rolling into Offutt because of the Department of Defense monies that rolls back. We get, we get a lot of money into the, pumped into the state of Nebraska for, you know, for what we, what we invest. So I just want to stand up, jump on the bandwagon that, Senator Sanders, you do an excellent job at Offutt and the surrounding. But I've also seen when, when these bases and/or Army posts close down the, the, the communities fold up. So it's very important that we maintain Offutt Air Force Base. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Gragert. Senator Sanders, you're recognized.

SANDERS: Thank you, Mr. President. Good afternoon, colleagues. To be clear, let's acknowledge what Offutt provides for our community. The big number is \$2.9 billion. That's the annual impact to our state of Nebraska. That comes from nearly 4,000 civilian jobs on the base. And while Offutt may be a neighbor in Bellevue, over 50 percent of active service members not living on the base reside outside of Bellevue, Bellevue. Let alone the thousands of civilians, Offutt provides jobs

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

for the young men and women, Nebraskans from north Omaha to Plattsmouth, and that's just the beginning. With the prospect of Senator McDonnell's LB1232 and the Nuclear Command, Control, and Communications project, we could see that impact rise by \$2 billion immediately, providing an influx of jobs that are from high to moderate. Offutt's mission is even more "revalent" today. Planes from Offutt's 55th Wing are flying over Ukraine right now. They are detecting any nuclear activity closely, observing Russia's invasion. We cannot take this for granted. The reality of base realignment and closure is that the base can move on, be closed any time. Missions die out and they must be replaced. When missions are looking for new homes, they look at amenities for their service members and their families. Offutt has identified several needs on the base. If they are fixed, it enhances the appeal for more missions in the future. If you only hear one thing I say today, let it be this: These funds are fully matched by the private sector. These dollars are matched 100 percent or even more. On behalf of the young men and women of the 55th Wing who keep watch day and night with their motto: The Sun Never Sets on the Fighting 55th. Senator Friesen, I respectfully oppose AM2344. Thank you.

WILLIAMS: Thank you, Senator Sanders. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. So I'm standing up to oppose AM2344, and I just have some questions. One of the, one of the first years that I was in here, our son, Taylor, was honored because of the work he's done in cybersecurity and law. He was honored by being asked to go and speak to a number of the, of the military, some generals and some other people about cybersecurity. And unfortunately, it was during Final Reading, so I was unable to go and attend that, that briefing. And of course, I feel very proud about that. That's our oldest son who lives in D.C. that I've talked about. But what I wanted to say was that I, I obviously totally respect Senator Brewer. And if anyone knows about the issues for Offutt, it is Senator Brewer and, of course, Senator Blood and Senator Sanders. And many have talked about the fact that this is a major economic driver for Nebraska, that it's vital, you know, their work is, is vital to our state and our nation. And one of the, one of the bills that I was able to bring was to set up a veterans' website for workforce development. That was two years ago, LB626, which did pass, and it set up a veterans' website to show what various jobs there were in Nebraska so that we didn't continue to lose the veterans to other states like Iowa. Iowa had a, a program called Home Base Iowa. And so we were losing all these fabulous, brilliant veterans to Iowa because we had nothing set up. So this bill

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and this legislation that did pass set up a special employee to run the website and to create workforce development information for the veterans in our state who were retiring. So I, I feel really glad about doing that because it's so important that we continue to support Offutt. We continue to support the veterans, continue to support what is going on in that portion of the state. So I have a question for Senator Friesen first.

WILLIAMS: Senator Friesen, would you yield?

FRIESEN: Yes, I would.

PANSING BROOKS: Thank you, Senator Friesen. So I guess I'm just, I'm surprised about this amendment that you had brought, so I just, I don't really understand it. I did try to talk to you off the mike a little bit, so if you would like to just give me a shortened version of why, because I think of you and I think of you caring about our military, and this amendment is very surprising to me because again, I don't, I don't agree with it, but I also respect you, so I don't understand why you brought this.

FRIESEN: So the, the thing with me is I'm not running for any other office. I can say things here, and I'm not, I'm not disparaging anybody. I can say things on this floor that other people can't. And I understand that. But I think these are important things that constituents need to hear. They need to hear us talking about, what is our priorities? I don't feel that Offutt Air Force Base is going to lose any capability or hurt them in any way by taking this money back because it didn't serve the purpose we send it there for. So it shouldn't be a surprise that we, if we set aside money for a project and it doesn't work out, we should bring it back, redo whatever we do with it, redistribute it, whatever we do. That, that's how the process should work. So it shouldn't be a surprise that I'm saying, no, we shouldn't do this. There might be a higher use for this money. We should do it somewhere else.

PANSING BROOKS: OK. Thank you, Senator Friesen. I think that's all I have for you. I do think it's sort of surprising that--

WILLIAMS: One minute.

PANSING BROOKS: I wanted to ask Senator Blood a question. Senator Blood--

WILLIAMS: Senator Blood, would you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

BLOOD: Yes.

PANSING BROOKS: Well, you've talked to me off the mike on a lot of this information too, so, and you talk about Offutt investing in itself. Can you give us some examples of how, how that's happening?

BLOOD: Yeah, several years ago, they invested \$125 million in the fire station, security gate, the base exchange, the control tower, child development center, major squadron building, the runway and, and ramp investments and family housing. Those are the ones that come to mind immediately.

PANSING BROOKS: Yeah.

BLOOD: And I've, I've stood down on this because I-- we make the budget a circus and I'm just trying to contribute when it's necessary. But I don't think people understand outside of the information you were just given that this is an ongoing issue for Offutt to make it better for all.

PANSING BROOKS: Absolutely, and to be better for our state and our nation. OK, thank you, thank you, Senator Blood. Thank you, Mr. President.

WILLIAMS: Time, Senator. Thank you. Thank you, Senator Pansing Brooks, Senator Blood, and Senator Friesen. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President and good afternoon, colleagues. I, I rise respectfully opposed to AM2344. I think he did have, Senator Friesen did have a valuable discussion with Senator Pansing Brooks there about his take on this expenditure and I, I take the opposite take and stand with Senator Sanders, and do think that Offutt, Offutt Air Force Base is a very valuable asset to the state of Nebraska, and it gets to the core of something that sometimes gets lost in debate. And we, especially at this point during a short session, can get hung up on going back and forth on issues. And what's lost in those debates is really the story in the districts behind why we are discussing issues in the way that we are. And we've with LB1011, LB1012, and I'm sure with LB1013 had some very valuable discussions about things that we would like to see changed within the budget. And I, I think that's good. But we also missed out, I think, on a chance to have a longer discussion on things that we appreciate that are in the budget. LB1011, I reference this briefly in the technical cleanup amendment, contains \$5 million to repair Peru's levee, which was destroyed in the 2019 floods. And I wanted to take some time on this bill because now

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

LB1011 has the levee money attached and it's not at risk and I think that's wonderful and I'm very glad that we caught that in the technical amendment. But just getting into, and this might take me a few turns on the mike, as to why that money is so critical to a community in Nebraska and its long-term viability. So the floods of 2019 impacted just about every district in the state. I, I remember in 2019 coming in that Friday, and we all knew that the blizzard, the bomb cyclone was coming. I don't think any of us pictured just how bad it would be. And I remember coming back to session after that next weekend, Senator Walz had been helping in serving her district over the weekend. Senator Moser couldn't make it down because the road to Lincoln was flooded out. In southeast Nebraska, we could see the damage and destruction coming our way. We could see the historic river levels. We could see the two inches of rain on frozen ground upstream, but we weren't sure just how bad it would get in southeast Nebraska with the flooding. In 2019 over that weekend, Peru State College, a wonderful asset to southeast Nebraska, their students took a day of school and sandbagged around the water processing center. That's just right on the edge of town. It's protected by a levee that was built by the U.S. Army Corps of Engineers in 1952. It's a federal levee, and it had never failed before, so students were sandbagging. I left Judiciary Committee early. I will always remember sending that note to Senator Lathrop that I had to leave early so I could go sandbag because Peru, Peru is my hometown. I live up in the bluffs about a mile away from town. It's where I was born and raised right along the river. And the next day, after the sandbagging, the levee failed very quickly and when the levee failed, it quickly overtopped. All of the sandbagging around the water treatment center, it compromised Peru's sewage lagoons, which are the lagoons on the outside of town where the sewage is stored. So Peru--

WILLIAMS: One minute.

SLAMA: --thank you, Mr. President-- Peru had no running water. It had no ability to treat the water, and it had been compromised by the town's sewage. It was unlike anything anyone had ever seen. We have a celebration in Peru called Old Man River Days, which is where Peru experienced now what we consider very minor flooding and it led to the creation of the levee and the movement of the town back a little ways. So I'll get into the more technical side of what this levee repair money will mean. But I think it is helpful as we're having a discussion on the budget, just the different stories that go into what we're creating here because it really is a story of our districts and it's a story for Nebraska. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: Thank you, Senator Slama. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. This has been a great conversation. I'm starting to feel a little bit un-American, but not enough yet. I like the discussion, but man, the way I hear this come out, it's like Offutt is going to fail if we don't give them \$25 million, it's going to collapse in a pile of rubble. I'm amazed. I couldn't get people to give \$14 million in property tax relief, but \$25 million to build a, fix up a golf course and a track and a rooftop garden is no problem. Our defense is counting on it. I support the military. I think we should do things for the military. I have not served. Does that make me un-American if I don't want to give \$25 million to Offutt? If I put an amendment to make it \$100 million, are all of you going to vote for it? Are we going to find out what Offutt is worth to us? Again, that's not my goal here. My goal was to do an up and down vote. Let's see how people want to vote. Let's see where we want to spend our money. That's it. But I find it interesting, the debate and the defense of Offutt, that's great. I think Offutt is a gem of Nebraska. We have something that no other state has. And I am proud of it. And I think we have great people serving there and they're not going to be any less if I don't give them \$25 million. Senator McDonnell has \$20 million for them and somebody else got another \$5 million, that's \$50 million we're going to use to fix up Offutt Air Force Base. And if that's what the body votes, that's what I'm going to, I'll live with it. I'm not going to be upset at anybody, but it is kind of funny that I'm one that can talk about things like this, not many others can, but they don't want to. That's fine. But when we get into these discussions, I find it very interesting to see once where we're willing to spend our money and where we're not. And someday we're going to be short of funds again, I assume. Who knows? Maybe our revenue will just keep on growing. We can just keep on living the dream here. But we have got issues in rural Nebraska that need work, and it's a two-way street when we spend \$50 million at Offutt. We need to be thinking a little bit more sometimes about rural Nebraska. What are we doing for our number one industry in the state? We have not addressed anything that had to do with the increase in ag property taxes. We have addressed property taxes. Seventy-one percent of the money we give to LB1107 goes to the urban, residential, commercial properties, 71 percent. So to say that we are not doing anything is not true, but where the money goes, people are a little bit surprised to hear where the bulk of the money ends up. It is not in agriculture. We are still funding our schools 100 percent. So I find it fascinating when we discuss this, and I expect Senator Sanders to stick up for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Offutt Air Force Base. I expect Senator Blood to. I would expect none less.

WILLIAMS: One minute.

FRIESEN: And I think they respect my ability to bring things to the floor to talk about. And I will continue to do so. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Friesen. Senator McDonnell, you're recognized.

McDONNELL: Thank you, Mr. President. Getting some communication from constituents, I want to make something very clear. Senator Friesen is very patriotic. I just totally disagree with Senator Friesen on AM2344. But that doesn't make him not patriotic. So I just want to make sure people that are starting to send some of these communications, that's just, that's just not accurate. We just disagree on the funding. Senator Sanders, would you, would you-- Senator Sanders, would you yield to a question?

WILLIAMS: Senator Sanders, would you yield?

SANDERS: Yes, I will.

McDONNELL: Can you tell me what kind of impact to your community, to our state if we lost, if we lost the base?

SANDERS: Currently, the dollar amount is \$2.3 billion, the current impact to our state, but we also have to include the workforce. Just recently, the medical commander of Offutt Air Force Base, because of our exemption on the military retirement, did retire and stay here and did not go back to her hometown of Wisconsin, in Wisconsin. Immediately, she was offered a job to work for CHI. They needed someone to fill in their outpatient administration service. She fits in great because she stayed, because they retired here, and this is what we see every day is qualified, educated people stay in our community and go to work in our community. And while they might be exempted on their retirement, they immediately buy a house. They buy a car, they give back immediately. So I'm not sure how you quantify those types of stories, but it's an impact that we see every single day.

McDONNELL: As former mayor, did-- you had a number of opportunities, of course, to work hand in hand with the base. Comparing us right now, how we match up around the country, how would you rank us right now

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and our, and our ways to improve, which I believe that's what your legislation is trying to do?

SANDERS: I've traveled many bases around the country. I've had a great opportunity to do that, and I do want to bring up seeing a base that closed because the community did not protect or work towards defending or supporting that base. So Ord Army Base right outside of Monterey closed recently. It was an eyesore to Monterey. Beautiful city along the coast, you have to pass Ord Army Base. What an eyesore and no one had the funds to clean it up. And the military only has so many dollars to be able to clean it up. So the community is responsible for that. They're slowly working on that. But the impact it had on me is, let's never get there for us. Let's never let them leave Offutt Air Force Base. That's important. The impact is great. The daily stories. We don't want Offutt to leave. You had a second part to your question.

McDONNELL: With the idea of, of kind of, you answered some with the ranking. Was there ever an official ranking where, oh, gosh, because we did A, B and C, we just moved into the top ten, the top five, and then we were working on long-term plan, strategic plan of how do we get to be the best base in the country for, for the people that are serving our country?

SANDERS: You know, we probably won't ever make it to the best base in the country because we don't have mountains or oceans and people do like that. But, but Offutt, because they're the largest Wing in the Air Force, we are able to see men and women from all over the world that come to Offutt Air Force Base--

WILLIAMS: One minute.

SANDERS: --and they are surprised to see how we open our arms up. We welcome them and that's Nebraska, and we want to grow on that. Thank you.

McDONNELL: Thank you, Senator. Just, you know, again, repeating what we, we discussed a little bit and recapping is, it's about the, the people that are serving and their families and their comfort level and trying to make sure that they, they know that we have their backs. And that again, when they're, they're in a dangerous situation and they're in harm's way, their family has a, a nice place to live and, and where they have someplace to come back to, where they know at least their, their family, of course, is making that sacrifice and, and missing them. And-- but at least they, they know that they are in a situation where a community embraces them and the facilities that they have are,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

are top notch, and I think our goal should be the top base in the country. And Senator Sanders is right, I can't add an ocean and we can't add mountains, but we sure can--

WILLIAMS: Time, Senator.

McDONNELL: Thank you.

WILLIAMS: Thank you, Senator McDonnell and Senator Sanders. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. President. I stand in opposition to Senator Friesen's amendment, but in support of the underlying bill. And again, like I said, I, I really stayed off on the mike on, on these discussions only because I think it becomes a circus when it's time for the budget. But I do want to add something. I mean, a lot of things we've heard we, we can find looking up on the Internet if we go to the Omaha Chamber. So I want to bring something different to you that we really haven't discussed in reference to Offutt Air Force Base. So one of the things that it brings to our state and to our community is diversity. The diversity that is brought to Nebraska from Offutt Air Force Base positively influences our community in that area. When I moved off the farm to the Omaha metro area and then to the Bellevue area, the one thing that was very clear to me was that we had created, because of Offutt Air Force Base, a really great community where it didn't matter where you came from, what you look like, who you were, you became when you came, you became when you moved to Offutt, part of the Bellevue community. And by the way, as the mayor will tell you, it irks us a lot when they refer to the Offutt being in Omaha. We just want to make sure everybody understands it's in Bellevue. But Omaha benefits from Offutt Air Force Base. All of Nebraska benefits from Offutt Air Force Base. You don't need more statistics. I'm not going to waste time on the mike talking about that. But the one thing we haven't talked about was the diversity issue. I wrote this down because I knew I wasn't going to remember exactly what he said. But I remember when Bush said that our country's fight against global terrorism is more effective when paired with diversity and he was referring to Offutt Air Force Base. So he had three objectives for national security: defend, preserve, and extend to peace. And it was thought by our community at that time that the only way you do that in a way that is productive and the only way you extend that grace, extend that peace is through diversity. And so I just kind of want to bring a different aspect to it. We're talking about money. We're talking about jobs. We're talking about services. All of these things are important, but when you take it down to brass

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

tacks, Senator Friesen, I like it when we talk about the people and the people are diverse and the people are educated, which by the way, if you look at the average income level in Sarpy County, it is higher in the state because of our military. But what I like most is what they bring to us. Our Filipino restaurants, our Taiwanese restaurants, Hawaiian food. I mean, the list is long. If you come down to the Bellevue area, Senator Sanders and I will make sure you get well-fed because the diversity that it has brought by from the base bleeds out into our community and helps make our lives richer. And that's something that you can't put a price tag on. And so as we make Offutt better, a bolder community, a more welcoming community, Bellevue is going to tag along with it, and we're going to grow and we're going to become bigger and we're going to become better because that's what's happened over the last 50 years. It's all for the greater good. So yes, I understand what Senator Friesen is saying. But Senator Friesen, you are also the same one that says what's good for rural is good for urban, what's good for urban is good for rural. What a shining example of that sentence. With that, I would yield back any time to you.

WILLIAMS: Thank you, Senator Blood. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. Nebraska feels Offutt. Every part of Nebraska, Offutt is important to Nebraska. I know many people in my district that have retired from Offutt, so it's just not the fallout of the people that retire from Offutt in the Omaha, Bellevue area, but it is the rest of Nebraska also. So I'm standing with respect against AM2344, but this is a good discussion because it is a discussion on how important Offutt is to Nebraska, and the men and women that come and serve there. We have some champions on this floor that support Offutt beyond everything else, Senator Blood, Senator Brewer, Senator Sanders, Senator Gragert, Senator Bostelman. Thank you for doing that for them. Oh, and Senator McDonnell, too, I guess you're kind of standing up for them today. But you know, what would Nebraska be like without Offutt? It's hard to imagine. They've been here so long. And I have been by bases that have closed. It's a struggle, because it's been very industrial at these bases, and it's hard for them to clean up and dispose of the land and give it back to the people. So I enjoy this conversation that Senator Friesen has brought before us, but I disagree with AM2344. With that, I yield my time to Senator Friesen.

WILLIAMS: Senator Friesen, you are yielded 2:50.

FRIESEN: Thank you, Mr. President, and thank you, Senator Lowe. I do think this has been a good discussion. I wish it could have been on some of the other budget items this morning, but, hey, we either work

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

through the cash transfers or we work through the cash transfers because all of the budget items are blocked with other amendments that we can't touch the budget. But this one here was open and it was good to get on here and talk about some of the transfers. Again, I hope we're not putting the value of our service members with a dollar amount that we contribute to Offutt. That's not how I look at it. You can't put a dollar amount on someone who's going to do a service to our country. So to say one way or another that this is going to matter, doesn't. It's how we view those service members. I hope it's never measured in how much money we give them for services like what we're talking about here. And I hope they never take it that way. It goes way past that. In the end, we, as a state just have to make some decisions, and I'm glad we're having a nice discussion about where we want to spend our money. And I was hoping some others would pull up some amendments to make some changes because of the discussions we had when we first talked about this budget. I thought we had some excellent discussions on numerous points that were brought up, and no one else really followed through with where we were going to do some transfers or where not to do some transfers. I would have really looked forward to having other people say what was important to them--

WILLIAMS: One minute.

FRIESEN: --but I guess I'm going to have to go with the assumption that what's in the budget is what everybody wants. And so again, I think just the citizens in Nebraska need to hear us have these discussions and at least know that we are talking about it in a sincere and honest manner about what our priorities are. And I hope no one takes it the wrong way that this means anything less or more for our service members, but if we don't have good, honest discussions about where we're spending millions of dollars, then we have not done our job. Thank you, Mr. President.

HUGHES: Thank you, Senator Friesen. Senator Kolterman, you're recognized.

KOLTERMAN: Thank you, Mr. President. I rise in opposition to AM2344, but the question came up about community colleges. So, Senator Linehan, I thought I'd brief you on how that came about and tell you what it's going for. I just had the pages pass out a sheet. When that was, that was brought, I had the bill brought to me by the community colleges back in, in October of 2021, and I told them I'd be glad to carry a bill for them and their ask was \$150 million. And then as time progressed and as we started working through the budget process, I was asked by our, our Chairman to, to wait before we drop the bill to see

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

what the Governor put in his proposal for community colleges and workforce development. And lo and behold, he had \$90 million in his budget. That was the Governor's original budget. So I went back to the community colleges and I said, you know, let's not look a gift horse in the mouth, \$90 million is a lot of money. Let's, let's be happy with that. So they didn't drop a bill. So I didn't have to carry the bill for them. But then it got to committee and we had the hearings and all the community college presidents participated along with some graduates and it was a good hearing. And they, they said, you have a list in front of you of where the money is going to go and how it would be dispersed. So they backed off on their \$90 million and then when it got into committee after the hearing, it was decided that, hey, we need to cut this back because we're also giving it some dual credits where high school kids can actually go into, into the lab and work and get credits so that when they graduate from high school, many of them are close to even having an associate degree, or that's, that's a possibility even. So Senator Stinner brought a bill for, for, I believe it was \$15 million for dual credits for these community colleges. Most of that, as I understand, will go to Metro Community College, but the rest of it will be split amongst the other five. It's all about support of economic development recovery. It's about educating young people for the workforce. If you read through there, Western Community College, they want to help develop a regional healthcare and education center for excellence. You got Southeast Community College. They want new building construction technology. By the way, that's what my first degree was in, proud of it. And what they do is they build, they build homes and then they sell them. And it involves people from HVAC to building construction to plumbing to surveying, electrical, electro, electro mechanical technologies. Then you got Northeast Community College. Senator Albrecht, I think you'd appreciate this. They're partnering with South Sioux City, South Sioux City School District to create facilities to support career achievement. And they bring these people, these young kids in that maybe aren't going to go to a four-year college and they educate them on how to become in robotics or plumbing, electrical. Then you got Mid-Plains Community College. That's out in Grand Island, and then you've got Central Community College. You can read it all there. But I just thought it was important for you to understand when we have these hearings, we listen to a lot of testimony. We can't possibly educate everybody on everything we heard in our hearings. But this is the kind of information we get. This is, this is what we base our decisions on. But starting from \$150 million, cutting them down to 60--

HUGHES: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

KOLTERMAN: --and then putting in the dual credit, I think that's a very fair use of our, our ARPA funds. And I know we're not talking about ARPA funds here today, but the question came up in the discussion and I thought it was just fair to try to address the issue that was brought to our attention. And I hope that tries to answer the questions that were raised. Thank you very much.

HUGHES: Thank you, Senator Kolterman. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. I haven't talked about on this AM about Offutt at all, either on General, but now on Select and Senator Friesen has brought it up again on Select, so I thought I'd provide a little bit of information, a little bit of background, a little bit of history going back in time, just a little bit for myself and understanding what Offutt does and what it has been in the past. So I was stationed at Offutt and I served in the United States Strategic Command, SAC, and I, I served at that time in headquarter SAC in JA or the legal office. And when we were there during that time, we stood down. We call stand down SAC and we stood up STRATCOM because we started going through those things several years ago called force reductions, base closures, those type of things, joining forces together, communicating together. So now not only are-- we have, we have the triad being worked out of STRATCOM, so we had the submarine fleet, we had the bomber fleet, and we had all of that all underneath one roof. So we had all branches of the service come together in that transition. And during that time, what that was, was-- you know, part of it is, is what we're talking about today is, is, is changes to improve the base as it is because Offutt has been looked at several times to close. Base closures happened at, at a couple of times at Offutt and we've been able to keep it open. Offutt or the Omaha community has come together to sponsor it, the retired groups out of there have come together to do a lot of work, to really work hard to keep Offutt open and part of that when you do that, you have to have a lot of other reasons for the 46,000 people that live, that, that are attached to Offutt in one way or other. You have the active-duty people, you have the civilian employees there, you have the contractors, you have the dependents and then those of us who are retired, you have the retirees that depend upon and, and on Offutt in a lot of different areas. It's changed significantly over the years. My son was buried-- buried-- was married, was married-- how about this? He was born at the hospital. It was called Ehrling Bergquist several years ago. That hospital doesn't exist anymore because of how they've changed floor structures. So why do I bring this up? Well, if you know STRATCOM now it's, it's changed

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

names, iteration several times, now they've got a new headquarters building, if you haven't been there, you should go there and if you can have a tour that you really need to go see it. It, it is a fantastic facility. And why do they need to build it? Because in the other building, the old SAC building, the old STRATCOM building, the basement leaked, the water leaked, the underground leaked. They had a lot of problems in that facility. So they really need to change and move. And so that really moved a lot of different functions within the base at the time to where it is today. So some of the things that, that is in this that Senator Sanders brought forward are things that are needed to bring back some of the things that have been taken away from it. And remember, the flood a few years, a couple of years ago wiped out all the eastern side of that, part of that, of that, of that base. You know, the, where the lake is and where the, where all those, the walking trails and those type of things; 55th Wing was down there, it got wiped out completely. It was flooded out completely. Many of the operations down in that end of the, of the Air Force Base, where it was basically underwater and it was flooded out, and we're still recovering from that, I believe. So the importance of what we're talking about today is, it's not just rivets and bolts. It's not just aircraft that are flying. It's not that--

HUGHES: One minute.

BOSTELMAN: --because understand global weather is there. Do you-- you realize that DPAA, there's two places in the United States that we recover remains of our lost, of those veterans who are missing in action, killed in action and one's in Hawaii and one's at Offutt. How critical that is, when they repatriate those, when they find the remains, wherever that is, either in burial sites out of the Punchbowl on Oahu, or whether it's in North Korea, where we found some, some Korean veteran-- Korean War veterans here a couple of years ago. Those are the facilities that are there that are critical to Offutt, critical to the community and one of a kind, one of two existing in the entire world. So the things that, that we're talking about here are, are very important to Offutt and very important in keeping the base open and keeping the spotlight shined on Offutt as what it offers.

HUGHES: Time, Senator.

BOSTELMAN: Thank you.

HUGHES: Thank you, Senator Bostelman. Senator Slama, you're recognized and this is your third opportunity.

SLAMA: Thank you, Mr. President. I, I appreciated Senator Bostelman's discussion about the importance of Offutt and the impacts the flood of 2019 had on the base. And overall, I'm very appreciative that we're taking some time to talk about the pride we have in Offut, in the services and the benefits it provides to the people of the state of Nebraska. Whether you live in Bellevue or on the western side of the state, it's really beneficial to all of us to have. I'm taking a little bit of time to just kind of walk the body through a budget request that I had in LB1011 that was adopted and the technical amendment on second round. I briefly referenced it. I've gone through a little bit of the backstory as to the lead up to the flood and the flood itself. Peru was kind of an overachiever in some ways. When, when the flood occurred, for a lot of communities in Nebraska, the flood waters receded within days or weeks. There were areas that did face long-term flooding. There were no areas in the state that faced as severe long-term flooding as southeast Nebraska. We had over 10,000 acres of some of the best farmland in the state. It's river bottom ground that's protected by a levee. It's very rich farmland, and it's a huge asset to our property tax rolls. It's a huge asset to our farmers. That was under water along with Peru's water infrastructure and sewage infrastructure for nine months. The flood waters did not recede from the 2019 floods in March from the city of Peru for nine months, and that water was right on the edge of the downtown. And as we were going through this process, the U.S. Army Corps of Engineers reached out pretty early in the process to let us know that we were going to be the only federal levee out of all levees impacted, damaged or destroyed by the 2019 floods that would not be repaired. And their reasoning was that since the local levee district, which is a group of local property owners whose property is protected by the levee, invested their limited property tax requests in their budget into making small repairs to the levee, rather than hiring a lawyer to fill out the necessary paperwork in 2018, the levee fell out of compliance for the first time in 65 years of operation. And this was just a few months before the floods hit, and because of that, the U.S. Army Corps of Engineers argued that their hands were tied. They could not contribute. They could not help the city of Peru or any of the relevant landowners repair the levee, and that if we wanted to repair the levee, we would need to get an act of Congress. I, I think their assumption was that we would give up, sell our land to the federal government and just deal with flooding every year because that, that levee is completely destroyed. Well, the people of the city of Peru went to our congressmen and in something that really renewed my faith in some of the redeemability of our federal government, the city of Peru got that act of Congress authorizing the repair of the Peru levee

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

under a special authorization in the WRDA bill, WRDA, the Water Resources Development Act, which is an annual bill that discusses our water resources in the country. So the little town of Peru, Nebraska, was able to go to Washington, D.C., take on the bureaucracy and win. As part of the negotiations, however, a local cost share was expected because Peru had fallen out of compliance covering the expected costs of the levee repair. So splitting with the Corps of Engineers, no other federal levee district has to--

HUGHES: One minute.

SLAMA: --thank you, Mr. President-- has to have that option. And the problem is, is that cost share could be high enough that it puts our farmers out of business. They're operating on very narrow margins, especially since their land is an active floodplain with the levee that's been destroyed. So we came to the Legislature, much in the same vein as farmers in Hamburg and the city of Hamburg were successfully able to get support from the state of Iowa in repairing and raising their levee. We were able to accomplish with LB1011 that local cost share that the Corps of Engineers is expecting for the federal levee, so we're looking forward to moving forward on that project. And I appreciate you all taking the time to listen to some of why that \$5 million for the Peru levee is so critically important. Thank you, Mr. President.

HUGHES: Thank you, Senator Slama. Senator McDonnell, you're recognized and this is your third opportunity.

McDONNELL: Thank you, Mr. President. Senator Linehan, I would like to ask--

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

McDONNELL: We were talking earlier and I was asking Senator Sanders about their efforts and how important it was to keep the, the base and how they were, they were partnered. Can you, can you talk a little bit about when, when armed services are, are gathering as a committee and, and trying to decide what's the next base that is going to be closed, what, what, what is the, the criteria? What are they, what are they looking at and how do we strengthen our base here in our state?

LINEHAN: So I'm going to start by saying this is a while ago. I mean, it doesn't seem like it'd be that-- it's been, I don't know, I left in 2008, so. We've always in my recollection when I was there, and since then, somebody on the delegation always has to be on Armed Services or

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

in the sister committee in the house. And of course, you always want somebody on Appropriations. So you start there making sure you're seated at the table when they talk about these things. And I think the way the BRAC works is they put a committee together, they travel all over the country and then they come back, report to Congress. Again, this is, I'm not current, so this is historically. But they do look at, and Senator Blood has addressed several times in different bills she's had and Senator Sanders, clearly, she's here first year, she's all out in front fighting for it, they do look at how you treat their members. They have, they have a list. They go through it. Are you friendly? Not only did we work on it in Congress, I remember, as I said previously, it was, we had a lot of focus on that every time it came up. And a lot of times, and you all know this from working with your senator or congressman, a lot of times you go back there and you meet with staff. When this subject came up, you met with the member. That-- it was the members in the room. It wasn't something that got pushed off to staff and they look at how do you treat our people? And I can remember he was for years-- I think now it's Tim Burke, but it was Ken Stinson for years, was the head of the committee in Omaha and Bellevue, basically all of Nebraska that worked to make sure that we were doing everything possible that we could do to make sure we never got in the BRAC situation. And one of the concerns we always had was the STRATCOM part is secure because it's where it is. It's in the middle of the country. It's protected. If you're going to have your nuclear operations, you want it as far from the shores as it can be. So it's, we're not going to move that. As a matter of fact, we just rebuilt it all. The part that you could maybe lose, and what I was told, I probably should [INAUDIBLE], I, I won't be on the mike as I was, Senator McDonnell, that 55th Wing could move their planes. They can fly and land somewhere else. So we do need to focus on keeping the 55th Wing here because I was told by-- several times when I was in D.C., that that part can go other places. So I think some of that has probably changed and this is, I'm going to give a shout-out to the Nebraska National Guard because Senator Brewer, Senator Gragert, could talk much better to this than me, but they now, the 55th Wing partners with the Nebraska National Guard Airport, I think-- I'm looking at Senator Gragert for a nod-- they have since, since the war on terror began, since 9/11, and this is another shout-out to the National Guard, the, the National Guard used to be kind of like the guys that you called up on the weekends. They-- they're deployed all the time now--

HUGHES: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

LINEHAN: --because we don't have a military, we don't have a military big enough to do all the things we have needed to do for the last 20 years. So the National Guard has been an integral part of the 55th Wing, but that could change and the focus on making sure that we are a welcoming community because it's not-- we're taking care of people at that base. And like I said this morning when I was talking about my daughter-in-law, you leave moms or dads at home to raise their kids all by themselves and not just for a couple of weeks. You're talking a year or more or a little less. So making sure the community is welcoming, that it's safe, that they have decent facilities, that's a big deal. And if you don't do that as a community, the military will notice. They take care of each other. It's part of their culture.

HUGHES: Time, Senator.

LINEHAN: Thank you.

HUGHES: Thank you, Senator Linehan. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. I just got in late on the conversation here. Sounds like, you know, I haven't been here all the time, but it sounds like Senator Friesen, you may be the only one to vote for this. That's not unusual for you today. You did the same thing on the budget, you were the only one to vote no. I've been in that position. So I support the military, and I thank those who served because we're able to do what we're doing today because someone paid for our freedom. A lot of times they paid for it with their life. The saying goes: All gave some, but some gave all. That's a fact. I appreciate it. But to stand up here and say, if we don't give \$25 million to Offutt, it's going to close. It's going to go away. It'll be no more, is not a true statement. I mean, just share the facts that it's important that we do this. It's important that we have all of those amenities for those people who serve there. But to say that the sky is going to fall, the world is going to come to an end, Offutt is going to close if we don't do this, is not a true statement. And I appreciated what Senator McDonnell said about Senator Friesen. He said he's not patriot-- he's, he's not unpatriotic because he wants to do this. I have no clue what Offutt is. I've never been there. It's a long ways from my place, just 450 miles. But those people who serve there know what it is. Senator Gragert, Senator Bostelman, Senator Brewer and others, and I appreciate their service. But let's just be honest and tell the truth that this is something that's needed, but don't try to put it or spin it that the world's going to come to an end and nobody's going to come there because we don't have a golf course or whatever else we're doing there. Because I think what

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

happens in the military, I think they send you where they want you to serve. Maybe I'm wrong. Maybe you have, maybe you have an option. Maybe you can say I'm not going to go there. I don't know that. And there are a lot of people who raise kids on their own when their husband may be out doing something else, so military people aren't the only one that raise kids by themselves. Now I'm not belittling what they do. I'm just telling you, we say a lot of things on this floor to try to get people to sway or come our way, but the point is this, if it's important, just stand up and say it's important, but don't try to share, share with us that it's going to be the end of Offutt if we don't do this, or you're unpatriotic if you vote to take this \$25 million. Because I think Senator Friesen made a pretty good case when he said, you know, we appropriated \$50 million, it didn't happen, so now we're going to spend it somewhere else instead of bringing it back into the General Fund. That happens all the time. That's the point that I've been trying to make ever since we started talking about ARPA money and this one-time contribution or appropriation. It's not a one-time appropriation. At least one-half of every dollar that we spent of ARPA money is going to add to our budget, \$500 million. So the next time we do a budget, we will have to deal with--

HUGHES: One minute.

ERDMAN: --10 percent more expenditures than we had last time. That's what we're talking about. But it won't really become reality until it happens, and it will happen because it does it all the time, it's cyclical. So vote as you will on this. I appreciate Senator Friesen allowing us to have a conversation about this and we'll see if he gets more than one vote. Thank you.

HUGHES: Thank you, Senator Erdman. Senator Arch, you're recognized.

ARCH: Thank you, Mr. President. I want to take this conversation a little bit of a different direction. I want to take it more towards partnership. You know, we've, we have-- there have been some that have said, you know, well, are they going to leave if we don't do this? I guess that would be a, that'd be an interesting standard to put to the rest of our budget. Certainly, it would be an interesting standard to put to the ARPA budget. Does anybody-- is anything terrible going to happen if we don't do this? I want to, I want to, I want to phrase that a little bit differently because I think the question should be regarding the partnership of Offutt Air Force Base. I have, I have lived in Sarpy County since 1980, continuously. I have lived in my district since 1990, so I've had an opportunity to observe the impact of Offutt on Sarpy County and on my community. I would say primarily

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

through the impact of individuals that have come and been stationed at Offutt and, and I would say this about the military because I saw it in the, in the church that I attended in, in Papillion for many, many years, that when the military families move in, they immediately engage. They immediately engage in the community, perhaps they're there three years, or if they're, if they're fortunate, maybe they have two, two rotations. But three years, maybe and they're gone. But they immediately jump in. They immediately jump into serving. They immediately jump in with their, with their family into the schools and in a very, very positive impact. I, I, I would like to ask a question to Senator Sanders if she would, if she would yield.

HUGHES: Senator Sanders, will you yield?

SANDERS: Yes, thank you, Mr. President.

ARCH: Senator Sanders, you certainly have more direct experience with Offutt and, and the partnership. Right now, it seems as though when we talk about funding these projects at Offutt, it's like us giving them something. From your experience as you were mayor of Bellevue and as you-- and, and have been in that community much closer to Offutt, how-- what, what examples, what have you seen where Offutt has been a partner to the community? This isn't us giving Offutt all of this. What have they, what have they given back? Do you have any specific examples of that?

SANDERS: Thank you, Senator Arch. I'll tell you one story that comes to mind right now. Back in 2011, I was the new mayor. We had the 500-- the first of the 500-year floods coming. We needed to fill sandbags quickly. One phone call to Offutt Air Force Base, the commander himself, which back then was commander of the 55th Wing, Colonel Don Bacon, he himself and volunteers from the base came out to our sandpit, and together we filled over 200,000 sandbags and more. We did it for days, and you don't realize the impact that it has on the rest of the community or the state until I received a few days later a phone call from the mayor of South Sioux City. He said, how did you get that many volunteers to fill sandbags? We need sandbags. We need it quick. Again, one phone call to the base. They were on a bus to South Sioux City. It's not just the Bellevue community that receives those benefits, they have a bus and they certainly travel. So it's a two-way street and we very much appreciate them. One of the great--

HUGHES: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

SANDERS: --one of the other things that I paid attention to is about ten years ago, if we recall, Conagra decided to leave Omaha. It was good for us to see what that impact was. They're about what, a 10th to a 25th of the size of Offutt, and when they moved, people were displaced. People were angry. People didn't have jobs. And imagine if Offutt were to leave.

ARCH: OK.

SANDERS: Thank you, Senator.

ARCH: Thank you. Thank you, Senator Sanders. Yeah, I, I would echo again what she said regarding the partnership of Offutt Air Force Base. So I don't think that it's this question of are they going to leave if we don't do this? This is, this is an investment into community partners that we, we have in Bellevue. Thank you, Mr. President.

HUGHES: Thank you, Senators Arch and Sanders. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. Well, the focus on this amendment is about the SpaceCom funds that's being now transferred in the STRATCOM purposes. And it's regarding the Cash Reserve. This isn't the Cash Reserve bill. It's the transfer bill that transfers money to and from the Cash Reserve. If you look at your green sheet, \$1.329 billion is the current amount for the ending, projected ending balance for the Reserve. The year before you could, the end of-- that's the 2023; '22 is \$997 million, but just 2021, \$466 million. So we've increased \$900 million over a two-year period, which is great. But I'm just thinking as, as a banker and Senator Stinner, I know was a little upset about taking money from the Cash Reserve and I also have seen what goes up does come down. My-- on the SpaceCom transfer, I think Senator Friesen was-- had a good point that the Governor's emergency cash fund was being put back into the Reserve. But the SpaceCom was not. It was two different treatments of very similar items because the SpaceCom fund did come out of the Cash Reserve. And if you look on page three, it does show it going back in, but then down below coming back out. My concern is that these similar to ARPA that these are one-time expenses, and I was looking down here looking-- I'm assuming this, what we're talking about was STRATCOM is a one-time item, hasn't been described as anything else, but I see one item that I'm not sure about, and I see the Intern Nebraska Cash Fund, \$20 million and, I believe, another \$10 million regarding that was an ARPA item. Would Senator Flood yield to a question?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUGHES: Senator Flood, will you yield?

FLOOD: Yes.

CLEMENTS: Item on page three of the budget book says Intern Nebraska Cash Fund \$20 million out of the Cash Reserve, and it sounds like could be an ongoing program, but I'd like to know if you would explain whether it's ongoing or just a one-time transfer?

FLOOD: Thank you, Senator Clements, for the question. And at the hearing, we were, and I was very clear that this is truly one-time money meant to put as many new people into the workforce following the COVID pandemic as possible. In fact, every transfer that we've ever put into the Intern Nebraska has been with one-time money. It's not a program that enjoys recurring money, and there have been years where there's no money in there. In this case, the \$20 million has to be matched by \$5 million from the business community or any philanthropic source so that this \$20 million actually becomes 25. And it's designed to expose juniors and seniors in high school or college students that are preparing to earn their degree to jobs in Nebraska in the private sector or in a qualified nonprofit or in the workforce.

CLEMENTS: And do you have this program going in Norfolk?

FLOOD: Not specifically. I don't think there's--

HUGHES: One minute.

FLOOD: --been a lot of money in Intern Nebraska. It is a state program that started in 2009, 2010 by Senator Lavon Heidemann from Elk Creek or Elm Creek, and we obviously want to take advantage of it in all communities. But, no, it's not specifically up and running, although there are workforce development efforts in Norfolk that would be complemented by this.

CLEMENTS: All right. Thank you, Senator Flood. Did you say one minute?

HUGHES: You have 30 seconds remaining.

CLEMENTS: OK. Well, as I was, I was just wanting to go down here and make sure we had just one-time money going on here, and I'm going to have to get back on and talk about another item later. I do have one bill in-- well, it's not my bill, but the Trail Development Fund is an \$8.3 million, Senator Hilkemann brought the bill and that is--

HUGHES: Time, Senator.

CLEMENTS: Thank you.

HUGHES: Thank you, Senators Flood and Clements. Senator Geist, you're recognized.

GEIST: Thank you, Mr. President. I just wanted to take a moment. I know we've heard a lot over the past few days about people that won't compromise and all the things that we should or should not be doing in our criminal justice system. And I just wanted to take a minute to address a few of those and, and also talk about the things that we're talking about that are nonconsensus items and why they're nonconsensus items. I think that's the other side of the story that you're missing in the conversation because I have been thinking we should be talking about the budget. But since we're not completely talking about the budget, though, you, Senator Clements, have been talking about the budget, and I appreciate that. Senator Linehan has been talking a lot about the budget. But first, I'm going to talk about some of the things that are consensus items and why they were. I was a member of the CJI Working Group. I voiced some concern from day one about some of the things that were concerns of mine. I, I think it was pretty public that I don't think those concerns were addressed or heeded. So I'm just going to go through line by line what the consensus items are and why and what the nonconsensus items were and why. One of the first consensus items and one of the things that I feel very strongly about because I attended for almost a year as a participant, I mean, as a observer, not as a participant, was drug court. And the one of the first consensus items that I agreed with is expanding drug court, DUI court, family court, reentry court, veterans court. I actually helped establish the first mental health court that is being studied right now, which is a whole another breed of problem-solving court. But this is one area that everyone agrees. And one area that I believe needs to be expanded. What happens when you attend drug court as you have one or two felonies, but the base of your problem is drug addiction. What this does is it's an 18- to 24-month period of time that you are intensively supervised. You are, however, not incarcerated, but there's classes you have to attend. There's drug testing that you have to take. And what happens is if you step out of line, you know what the correction is, you know the consequence. It's dealt just exactly the same way with everyone. However, if you comply, and I think I talked about this earlier, you get more and more responsibilities, less restrictions. What you see if you go to a drug court graduation is people who have gained self-dignity. They've reconnected with their families. They tell me they've got their life back. They've reestablished a relationship with their children. They may even have their children in their home. They have a job. They're paying their

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

bills, they have a place to live. They've, some people have told me that it's the first time that I've ever achieved something, but they achieve that in a very supervised, structured environment where there are consequences and rewards, and that's so important in human behavior. And then the recidivism rates of people that come out of that are in the low double digits.

HUGHES: One minute.

GEIST: Where the recidivism rates if you come out of just incarceration are 30 percent and higher. So exceptional results. So of course, that's a great place to put our money. Another thing that we agreed on is that there should be limits of use-- let's see, limits of use, prior theft con-- well, convictions to enhance a theft to have-- OK. What this means is if you have a couple of, of infractions and you-- someone would want to use a habitual criminal in charge on your infractions, they have to be within ten years. We all agreed on that. Requiring a sentencing court to provide notice of the process to set aside a convic--

HUGHES: Time, Senator. Thank you, Senator Geist. Senator Bostelman, you're recognized.

BOSTELMAN: I'll give you some time if you want it. Thank you, Mr. President. I want to talk about a couple of things in there with what we're talking about, Senator Sanders has is her \$5 million for, I think, history of this. So Martin Bom-- Martin Bomber Plant was at Offutt. I do have a, a, a piece of the flooring, the bricks of the flooring in my office if you're curious as to what that is, they're made of wood. The history there of the Martin Bomber Plant is pretty significant to the war effort that we had. And that documentary really needs to be made to, to share with the rest of the state and rest of the world or the United States, you know, what happened and preserve that history. Now the other thing I want to talk about briefly is what Senator Erdman said. I, I, I don't think he understands. You know, I would agree in part where he says this isn't going to save the base. You're right, it's not going to be the one thing that saves the base, but it is one, one part of many parts because I've watched base realignments and we've been involved in base closures and these type of things that's in this, that Senator Sanders has, are things that are looked at, morale, welfare, and support of the community. These are, these are very important things. So is this the whole picture? Is it going to be the one thing that does? No. But without these type of things at the base, you put yourself in a less favorable place because it is extremely competitive, extremely competitive when you go through

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

that process and Offutt has been looked at before. So we need to make sure we, we keep the things there that need be-- that were destroyed in the flood and we build it back up to where it needs to be and I think this is a good opportunity for that. And with that, I will yield the rest of my time to Senator Geist.

HUGHES: Senator Geist, 3:15.

GEIST: OK, thank you, Senator Bostelman. I'm going to skip down to the reason that I oppose one of the nonconsensus items, and in the report, it's option 19, which is to modify drug possession penalty. And I know many of you are probably thinking, well, it's no big deal, it's less than half a gram. Well, I just talked about drug court and one of the reasons that people go to drug court and get better is because they're charged with a felony. And remember, the recidivism rates in drug court are so much better than the recidivism rates of someone who gets charged for a crime who go to jail or go to prison. So it is very rare if-- I've, I've talked to a ton of judges and, and one of the things that-- well, I'm going to finish my thought and I'll go back and, and clarify. The reason that I don't like making this half a gram into a Class I misdemeanor, that would be simple possession, is that it discourages people from going to drug court. Many people will not go to drug court to get a misdemeanor off their record, and that comes from, not me, from people who run drug court. People go because they have a felony on their record. They want to get the felony off their record. When you graduate from drug court, your, your record is expunged. It's wiped clean. It's as if it never happened. If you have a misdemeanor, the lever, the encouragement to get to drug court is that much less. So think about it. If a consensus item is that we were going to put more money into drug court, but on this side, we're going to reduce the sentence for possession? Not good policy. It just doesn't make good sense. We want to send people who were addicted to drug court. It's one of the best treatments we have.

HUGHES: One minute.

GEIST: OK. To finalize this, what I was going to clarify here in a minute is, I know that I've only been doing this for four years, but I want to tell you what I've done in four years. I'm not an expert. I'll be the first person to tell you that, but I've gone to every state-run facility. I've met with every warden. I've met with lifers. I've met with inmates. I've met with those who are out on parole, on probation. I've met with law enforcement. I've met with judges. I've met with the whole system. I tried to learn, how does this correction thing work from beginning to end? And that took four years. So I'm not an expert

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and I won't be an expert as long as I'm here, but I am a student of what I'm talking about, and I talk to the subject matter experts.

HUGHES: Time, Senator.

GEIST: Thank you.

HUGHES: Thank you, Senator Bostelman and Senator Geist. Mr. Clerk, for items.

ASSISTANT CLERK: Thank you, Mr. President. Amendments to be printed: Senator John Cavanaugh to LB919; Senator Matt Hansen to LB919; Senator Machaela Cavanaugh to LB1015 (LB1023); Senator Hunt to LB933; and Senator John Cavanaugh to LB1011. That's all I have at this time.

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

JACOBSON: Thank you, Mr. President. I'm going to kind of slide back to the budget again, and I kind of want to mention, I think Senator Clements was going to ask a question with regard to the shovel-ready projects and, and also whether they were one-time spends. And he was asking me offline with regard to the Nebraska Rural Projects Act, LB788, which is included in the Cash Reserve Fund. The beauty of that particular project is not only is it a one-time spend, but there's also some matching dollars that come from the communities that receive that. I want to walk you a little bit through memory lane on that project and why it's so important to me and to North Platte and my district. As you probably recall, the Bailey Yard is located in North Platte. It has been historically the largest rail classification yard in the world. When I first moved to North Platte 27 years ago, there were probably about 2,500 employees at that yard. They represented a significant amount of our total population base living inside the city limits of North Platte that were working, either parents or family members of or workers at Bailey Yard. Very significant employer to us. Over the years now, and as of a couple, about three years ago, there was a leadership change at UP and there was a change in philosophy on how they would handle that yard. And through that process, they decided that they would run more unit trains and they would run through North Platte, make fewer stops because from an efficiency standpoint, it was better to make fewer stops, move freight faster. As a result of that, we saw significant furloughs in North Platte, very good jobs from people that have been there for a long time on the railroad who were furloughed. Big problem for us. So the North Platte Chamber and Development Corporation got to looking at the situation. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

remember meeting with the Development Corporation, with the UP execs when they came out to North Platte to talk about what we could do. [RECORDER MALFUNCTION] things we decided we could do is they indicated that they would, for the first time ever, allow us to have access to that yard, because before they had so much traffic that they did not want us having any rail sightings at the yard. Now they've opened a portion of the yard up to allow us to do that. Hence, we started developing the rail park. It's been almost three years ago that we started working through that project. We planned the project. We've laid it out. There's a building that the Development Corporation has acquired between North Platte and Hershey. We've also gotten options on 300 acres of land around it to be able to build a full-blown rail park that we would also like to convert to and ultimately turn into an inland port and have inland-- and have an inland port authority there-- perfect location, west-central Nebraska, for those that are looking at geography, west-central Nebraska. And we've got Interstate 80 and we've got Highway 83 that runs from Canada to Mexico, and we've got an 8,000-foot runway at the airport, ideal location, great opportunity to employ people. As I indicated earlier, our school system is not an equalized district. We are getting TEEOSA money. We are losing students. We have excess capacity in our school system. We need students. We want to attract families. So as I look at this particular project, the Development Corporation worked with my predecessor to bring in a bill that would-- that would create this process and get it going--

HUGHES: One minute.

JACOBSON: --and it was LB40. Then we went on from there, and now we have LB788. The rules in LB780-- or in LB740 [SIC] and LB788 have been whoever has the first completed project and files it on time and files it first, would have first priority to the funding, and that's what's included in here. And our expectation is that we would get the first priority on the funding because we filed first. We're shovel ready. We're ready to build. We're ready to start tomorrow. We get the funding, we'll start. We also have raised matching funds to do our matching fund portion. So again, as we look at this, this is an incredible project for North Platte. It'll be a real game changer for us, and I'm really glad the Appropriations Committee included this in the Cash Reserve Fund. Thank you, Mr. President.

HUGHES: Thank you, Senator Jacobson. Senator Geist, you're recognized.

GEIST: Here we go. OK. Here is a great thing that we all agreed on: create a pilot program to hire assistant probation officers. One of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

the things that I heard from the group of probation officers that I've talked to was how many people that are high risk that they supervised and how shorthanded they are. And what this program does is it gives each of these high-risk probation officers an assistant, and the assistant would do a lot of the paperwork, a lot of the office work, so the probation officer could actually be supervising the people that they need to supervise. And that's an excellent program and we all agreed on that. And create a pilot project for a probation officer incentive program, this idea actually is being done in some areas, but it really originated out of the drug court model, and that is you're not always correcting people, but you're also rewarding for good behavior. And these are things like having a pizza party, just little encouragements, buying coffee for everyone in your group, making sure-- I-- I don't know, \$5 gift card to get coffee at Starbucks-- I'm just pulling things out of the air-- small incentives that keep people on the right track because hearing negative things all the time wears anyone down. So when you do good things and you get rewarded for it, they're trying to implement the carrot and the stick because we need the carrot and we need the stick. One of the things that we agreed upon also is this creation of second- and third-degree burglary for nondwellings and unoccupied nondwellings, which is very interesting. And-- and the way that it reads in the bill, a dwelling, I believe, is a residence. So now, being a business owner, I think a little bit differently like this than I did at the time, but I'll let you be the judge. What we've done is broke this down into three different, like first-degree burglary. And what this is, is a person who willfully or maliciously breaks and enters any dwelling with intent to commit any felony or with intent to steal property of any value. And that is a first-degree, and it's a Class IIA felony, so that can be up to, I believe, 20 years. You might check me on that. However, if a person breaks into a business that's occupied, so take any business, it's occupied and someone breaks in with intent to steal something, that's a Class III felony, which is lower than IIA, so less serious. So you're a business, someone's in that business, and we're making that less of a penalty. And if that business is not occupied and someone is breaking in, that's even less of a penalty. That's a IIIA. And with all of these, let's just say it's a four-year sentence and I'm going to-- I'm arrested. I'm convicted. I'm going to prison. My sentence is four years. In Nebraska what that means is your sentence is two years because we give automatic good time to everyone. So let's just say that I was-- I-- someone broke in my business while I was there.

HUGHES: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

GEIST: And let's say the penalty for that is four years. The person that gets arrested and convicted because there was plenty of evidence-- we had video, we found out this is the person-- they go to prison. They're actually going to be there two years. So I'll let you judge how you feel about that. There is another-- I'm sure I'll get some more time here in a minute, but there is another nonconsensus item that I want to talk about next, which is creating geriatric parole eligibility. And there's some agreement and disagreement on this. We kind of set it aside. We called that putting it in the sandbox when we were in our-- in our group. And I'll explain why that was in the sandbox, but we never--

HUGHES: Time, Senator.

GEIST: --picked that one up out of the sandbox. I'll talk about that one in a minute.

HUGHES: Thank you, Senator Geist. Senator Dorn, you're recognized.

DORN: Thank you, Mr. President, and I would yield my time to Senator Geist.

HUGHES: Senator Geist, 4:53.

GEIST: Thank you. Oh, I can tell you about the sandbox item. This is creating geriatric parole eligibility. And like I said, there is some kind of-- there's some agreement and disagreement here, maybe comfort and discomfort. I know as I've toured and-- and met some inmates, it's pretty incredible, the people that you meet, because if you've never been into a-- a-- a state correctional facility, it seems like a scary place, and it can be. But there are some really incredible people there, and some of the incredible people that I've met would probably fall into this geriatric category. So I have kind of a heart for-- for this particular item. But in some cases, and especially with legal things, now, of course, I'm not an attorney and I don't-- probably can't even think like one, but I've learned to ask good questions. So-- so with geriatric parole, you have-- some of the people that I've met and that would fit this are actually female. I've not met many men who fit this, and it's just because of the different facilities that I spend more time in. But currently, in the amendment that we have for LB920, I really like this, that it's-- a person has to be 75 years of age, they have to have served at least 15 years of their sentence, and it's for a Class I or Class IA felony. And I'm going to guess that this is an area that all of us are going to agree that-- that that's probably too narrow, and mainly because there are-- there are crimes

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

of a sexual nature that go all the way from I to IV. And if you're not familiar with the felony code, IV is the lowest degree of felony all the way up to I, and riddled throughout there are different, like assault of a child or rape, sexual assault, all those different kinds of things. And so for the-- for me to be agreeable on this, that just would need to be broadened of how-- who's included on geriatric parole. There is a-- a federal geriatric parole that really looks at the health of the inmate, and I think that would be a way that we could look. However, I prefer our 75, age 75 and 15 years, and if we wanted to add something that had to do with the disability or the-- the actual infirmness of that inmate, I think that's something that could be added to that as well, not just looking at, well, you're 75, you've served 15 years, and you didn't murder anyone. I think-- I just think that needs to be broader. But I think we could find some agreement there because, as I said, I think there are some very wonderful people that we have incarcerated. There are some that need to be there for a long time and I'm sure will be there for a long time. But because of that, because of my heart for the people who are behind bars, is why I think as a state one of the things that we've never done as a focused, concentrated effort is dealing with recidivism. And what is it that helps people get better? What are the things that we as a society and we as a government can do that will encourage the better growth, the better outcomes of our incarcerated people. Rather than changing the corrective sentencing penalties, let's look over here at what's expensive but what speaks to getting people on the right track. That takes money. What's happened in our state and across the country, people don't want to spend money--

HUGHES: Time, Senator.

GEIST: Oh. Thank you, Mr. President.

HUGHES: Thank you, Senator Geist. Senator Lowe, you're recognized.

LOWE: Since Senator Geist ran out of time, I'd like to yield the rest of my time to Senator Geist.

HUGHES: Senator Geist, 4:52.

GEIST: This is-- has to be the longest consecutive time I've ever talked on the mike. Anyway, I was talking about helping people get better and how important that is. We have a bill that came out of Judiciary that-- that's looking at all of our programming and judging, is this the best it could be, is it evidence based, is it working, how are we going to score that. That's so important. Are we doing the best

thing we can do for the people who are incarcerated? Because it's in our best interest to do that. They're going to be our neighbors. Ninety-five percent of them are going to get out, so as a state we need to be committed to helping them get better. Now that, in my opinion, isn't always done best with government. Government's not great at making people better, but there are so many organizations that are that government can enable to help. RISE is one of those, a wonderful organization that helps people inside and as they transition outside and even wants to expand that reach. Those are the kinds of things we need. We need, and actually we so much need as a state, and Senator Arch and I were talking about this earlier, a plan across our state to focus on access to good mental health for juveniles, for adults. You can't not have that as part of this conversation because so many people who incar-- are incarcerated have an underlying mental health deficiency, and we've got to address that. That's not just a Nebraska problem. It is a nationwide problem, but it's part of this problem and something we can't address just by changing the rules. We need to help access-- people get access to good treatment, good addiction treatment, good methamphetamine addiction treatment, which is another thing we're going to do. And in the-- in the CJI recommendations were, and this is a consensus item, of course, helping to have tuition reimbursement for those who are willing to study psychology, psychiatry, go to the rural parts of the state, also those who will get a methamphetamine certification. There are very few people who are actually trained in how to treat methamphetamine addiction. It's very difficult. It's a long process, both the treatment and the training to give the treatment. So there's another thing that we really need to talk about. We're finally at a point, and hopefully this won't be short lived, but a point that we have money. And the things that I'm talking about, the things that are hard, the things that help people get better, actually cost money. They cost money over time. So, as a state, we need to be committed to spending money to help people get better, not just putting them in prison, leaving them there, and not addressing their needs until they get out. That's what causes the revolving door. That's what causes recidivism. And until we focus on that, then we're-- our population is going to continue to grow. If we let more people out more quickly and don't offer--

HUGHES: One minute.

GEIST: --treatment, mental health access, programming that helps them with anger, with self-discipline, learning to get a job, all those soft skills, we're going to have the same revolving door. It'll just happen faster because there are more people out on our streets. And in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

my opinion, and this is my opinion, that is not what is in the best of public safety. What's in the best for public safety is making sure people that get out are better or are getting better, and we continue to help them get better so they don't continue to go back. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Sanders, you are recognized.

SANDERS: Thank you, Mr. President. I yield my time to Senator Geist.

ARCH: Senator Geist, 4:50.

GEIST: Thank you, Mr. President. All right. Let's see, I had kind of completed a thought, so I'm going to pick up another one. OK. Let's see, hopefully, I can find this in here, and this is about consecutive sentencing. On page 25 of the amendment it says, when determining whether to impose a consecutive or concurrent sentence, a court shall impose a concurrent sentence unless the court on the record define-- identifies one or more aggravating factors under Section 14 of this section. OK. Let me just put this in layman's terms. What this is trying to do is not allow a judge to say, OK, Mr. Doe robbed store A, B, and C on Monday, therefore, what happens sometimes is the judge will say, OK, well, this was a felony and this is a felony and this is a felony, so let's say this is a three-year or four-year felony, breaking and entering or burglary. Oh, let's say it's unoccupied business, and so level III, it-- that would be a level III felony. And let's say they get four years. I'll just throw that out there. I'm not 100 percent sure that's the sentence, but let's use that. So three different breaking burglaries in the same night, so that could potentially be 12 years that you could-- that Mr. Doe could get sentenced. What this would do is say, no, since those were-- that's consecutive sentencing, so instead we would say that, unless he had one of the factors, which the aggravating factors are real-- they-- either they have to occur on a different day, they involve the use of force or threat of serious bodily harm against separate victims, or was a violation of some of these other-- or involved in a sexual assault. So there are some pretty serious things that would allow them to use consecutive sen-- consecutive sentencing; otherwise, the judge could only use the four years. Since it's the same thing-- three incidences, similar, they could only be sentenced to the maximum of four years, where currently what a judge will do is look at all of what this Mr. Doe did and make a judgment between, let's look at these three crimes on this day and decide who this individual is, how many times they've seen them, what is their past history, is this a first-time offense, all of those things, and make a decision whether

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

to do consecutive or concurrent sentence. So in this situation, that's one of the nonconsensus items, just because there's some disagreement about the latitude that-- or disagreement about the level of latitude, I guess I would say, that we're going to give our judges. So there's that one.

WILLIAMS: One minute.

GEIST: Thank you. Another one is-- is the mandatory minimum, which we all-- we-- gosh, I think we've argued about that for the past number of years I've been here. To-- to the credit of this bill, this does limit it to drug possession and distribution charges, so it's-- it's eliminating mandatory minimums only in those cases and not gun charges, which is one that we-- we often argue. However, one of the things, and that is also in dispute, is whether this is a tool in the toolbox of-- of those who are trying to keep people who can be dangerous--

WILLIAMS: Time, Senator.

GEIST: Thank you.

WILLIAMS: Thank you, Senator Geist. Senator McKinney, you're recognized.

McKINNEY: Thank you, Mr. President. And I'm rising to continue the discussion about the options that were in the CJI process, and one of those was geriatric parole. But I'm also glad to hear that Senator Geist, and this is not being sarcastic, honestly, I'm glad she's willing to have this discussion and willing to talk about how do we get to a solution so all sides are, you know, in a better space. So I'm not being sarcastic. I'm really happy she stood up and at least she's saying where she's at on things, because I really appreciate it. But on geriatric parole, kind of give a backstory on this, so in 2015, 10 percent of Nebraska's prison population was made up of people 55 or older, an increase of 63.5 percent from just five years earlier. While Nebraska has a medical parole policy, the data shows that it has under-- is-- it has been underutilized in the last five years. As such, in 2015, Nebraska spent an average of \$8,582 per incarcerated individual on prison healthcare, a 13 percent increase from 2010. Unlike many states across the nation, Nebraska does not have geriatric parole. Across studies, reach-- researchers have found age is one of the most significant "predecessors" of criminality, and criminal behavior decreases as people get older. Studies on recidivism for individuals on parole found the likelihood of violations of their

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

supervision conditions also decreases with age. In these studies, older individuals on parole were less likely to be reincarcerated. Furthermore, individuals-- incarcerated individuals who are older are more likely to have serious health conditions compared to those who are younger, leading to much higher medical costs due to the increased needs. Prisons across the nation spend roughly two to three times more to incarcerate older individuals. And when I've went through, you know, our prisons and you see individuals walking around on walkers and wheelchairs and people on canes and barely limping, I just thought to myself, OK, so we're spending \$40,000-plus to house somebody, not even accounting for the medical cost. And, you know, when you go sit with like the Circle of Concerned Lifers, you see individuals that have been in for a long time. I-- even when I went to Tecumseh, I met a man, I think he went to prison in the '80s, and he's-- definitely have to be in his 60s, 60-plus, and he's one of the, you know, role models inside of that, that facility, and we're still housing him, and that's why I think geriatric parole is needed. And we may disagree on at what age should an individual be able to go in front of the-- in front of the Parole Board, but I-- I would just say, whatever age you're eligible for Social Security, that's the age we should use or something around there. I-- I think it's a-- it's a number we could get to. It's in nonconsensus items, but during our task force meetings, it wasn't something where everybody just said no. I just don't think we actually had the time to really dig deep into this one, for sure, because I think it's something that, you know, we could get to some type of understanding and agreement on as far as a solution to put geriatric parole or keep geriatric--

WILLIAMS: One minute.

McKINNEY: --parole into LB920 because it's-- it's needed. It's no reason to have a senior home inside of a prison, pretty much. You got-- you literally have people walking around on walkers. I'll probably get up again, but I do appreciate the conversation around the options and the process and where other people feel on this, because I think, at the end of the day, we all gotta come to the table and talk. And we all might not get what we want, but I feel like we definitely need to talk. Thank you.

WILLIAMS: Thank you, Senator McKinney. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. President. Speaking to Nebraskans here, tomorrow is going to be a very historic day in our state for the people of Nebraska and for the history of our state here, because we will be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

taking the first substantive step toward a total abortion ban in Nebraska with no exceptions, with no immunity for physicians, and that's going to happen tomorrow. Senator Albrecht filed a pull motion on her bill, LB933, which is a trigger ban, which says that if the case being heard before the Supreme Court, if they end up overturning Roe v. Wade, that Nebraska will then immediately move to a full abortion ban with no exceptions at all. The committee where that bill was heard, the Judiciary Committee, decided not to vote that bill out to the floor, and Senator Albrecht decided to subvert that committee process in a-- a move that's becoming more and more common here in this Legislature, where we don't legislate and pass policy through the wisdom of committees but through, really, brute force by muscling bills out of the committee process, putting it on the floor where it only needs 25 votes to advance to General File, where we discuss it just like any other bill that came out of committee. This is very significant and historic. In my time here, you know, of course, we've had many anti-reproductive rights, anti-woman, anti-abortion bills be passed here in the last 20 years, but in my time it started with LB209, I think was the number, which was another Albrecht bill which put into statute that people who get medication abortions have to be told by their physicians that, if they act within a certain amount of time, that their abortion can be reversed. And so what that bill did was it made physicians basically tell untrue information to their patients, to put, you know, a lie basically in statute that really doesn't do anything to keep patients safe. So that bill passed in 2019. A couple years ago, we had LB814 from Senator Geist, which was a method ban, and it said, you know, there's a certain method of abortion that-- that is most common at the end of the first trimester and in parts of the second trimester that no longer can be done in Nebraska, even though that's sometimes, you know, the best judgment of the physician and it's what's best for the patient, often to save the life of the patient, but that method can no longer be done in Nebraska. I lost my mind with both of those bills. I did everything I could to block the passage of those bills because I'm so against the government and politicians, who are often religiously motivated, not motivated by science or what's best for patients, coming between patients and doctors and making medical decisions for them when they really don't know best. And that's something that I've been very consistent with, you know, regardless of the issue. And many conversations that I had with colleagues during that debate, during both debates, but especially, for example, during the method ban debate, which was one of the most restrictive abortion laws that-- that we've passed in this body, so many of you said to me, well, at least it's not a total ban; if it was a total ban, that would be out

of line, that would be out of the question for me. Even, you know, anti-abortion, right-wing Catholics that I speak to understand that there are medical cases when--

WILLIAMS: One minute.

HUNT: --you know, a miscarriage is going to happen, when there are reasons that-- that a person needs to terminate a pregnancy. Even the most stringent anti-abortion people understand that, that there need to be cases. But what we are going to be debating tomorrow, colleagues, is not just a motion to subvert the committee process. It's to subvert the committee process, to undermine this institution, to pass a total abortion ban with no exceptions. And the balconies aren't full, the Rotunda is not full of protesters, but, Nebraska, that's what [SIC] coming down the chute for you tomorrow. So please reach out to your senators and unite because I'm asking for help because we have to do something about this. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hunt. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. So I think I've been listening to some of Senator Geist talking about the Judiciary and-- and some of the issues that we're going to be dealing with down the road here. The Chamber is getting kind of empty. We're right around dinner time and everybody's kind of relaxed and having a ball-- well, maybe not having a ball, but we all know we're going to stay here until about 10:00 tonight, so we might as well enjoy it. We've still got another component of the budget to go. I've got another amendment coming up after this. There's several more after that. But again, when we're-- when we're talking about what we're doing in the state and how we're spending money, some of the cash transfers that are happening in order to spend that money, you know, we-- our revenues have come in way above projections. We've got our Cash Reserve built up to where it's \$1.8 billion, I believe, somewhere in that range, and we're doing cash transfers out of that fund in order to do different projects across the state. And I want to make sure that each of us gets a chance to-- to vote on these because these-- these cash transfers are all basically done in Appropriations. And so again, any bill that comes out of my committee, or any of the committees, if it comes out of Transportation and Telecommunications, it could come out of there 8-0, but that doesn't mean you guys can't pick it apart and vote on different components of it and make sure that we're getting legislation right. And that's a little bit what this does, is we had this the first time around. We're talking about the second time around. And now is the opportunity. If somebody doesn't like funding

these cash transfers, we can see where the money's going, we can see how much is going there, and we can make changes to that because these cash transfers dictate how much programs that we create in our budget, how much they spend, because if we only transfer half the amount they were looking for, that's all that they can spend. So as we look at the appropriations and where those cash transfers all go, you know, since we're-- we're in no big rush here, we can-- we can determine kind of the priorities, what I call the priorities of the body. And so that was my point, and it's been-- going to be my point continuing forward when I'm talking about the budget, is, where are our priorities? We talk about tax relief. We talk about our income tax cuts that we're going to hopefully be making, our spending, whether or not we want to build a new prison. Those are big issues that are going to face this Legislature or next year's Legislature or sometime down the road. We're going to be-- have to-- we're going to have to talk about it. This year, we have not had really an opportunity to make changes to our budget other than working on the cash transfer portion of it. The rest has been locked up basically by a filibuster, so we can't attain any attempts to make changes to that, and it might just go all the way through Final Reading without our ability to make changes to it. So the only attempt that we can do is make attempt to those cash transfers that go to fund those bills that we're creating in the budget. So as we look at what I was talking about today, whether or not Offutt Air Force Base, there's another component of it that's-- that's coming up that we could talk about. And I think that's Senator McDonnell, where he's transferring some money, too, to-- to spend there. We-- in the end, there's many different components. We look at some of the things we're doing in the budget, the cash transfers--

WILLIAMS: One minute.

FRIESEN: --are looking, for instance, to workforce housing. There's also ARPA money being put into workforce housing. There's some times where we're double budgeting, we're doing ARPA money, and we're adding to it our regular budget money. And to me, I think we've done a little bit like what the federal government's doing. We're pouring too much money at a time-- at one time into a shorter time frame for them to use it. We're going to drive up the cost of what we're trying to accomplish, but we don't have a long-term plan of how we're going to fix it. It's like telling the Department of Transportation they have a billion dollars for roads, but they've only got two years to spend it. It doesn't work. And so we have to think longer term of how we're going to solve some of these issues. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

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

McCOLLISTER: Thank you, Mr. President. Early good evening, Senators. I'd like to compliment Senator Geist for her willingness to engage on this criminal justice reform issue. That's what we need to-- to deal with this issue. And generally, people of good faith can come to good solutions if they engage on a topic. The topic that, you know, I dealt with the other day was geriatric early release, and Senator Geist indicates that maybe we should make that age 75, and I would venture to say that cohort of people is probably three or four. It was certainly not enough to even move the needle, and I think we need to lower that age. Maybe we could make that 60 years old and a certain number of years in prison. But we should, if anything, adopt the federal standard. That makes sense to me. Going back to my earlier comment today, the question is-- the real question is, how big to build a prison? And we haven't dealt with that issue. We're scooting-- skirting that issue. Criminal justice reform begs that question: How big a prison do we need to build-- build? If we really want to bend the curve, we need to look at sentencing reform, parole reform, and some of those other suggestions that we received in these reports. I ask you, colleagues, when you go back home and the local newspaper wants to talk to you about criminal justice reform, what are you going to say, that we kicked the can down the road another-- another year? You go to your-- your Kiwanis Club or a Lions Club and somebody in the audience will say, what did you get done this year, and then maybe somebody else will ask, did you deal with prison reform? And you can trust-- truthfully say we skirted the topic and-- and didn't do much. Once again, I salute Senator Geist for her willingness to engage, and I yield the balance of my time to Senator Geist.

WILLIAMS: Senator Geist, you're yielded 2:40.

GEIST: Oh, good. Thank you. Thank you, Senator. I appreciate the time. One of the questions that I asked in one of our hearings, and I ask it repeatedly because I think there's a point to it, and that is, so does reducing penalties reduce crime? I never really got a straight answer on that, because I think the resounding answer is no. We're looking across the country at cities and states that have reduced penalties or don't even bother to lock people up sometimes. And what I've heard from my constituents, from my family, from people who aren't even my constituents, is a resounding no. They don't want that to be what happens. And I'm not even going to say that, should we pass some of these, that will happen in Nebraska. But I will say that that's a-- a-- a bridge too far for me because I have seen the stories and I do

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

have constituents and families that come to me and say, help. But think about this. Let's take Senator McKinney's neighborhood. What if we infuse his neighborhood with jobs, with opportunity, with support? What if we had access to mental health treatment and care?

WILLIAMS: One minute.

GEIST: What if we had good drug treatment that people weren't arrested because they're an addict, they're sent to treatment and they get better? Not everyone's going to get better, but you get arrested for a certain crime, you're sentenced to treatment. Do you know the results of forced drug treatment are almost as good as the results of willing, voluntary drug treatment? What if, dare I say, we have a new prison that people didn't have to live on top of each other, that's state-of-the-art, that took fewer guards because of the technology, that there was tech-- there was room for classes, job training? What if we did that? Maybe the size of the prison that we have in our mind right now is enough.

WILLIAMS: Time, Senator, but you are next in the queue and this is your third opportunity.

GEIST: Thank you, Mr. President. What if we tried that? We've never tried it. We're always doing the easy thing. It's easy to tell Senator McKinney's people to go away. It's easy to ignore his neighborhood. It's easy to lower a penalty or tell the judges, you've got to change how you sentence people. But it's hard and expensive to help people get better, and that's what we need to do. We have money. For the first time in our state's history, we could afford to do this. But we all have to make a long-term commitment to our brothers and sisters around here in our state to help them get better. Pushing them off and saying, well, what you did's not so bad, is not the answer. You have kids. Did that work in your house? People are people. We all respond the same way. If you tell my kids-- they're grown up now, so they're responsible for themselves. But if I told them when they were young, oh, that doesn't matter so much, and, you know, that doesn't matter so much, and if I sit them in timeout forever. No, I never did that, but eventually they push so hard and do something so wrong they get in real trouble. But if you start early and you don't allow that behavior to begin with or you have some sort of correction that they can depend on, we owe that to people. That is not being mean. That's loving. That's being a good citizen and teaching other people how to do that. Some people don't get that in their home. I totally understand that. Then, as government, we need to take good principles in mind and utilize them and then reward people for good behavior, give them

access to what they need, help them get better. But it's expensive, and sometimes it's worth the cost, and I would say here it's worth the cost. Thank you, Mr. President.

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

McKINNEY: Thank you, Mr. President. So just to continue the conversation, the next option or nonconsensus item, modified drug possession penalty, research has found incarceration is not more effective at reducing recidivism than noncustodial sanctions, such as probation, and that for certain type of offenses, including drug offenses and technical violations, it can result in higher rates of future criminal behavior as measured by both rearrest and reconvictions. In addition, psychological research has shown that many drug-involved individuals are not responsive to deterrence because of the seriousness of their addiction. Drug possession was the leading offense at-- in-- at admissions to the Nebraska prisons in 2020. Unlike many other states, possession of substances other than marijuana is a felony in Nebraska, regard-- regardless of the amount. This means that the user-level conduct is punished at a felony level and often a prison sentence. That's really kind of odd, since, you know, marijua-- marijuana is considered such a horrible drug, you don't get charged with a felony with marijuana but you do with others, which, I would argue, which is why we should legalize marijuana. But that's another topic for another day, but I just wanted to continue this conversation. So then the 20-- 20th option, ensure consecutive sentences are used consistently and appropriately across the state. In the past ten years, the use of consecutive sentences has grown signifi-- significantly. The vast majority of these sentences are not mandated by statute, but are discretionary decisions by the court. Despite no difference in the number of charges at conviction, less serious felonies are more likely to be settled consecutively than more serious felonies. Consecutive sentences are a significant driver of the increase in length of stay. Moreover, when the Working Group examined county breakdowns of the proportion of consecutive sentences, it saw them being disproportionately used across the state in counties that have few prison admissions and for offenses that were not more serious or violent. As consecutive sentences significantly increase the amount of time an individual spends in prison, they should be reserved for more serious and harmful offenses. Victims and survivors in Nebraska are in favor of increasing the guidance and education given to judges with regard to sentencing and poor decision makers in the system to incorporate victims' and survivors' perspectives and considerations in the development of guidance and educational materials for criminal justice officials at all stages. And I know a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

lot of times, when I stand up and say we should do this or that, people might think that I don't care about victims or I'm not thinking about that perspective, but I do because at my desk is a pin of my best friend who was a victim of violence that was killed; also have other family and friends that were killed, that were victims. So I think about the victim's perspective, but I think about the perspective of the criminal justice system from a holistic perspective. I don't try to be one-sided. But when I look at, you know, the historical nature of our criminal justice system in our country and our state, there are some things that need to change--

WILLIAMS: One minute.

McKINNEY: --because the-- the route we've been on has not worked. You know, my community has the highest incarceration rate and the highest disproportionate rate in the-- in the state, so something has to change. I'm not saying don't hold people accountable, but we need to have a real conversation about how do we do that in a just, fair, and equitable manner so we're not over incarcerating individuals and we decrease the amount of disproportionality as far as people that look like me inside of our criminal justice system. Thank you.

WILLIAMS: Thank you, Senator McKinney. Senator Hunt, you're recognized. Is Senator Hunt on the floor? I do not see Senator Hunt. We will pass over. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. And, colleagues, good evening. I want to start out-- first of all, I, too, very much appreciate Senator Geist's involvement in this debate. I have served on the Judiciary Committee, I think, four years together-- two-- two years together, and I very much appreciate Senator Geist's contribution to the work we've done on Judiciary Committee. I actually encouraged the Governor to appoint her or have her participate in the CJI process. I-- I have a lot of respect for Senator Geist. And as we've gone through the CJI process, there are those things that we generally call consensus items, which-- many of which Senator Geist just went through, that-- that there isn't a lot of disagreement on a pilot project for assistant probation officers, incentives for probationers, gift cards, breaking down burglary into degrees, tuition reimbursement for people that are care providers. Those are the things that-- that I think universally in the group we all said, you know, that makes a lot of sense, that makes a lot of sense. And the challenge-- the challenge, colleagues, is that, while those are the things that all of us can agree on, they are not the things that make a difference, or a consequential difference, I'll say, in our growth in the average

population at the Department of Corrections. So our challenge and where Senator Geist and I struggle, maybe disagree, respectfully, is that taking that next step, going to the things that-- that didn't develop consensus but do alter sentences. And I want to talk about the-- the notion that we're-- we're going to reduce sentences, because the things that-- the things in that nonconsensus item that make the biggest difference in our population-- and we'll talk-- we got all night to talk about this and I-- and I'm happy to. The things that make the biggest difference relate to how early does somebody have an opportunity for parole? So the number one difference maker is, if you have an indeterminate sentence, that your lower number be half of your higher number. So if you're going to-- if the judge wants to give you 50 years, your low number is going to be 25 years. And what that does, it is responsive to another consensus item. Everyone in that room, everyone in that room that participated in this, said we got to prevent jam-outs. Well, you can't make somebody's parole, especially if they don't have an opportunity to. You have to incentivize them. To do that, you need a window of time between the date they're eligible for parole and the date they're going to get to their mandatory release date. If those dates are next to each other, then the inmate says, I'm not doing programming, I'm not going to be accountable to a parole officer, I'm just going to do my mandatory time and get out of here. That way, I can go back to my old neighborhood, hang out with my old friends and get in trouble again, and no one's going to be looking over my shoulder. And so when we talk about converting that consensus item, preventing jam-outs, into policy, then it gets uncomfortable. It gets uncomfortable. But if we are going to solve the problem, we're going to have to get to a place where we're uncomfortable. When we talk about having the-- an indeterminate sentence with a broader range of time avoiding the 50-to-50 sentence or the 49-to-50 sentence, but making that 25-to-50, there is nothing--

WILLIAMS: One minute.

LATHROP: --in this bill that makes it-- that-- that lowers the maximum a judge can give somebody. Now I'm going to say that again. There is nothing in this bill that lowers the maximum that a judge can give somebody in an indeterminate sentence. This just lowers the lower number and, understand, that provides an opportunity. It's only eligibility and that person's not going to be released unless the Parole Board thinks that they're suitable for release. And that's-- by the way, you've heard me say this-- the Parole Board are five individuals appointed by the Governor, and three of them have to agree this person is a suitable candidate to be paroled. And then when

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

they're paroled, they're accountable and they get some help on their way out the door.

WILLIAMS: Time, Senator.

LATHROP: Thank you.

WILLIAMS: Thank you, Senator Lathrop. Senator McKinney, you're recognized and this is your third opportunity.

McKINNEY: Thank you, Mr. President. And I'll continue on the last nonconsensus item, which was option 21: to discourage the use of mandatory minimum sentences for nonviolent felonies and allow credit to be earned during the mandatory term toward the nonmandatory portion of a sentence. The use of mandatory minimums has more than doubled since 2011 while the length of mandatory minimum sentences is unchanged in this time. Time served for mandatory minimum sentences has increased 42 percent. Mandatory minimums in Nebraska apply not only to serious sex offenses, but also to all Class IC and ID felonies, regardless of whether the offense-- offenses are violent or sex offenses. In addition, the Working Group looked at which-- at a way in which credits apply to mandatory terms. The credit system authorizes sentencing credits to be afforded to those who are incarcerated at a day-for-day rate, facilitating parole eligibility halfway through someone's minimum sentence; however, credits cannot be earned during a mandatory sentence, and a person may only begin accumulating credits after they have served the entire mandatory minimum. This credit rule for mandatory minimum sentences means that in many circumstances the actual mandatory term is longer than the stated mandatory minimums. And this was a part of the conversation because, even when you talk to Director Frakes or if you talk to other incarcerated individuals, the issue is you have individuals that go inside that are serving a mandatory term, for example, of five years. And some individuals don't have the incentives to do the program or anything because they know for five years-- I'm literally stuck here for five years, so why should I do anything, why should I listen to anybody, why should I go to programming, why should I try to better myself, because I'm stuck here for five years. But after that five years passes, that's when people begin to get involved. And I would say, why don't we incentivize them to get involved sooner so they are model citizens, so we don't have the issues that we have when you talk about guards being assaulted and things like that, making sure people are completing programming? That's why this item was placed on-- placed as an option, to try to provide an incentive to decrease, you know, bad behavior, essentially, and also to get people to get through

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

programming and get through the things they need to get through so when they do-- so when they are released, they're set up for success. Currently, our system disincentivizes anybody to do anything while they're serving a mandatory minimum, and that's what we need to change. And I know some might disagree, but would you rather that person serve a five-year mandatory minimum, don't do programming, get released in two-and-a-half years, and jam out, or would you rather we incentivize them on the first-- within the first five years to do the programming and things like that so, when they are released, they went through programming and they did all the things they need to do so they don't return? I think it's a cost-saving method for our state if we really think about it. Would you-- would you rather somebody keep coming back and we're spending 40-- 40-plus-- \$40,000-plus on them or we-- we have that one-time spend. That's what we have to think about when you think about dollars: get people through the programming and the treatment that they need so they don't return. That's what we have to do, but we need an incentive to do so--

ARCH: One minute.

McKINNEY: --for some individuals, and that's all this option is attempting to do. And I know some might disagree, but I think it's something that we should have a real conversation about. Do we want people to get the program and the help that they need by providing an incentive, or do we want to continue to disincentivize those things? Thank you.

ARCH: Thank you, Senator. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. So it's been a good and interesting discussion. Again, I-- I thought it was kind of an interesting discussion. We turned this into a more of a Judiciary-type thing, but I think it was educational for a lot of people because there were people listening and-- and watching kind of what was going on. So with that, I plan on withdrawing AM2344. Thank you, Mr. President.

ARCH: Thank you, Senator. The amendment is withdrawn. Mr. Clerk.

ASSISTANT CLERK: Mr.-- Mr. President, the next amendment from Senator Friesen is AM2349.

ARCH: Senator Friesen, you're welcome to open on AM2349.

FRIESEN: Thank you, Mr. President. So again, I will just tell you what this amendment was so that there's no ambiguity here, you'll understand what I was doing. This amendment basically took the \$20

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

million that went to Offutt that Senator McDonnell had. And so again, rather than, I guess, stir the crowd and start over with this again, what I'm going to do is basically-- I think Senator Bostelman has an amendment on AM2349 which guts that language and fixes an earlier problem. With that, I will give up my time, and Senator Bostelman could do his amendment.

ARCH: Thank you, Senator. Mr. Clerk.

ASSISTANT CLERK: Senator Bostelman would move to amend the Friesen amendment with FA149.

ARCH: [MICROPHONE MALFUNCTION] Bost-- Senator Bostelman, you're welcome to open on your amendment.

BOSTELMAN: Thank you, Mr. President, and thank you, Senator Friesen, as we start on this. So this is going to address what we talked about earlier this afternoon. With Senator McDonnell, if you go to page 33 of AM2000, on there, in subparagraph (4), talks about transfers may be made from earnings on the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund at the direction of the Legislature. The State Treasurer shall annually transfer \$905-- \$955,000 on July 1, beginning in 2022, and from the earnings on the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund. And what this amendment does is basically, on line 31, is going to strike the word "annually." So what it says is this-- so it will read, as now will say that the State Treasurer shall-- shall transfer \$955,000 on July 1 to the-- beginning in 2022, from the earnings of the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund. I talked with Senator McDonnell about this, and I originally had a floor amendment out there. I was going to strike lines 19 through 30-- or 29 through 31 on page 33 and then lines 1 through 3 on page 34. And we talked more about that. He explained a little bit more about what he was doing and what the fund does, so I also made a call to the-- to the Public Service Commission and talked to them a little bit about the fund, what the fund's for, and it's just the interest that's there. And I also talked to Fiscal Office about it. It's just the interest that he's-- this one time that he'll be-- that-- of-- of that amount of that \$955,000 that we're going-- he's going to be transferring into the 211 Cash Fund to-- to provide them the funds that they need. So my concern was, as you heard earlier, was, if we did that, how that was going to affect us in rural Nebraska, affect things that happen as far as our-- our cell service and other services across the state. We-- I talk a lot about broadband, but I can talk to you just as much more about cell phone reception and connectivity. And

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

throughout my district, we've got some significant issues there as well. So my concern was, really, was if we-- if the-- if these funds were transferred, was that going to leave the PSC and our telecoms short on funds that they're going to need to actually do the maintenance and upkeep of the-- of the facilities that they have out across the state? And as we discuss that further along, as it was explained to me, there-- there is, I think, \$1.4 [SIC--\$104] million, I think, out there, and I think Senator McDonnell could talk to that here in just a little bit. But what that does is this does take a portion-- leaves about a half a million dollars of interest that's out there that they can use. And-- and speaking with the PSC, this was not something that would detract from the services they provide or what telecoms provide. It will, in fact, do everything that they need at this time. So it does not-- again, it doesn't hurt any-- any of the providers that are out there, like any of the telecoms, to upgrade and update their services. So with that, I decided I would not do the strike to Senator McDonnell's agreement, I would not-- and would not strike that language out completely. But we are going to look at and we agreed upon to take that, the word "annually" out because I think that's one-- important because this will be a one-time transfer, if you will, of those funds, and then next year funds will be-- he'll look for funds to be taken from another location. So with that, I would ask for you to have a green vote on FA149 and the underlying bill as well. Would Senator McDonnell yield to a couple questions?

ARCH: Senator McDonnell, will you yield?

McDONNELL: Yes. Yes.

BOSTELMAN: Thank you, Senator McDonnell. Is-- do you agree with the things that I've kind of laid out here, what we've been talking about?

McDONNELL: Yes.

BOSTELMAN: So the 211-- and really the 211 is-- is a service that-- telecommunication service that does provide it throughout the state. Is that correct? Could you explain a little more on that?

McDONNELL: Yes, so the 211 service is statewide. It's-- it's-- right now, it's a grant process that was awarded to the United Way of the Midlands to operate in the call center in Omaha, but it's for the whole state. So as I discussed and I will-- here shortly, I'll go through some more of the-- the numbers, but it's a statewide service number, 211, and the reason it's increased, we believe, based on 24 hours a day, 7 days a week; also the idea of educating people on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

calling for that kind of assistance to 211; also, of course, when we had the flooding and then the pandemic.

BOSTELMAN: Thank you, Senator McDonnell. Then of these fees, are they utilized throughout the state then or is it just in certain areas?

McDONNELL: Yeah, it's a-- it's a partnership based on a private-public partner-- private money for operational cost is 60 percent, has to be raised; 40 percent is coming from the state for the whole state to have that 211 service. Anywhere in the state, you call 211, you're going to get the same-- the same service.

BOSTELMAN: Thank you, Senator McDonnell. So, colleagues, I do think this is a-- a reasonable accommodation or a compromise that Senator McDonnell and I came to on this. And I'll let Senator McDonnell speak a little bit more once I'm done with introduction here. I'm sure he's got a couple other things he'd like to say about this. But my concern really was, at the time, was-- was the amount of funds that were being transferred, how that would affect any-- any needs throughout the state. So I'd ask for your green vote on FA149, which strikes "annually" only. With that, I'll yield the rest of my time back to the Chair. Thank you.

ARCH: Thank you, Senator. Senator McDonnell, you are recognized.

McDONNELL: Thank you, Mr. President. Senator Bostelman did a great job of explaining the process we went through and the discussion we had. Also want to thank Senator Friesen, who's no longer pursuing to take away the funding for NC3. The \$20 million will remain. For some people that are going to possibly get a little confused with looking at the original AM2349, now that language no longer will exist. We'll have the white copy with FA149. So I appreciate working with, again, Senator Friesen and-- and making sure that we did maintain that \$20 million in the language for the next generation of nuclear command and nuclear protection for our country. Now going back to what Senator Bostelman just went through with us, so making sure that everybody knows the Universal Health Service Fund is-- is healthy, currently, it-- it is at \$1.4 million, as we were-- we were ta-- \$104.4 million. And right now, prior to that, in-- in 2021, it was \$93 million, but now it's at \$104 million. So what we're doing is we're only talking about the interest. And the interest, it was, what, \$1.5 million last year? So what we did before, prior to that, we were taking the \$300,000, so now it's an additional \$655,000, which leads-- leaves more than \$500,000 of just interest. But we're not touching the principal of the Universal Service Fund, and it's only for the next

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

year, so it's only until-- for the grant process for the 211 until June 30 of 2023. I will be bringing legislation next year to look at General Fund money or possibly another cash fund, but I'm not going to pursue this off the Universal Service Fund. I believe in the 211. I think the numbers that we have, and-- and I-- I know all of you at one time have-- have seen this through-- through emails, but the-- the people that have called and utilized this and-- and throughout our state, we have information, if anyone's interested, broke down by congre-- or by legislative district. And if you look at the-- the-- what they're calling for, their greatest area of needs are 54 percent for housing, 23-- 21 percent for utility assistance, 5 percent for employment, 4 percent for healthcare, 3 percent for food assistance. But I have a list here to show every senator how many calls have come into their district. If we look at the number of calls on the calendar, going back to 2018, there was-- total context, there was \$85,000; 2019, we had the floods, went up to \$92,000; 2020, we have COVID, it goes up to \$176,000; 2021, it's \$248,000, again, based on educating people, also based on making sure that it was operational 24 hours a day, 7 days a week. And I think we all have been in that situation where possibly we need-- we needed help outside, of course, calling 911 for a medical emergency, a fire, someone breaking into your home, just we just needed help. And a lot of times you have that ability to call a family member, a friend, a neighbor. Well, some people don't have that opportunity, and for those people that are really struggling, this, this 211 assistance line, is really a lifeline for them and gives them the opportunity to be hooked up with millions and millions of dollars coming from the private sector that want to help them. And so for us to fund this, and, again, working with Senator Bostelman, I gave my word to Senator Friesen and Senator Bostelman that I would only take this for one more year out of the Universal Service interest based on-- but I do believe in-- in the program. We know it's working statewide and-- and-- and there's-- you know, you can't put just pain and suffering in one legislative district. It's all of our districts. We all know we have people, and as elected officials sometimes you just can't give people an answer, and you want to help people, but at that moment in time you can definitely lead them, say, please call 211, because there's someone going to answer that phone 24 hours a day, 365 days a year, and are there to try-- to try to help them--

ARCH: One minute.

McDONNELL: --with their-- their needs. Thank you, Mr. President. So I just want to please encourage people to vote for FA149. I will be bringing legislation next year, but this does fund our 40 percent rest

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

of it. The 60 percent will come from the private sector and get us through until 2000-- June 30 of 2023. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Geist, you are recognized.

GEIST: Thank you, Mr. President. I'm-- I've created a monster. No, I think this is the longest I've spoken since I had my priority bill two years ago. So anyway, one of the things that I do as I read articles, and I have hundreds and hundreds and hundreds and I relate them to some of the things that we're either studying or something that I'm finding or a finding that I've come upon, and one of the things that gave me a really good idea about Nebraska and the way we do sentencing was this article and it's-- this is only half the story because for-- there's another story out there that gives all the-- the data. But it says rates for criminals reoffending drops to a 25-year low in South Carolina. I believe it's-- yes, the recidivism rate in South Carolina dropped to 21.9 percent, which is a huge-- that's a huge low number. That doesn't make sense, but that's a great drop. And this talks about a story of a guy, Gary [SIC--Cary] Sanders, who was 17 years old. He was sentenced to nine years in South Carolina's Department of Corrections. And you think, wow, how heartless are they? Well, listen to this: I was in the Department of Juvenile Justice 3 different times and arrested 17 different times by my 17th birthday, said Sanders. Soon after my 17th birthday, I shot someone during an armed robbery. He said, during his time inside, hi-- his mentality and his behavior changed due to the help he received. I remember a lot of years I sat in my prison cell and looked out the window and couldn't see past the prison wire. Now the inside program director for Jump Start-- that's this guy now-- it's a faith-based rehabilitation program helping inmates reintegrate back into society. He says the help he received inside gave him the life skills he needed to succeed: changed my shift in my thinking, which shifted my behavior. According to the data from South Carolina Department of Corrections, the state's recidivism rate is one of the lowest in the country, and they attribute that to investing in-- in prisoners helps keep prisoners from reoffending. They have ways to find them housing, job training, education. We have anger management. They're going to come back to a great cost to taxpayers-- remember I said this is expensive-- and a great societal cost because of the crime they committed, because this young man was arrested 17 times and ended up shooting someone, so there's a societal cost on that side as well. But if this individual comes back better and now he's giving back to the community that he got better in to help others get better. One of the things the article talks about, the one I can't find, is what they do in South Carolina is, instead of giving good time to everyone who walks through the door, which I would

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

contend should be just called time, because if it's not because you're good, it shouldn't be called good time, but we automatically cut everyone's sentences in half. So even CJI said that that's more of a detriment than a reward because it can only be taken away, so there is no incentive because it's dealt evenly to everyone, but it can-- parts of it can be taken away, so it can be seen as a consequence. So what if we just eliminate good time and required inmates to earn every--

ARCH: One minute.

GEIST: --thing they-- they can? You can earn time-- good time by going to class, by staying clean, by getting your GED, by having good behavior, and all of that adds up and that's your good time, not just time but good time. And these individuals did just that. They had a reward system for everything they could earn, and they had a recidivism reduction down to 21.9 percent. Right now, I believe what we publish as our recidivism rates are about 30. Imagine if we got that down nine points just by investing in people who are there, giving them the dignity of earning something that's not a penalty. It's a reward.

ARCH: Time, Senator.

GEIST: Thank you, Mr. President.

ARCH: Mr. Clerk, you have a motion at the desk.

ASSISTANT CLERK: I do, Mr. President. Senator Stinner would move to invoke cloture on LB1012 pursuant to Rule 7, Section 10.

ARCH: It is the ruling of the Chair that there has been full and fair debate afforded to LB1012. Senator Stinner, for what purpose do you rise?

STINNER: I would like a call of the house and a roll call in reverse order.

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

ASSISTANT CLERK: 24 ayes, 4 nays to place the house under call.

ARCH: 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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

leave the floor. The house is under call. Senator Bostar, Senator Brewer, Senator Day, Senator Hunt, please return to the Chamber. The house is under call. Senator Brewer. Senator Day, please return to the Chamber. The house is under call. Senator Stinner, would you like to proceed without Senator Day?

STINNER: I think we'll wait for a while.

ARCH: Senator Stinner, all members are present. A request for roll call in reverse order. Mr. Clerk.

ASSISTANT CLERK: Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne. 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. Senator Murman voting yes. Senator Moser voting yes. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe voting yes. Senator Linehan voting yes. Senator Lindstrom. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Jacobson voting yes. Senator Hunt voting yes. Senator Hughes not voting. Senator Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen voting yes. 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 no. Senator Dorn voting yes. Senator DeBoer voting yes. Senator Day voting yes. Senator Clements voting yes. Senator Machaela Cavanaugh voting yes. 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 voting yes. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting yes. Vote is 43 ayes, 2 nays, 1 present and not voting on the cloture vote, Mr. President.

ARCH: The motion to invoke cloture is adopted. Members, the next vote is on the adoption of FA149 to AM2349. I raise the call. Those in favor vote aye; opposed nay. Has everyone voted? Mr. Clerk.

ASSISTANT CLERK: 42 ayes, 0 nays on the adoption of the floor amendment.

ARCH: The floor, floor amendment is adopted. Members, the next vote is on the adoption of AM2349 to LB1012. All those in favor vote aye; all those opposed vote nay. Have all voted? Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the amendment, Mr. President.

ARCH: AM2349 is adopted. Now is the advancement of LB1012 for E&R for engrossing. All those in favor say aye. Opposed nay. LB1012 advances. Speaker Hilgers for an announcement.

HILGERS: Thank you, Mr. President. Good evening, colleagues. As we go to the next bill, I just want to give you an update for our evening. We'll have-- LB1013 is next. I anticipate that that will also go four hours until cloture so we will get cloture around 10:30. We will not be taking any formal break over the next four hours so I want to make you aware of that. And in addition, I think I communicated last week that I intended to wait and stand at ease for the Revisors to send down the bills after Select File so that we could have our layover day tomorrow. We're not going to do that. We want to make sure that we get it right so we'll have our layover day-- we plan on having that on Monday. So we'll have the-- so the Revisors will be able to get it done tomorrow, which means that when we get done with LB1013, we will adjourn at that point and not have to wait. Thank you, Mr. President.

ARCH: Thank you, Mr. Speaker. Mr. Clerk, for items.

ASSISTANT CLERK: Thank you, Mr. President. Amendments to be printed: Senator Matt Hansen to LB919, Senator Hilkemann to LB709, Senator Brandt to LB805, and Senator McDonnell to LB1012. Additionally, Senator Walz introduces LR359. That will be referred to the Executive Board. And your Committee on Enrollment and Review reports LB1014 to Select File with E&R amendments. That's all I have at this time, Mr. President.

ARCH: Mr. Clerk.

ASSISTANT CLERK: Mr. President, with respect to LB1013, there are no E&R amendments. The first amendment to the bill, offered by Senator Lathrop, is AM2252.

ARCH: Senator Lathrop, you're welcome to open on your amendment.

LATHROP: Thank you, Mr. President. Colleagues, good evening. I started to fade earlier today and I got my second wind so I am ready for another four hours, I'm happy to report. I know you were all concerned. I thought that maybe as long as we're having a substantive conversation about LB920, the work of CJI, that I could or I would suggest that we start talking about those things that are not consensus items and understand-- and Senator Geist talked about a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

number of the consensus items, those things that most everybody or everyone in the CJI group agreed upon. The challenge, as I've said before, was-- is that the consensus, consensus items are helpful, they're useful, they represent an investment in these men and women who have found themselves on the wrong side of the law, but they don't move the needle in terms of our population. And I want to talk to you-- if you look at the sheet that we handed out-- so everybody go back to your handout, those of you that are watching. And those of you watching at home, you can do this too. On the back-- on the, on this sheet, among the documents, is something called LB920. And on that document, you will see we have working group consensus items, things we all agree on. Senator Geist and I would, would generally agree on those items and for a variety of reasons that I'm happy to talk about them as well. But I think maybe what we can do is spend a little time on the nonconsensus items and by nonconsensus, we mean those items that all 15 people who were on the working group did not agree upon when we met. Senator McKinney made reference to this and Senator Geist will surely remember this, that when the large group met to talk about the, the ideas coming out of the subgroups, it was the day of a horrendous wind. We're in the basement of the Governor's Mansion. Our phones are going off because there's alerts. The sirens are going off and it-- the fireplace was shaking. It might even be a fake fireplace, but it was shaking and it was quite an afternoon and then we found ourselves short on time. Senator Geist remembers calling these items, putting them in the sandbox. I think, the Governor said putting them in the parking lot. But they were items we really didn't have a chance to spend a lot of time with. And so we really-- that was the end of the discussion and they ended up into the nonconsensus list, but nevertheless, things that are worthy of our consideration and I'll add, supported by data. And so the first thing on this list, if you're following along with me, is reduced jam outs by requiring minimum sentences-- this would be indeterminate sentences-- to be no, no more than 70 percent-- actually, the amendment makes it 85 percent-- for sex crimes and no more than 50 percent for other crimes. You've heard me say this before, but as long as we're going through this list-- and I'm going to do that tonight with the time we have and the time we'll spend together tonight-- that jam outs-- again, jam outs, bad idea, OK? I think everybody gets that, right, the idea that someone would be released directly from the Department of Corrections accountable to no one, getting services from no one, just going back to their circumstance. And for some people, that might work out, but for the vast majority, they're better off going out on parole. And I will tell you that when we met on-- and the big working group met, Chief Schmaderer was in that group. And I'm-- I've been careful not to

betray things that people say in the small groups when we're trying to be open and have a good conversation about policy, not to repeat things, for example, that Director Frakes said in the-- in our small groups, but this is one that Chief Schmaderer, the police-- chief of police in Omaha, said, you know what? I don't like jam outs. I much prefer people getting out on parole. It is such an important principle to understand. Ninety-five percent of these people get out, a third of them are jamming out and only, only 65 percent of them or so are actually paroling out. And so when you parole-- and this is why it is a consensus item to avoid jam outs-- when you parole, you get services. So you may leave the Department of Corrections and they say, inmate Morfeld you are paroled, but you have some things you need to do while you're on parole. Morfeld, you're going to go to outpatient treatment or you're going to maintain a job or you're going to go to AA meetings. You're going to do things that help in your transition and in your rehabilitation-- maintain employment. And more importantly, you're going to check in with your parole officer. That's pretty important. Now you're accountable to somebody as opposed to jamming out where you're on your own. You get \$100 at the gate and you can do whatever you feel like after you leave. They're accountable. And when they meet with their parole officer, guess what they have them do? We're going to have you take a drug test. See if you're living up to the terms and conditions of your parole. So paroling is a far superior method for discharge from the Department of Corrections versus jamming out and everybody in the room agrees on that. Where, where it gets to-- the disagreement is so if we're going to encourage parole versus jamming out, how do we do that? How do we do that? We do it by having a window of time where you can be parole eligible much sooner than you can get to your mandatory discharge date, right? And why is that important? Because the inmate needs incentive to participate in the programming. They're not going to get paroled until they complete their clinical programs, so inpatient substance abuse, it could be sex offender parole, anger management, violence reduction, those programs, you got to check that box. You have to behave while you're in the department. So you want to, you want to get in a fight with a guard or get in a fight with another, another inmate? You're not going to get paroled. And so the important thing about parole, colleagues, and the idea that we would create an incentive by having the lower number be a fraction of the higher number is we're creating that window. And in that window is incentive and opportunity and rehabilitation and good behavior. I know, you did, Patty. This is not a new concept. We've talked about it on this floor, as Senator Pansing Brooks just reminded me. The reason it's important, though, the reason it's important and you should understand, we're not touching the high

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

number. So if a judge wants to whack you and give you 50, they can still give you 50. We're not saying you can't give them 50, you got to give them 40. We're saying, go ahead and give them 50, but the low number needs to be 25. And then they will have their parole eligibility, they'll have that window. And when they reach parole eligibility, at the risk of repeating myself over and over and over, that doesn't mean they get out. They got to behave, they've got to complete their programming, and then they have to be a suitable candidate. So they do assessments. The victim has an opportunity to come in at the parole hearing and say, wait a minute, Morfeld should not be getting out now that-- he hasn't been in there long enough, and the Parole Board can take that into account and Morfeld is going to need three votes--

ARCH: One minute.

LATHROP: --out of five in order to get paroled. And that, colleagues, is what-- that, that is what the first nonconsensus item is about. They still have to satisfy the Parole Board, appointed by the Governor, that they're are a good risk. And, you know, if you're a judge and you sentence somebody, you don't know if they're going to get it, how soon they'll get it, whether they'll take the cure when they go through treatment or not. But the Parole Board can look at all those things and say, you know what, Morfeld is a good risk. He doesn't have to stay till his mandatory, just-- discharge date. He can get out a little sooner and be followed by a parole officer. And by the way, we'll make sure that he finds a place to live. We'll help him with employment. If he needs substance abuse treatment, we'll help him get outpatient substance abuse treatment. And we're going to drug test him to make sure he's doing what we told him to do.

ARCH: Time, Senator.

LATHROP: Thank you.

ARCH: Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you very much, Mr. President. So I, I get up to reiterate what Senator Lathrop has said. My first year in the Legislature eight years ago, I had an attorney who was a friend of mine who came to me and said we must reinstate the one-third rule. I've brought it every year. It stops determinate sentencing. Determinate sentencing is what Senator Lathrop just aptly explained. And what it does is allow the inmate to go before the Parole Board and they can say sorry, you don't have your class on, on mental health or

alcoholism or sexual behavior or whatever the class is that they need to take, and that inmate then goes back and has to take those courses before they get out. These are safeguards. These are a way for our communities to be safer when the inmates come out. Senator Geist talked about treating inmates as we would our children and I would just say that none of us would ever stand for the way that the inmates are treated right now. We would not stand for the lack of programming that we've been fighting for, for eight whole years. We would never stand that our-- for the fact that our children would be sentenced allowing the stacking of, of, of crimes, determinate sentences. We-- all of these issues, mandatory minimums, we just wouldn't stand for that. And I've said time and again I'll be all over a new prison to help with the overcrowding the minute, the minute that our programming is more robust, the minute that we have sentencing reform. These are the two things that have to go together to make it so that our prisons do not continue to be overcrowded so that the inmates don't jam out, commit a crime, and recidivate, coming back in. Excuse me. So I just feel like-- I'm happy to, to look at it from that standpoint. We've talked for years about bringing in a new prison and the whole time, Senator Seiler, who was the Chair of the Judiciary Committee before, talked about programming, he was sent away. But he was-- he-- people worked to not get him reelected. So I just think that, you know, if we continue to talk about this, we're going to be all talking past each other. Why is it that there cannot be a discussion about programming, about more robust programming for our inmates? Why is it that we cannot-- we continue to argue about the fact that our sentencing needs to be reformed? And we just talk past each other and say, well, this is the only way we're going to be safe. This is the only way-- if we're tough on crime, just like we're tough on our kids-- you know, my kids, when I raised them, we had privileges for them. They were up on the refrigerator in our kitchen and they knew that if they acted well, they received all those privileges during the day. When they didn't act appropriately, I would take down dessert or I would take down having their-- letting them hear their favorite tape at night, "We are Dinosaurs." I would take down the, the, the little privilege that they can watch their one hour--

ARCH: One minute.

PANSING BROOKS: --one hour of TV that day. So Senator Geist is saying, well, we should just build up in, in, in their privileges. My feeling is give them the privileges. And if they mis-- if they don't do what they're supposed to do or they fight a guard or whatever it is that they do wrong, then you take away the privileges as, as you've-- as we have done. So again, we have two different variations on how we do

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

this. My variation with my children was-- you know, they'd get to that point that they're like, I want to be able to have my dinosaur tape tonight or I want to be able to watch my hour of TV tonight. And at that point, that helped them to get along and understand and, and behave. But again, programming, programming, programming and sentencing reform and I will jump all over helping on that prison. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. Well, I again am-- would--

ARCH: Excuse me. Excuse me, Senator Cavanaugh. The Clerk has, has, has an amendment.

ASSISTANT CLERK: Thank you, Mr. President. Senator Lathrop would move to amend AM2252 with AM2256.

ARCH: Senator Lathrop, you're welcome to open on AM2256.

LATHROP: --President. I thought you forgot about me. So this is an amendment to the amendment and it allows us to continue further in our discussion. I do want to step back just for a second as we begin this discussion and hopefully, we have a lot of senators watching this on the television somewhere. I want to step back from going through the list of, of options provided by the Working Group and talk about one thing that I think is important. When CJ-- CJI came, when CJI came to Nebraska, they provided us with data, OK? Now when we talk about data, they're not, they're not talking about one individual's story, that's an anecdote, right? They're talking about data. System wide, this is what we see. This is what we see happening. This is what we've seen over the last ten years. And that process, colleagues, is data driven. It's data driven. So when we talk about why are these, why are these options available to us or for-- here, here, for our consideration, it's because the data directed us in that direction. The data directed us in that direction. And when we, when we talk about the data and talk about the science behind criminal behavior and behind Corrections and rehabilitation, that's what CJI provided the Working Group with and the subgroups with in order to come up with these options. Here's the challenge, here's the challenge that we faced when we were talking about data is when you come in with this story, I knew a guy, I had a guy. There is a guy that did this and he got that. And then he got back out and then he did this and he misbehaved or he committed another felony. And then he went back and then this happened or there was another person who did this, those are anecdotes, OK? And I'm not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

saying that they don't have a place, but when you are making policy, it is important to be policy-- data driven and driven by the expertise of people who understand what works from what doesn't work, big picture. Because tonight we're not passing upon an individual. We're not sentencing anybody tonight, in which case it would come down to an individual and not the data. Tonight we're talking about the data and the science and how it is driven and how it supports the recommendations that have been made. And I was eating a sandwich real quick when Senator Geist was on the, on the mike talking about somebody down in South Carolina who did something and, and, and I, and I don't say it like that because I'm disparaging her remarks, I just didn't catch it all. But it's interesting that South Carolina is one of the CJI states. It-- this, this discussion, as they are in HHS, as they are in Education, as they are in Transportation, as they are in Revenue, as they are in Appropriations, should be data driven and supported by data. And I'm happy to give you the data that supports any one of these things as we go through this discussion tonight. This one about reducing jam outs and having a, having a disparity between the high number and the low number on an indeterminate sentence is supported by data. And the data shows that when people are properly incentivized, they'll participate in program-- programming and prefer parole. And we are the beneficiaries of that incentive. We-- public safety benefits from the people who choose parole, choose the rehabilitation, choose to be monitored by a parole officer, hard-working parole officers, and I'm going to give a shout out to those guys. They're dealing with people who are facing the temptations coming out of the Department of Corrections. They are dealing with making judgment calls about when to pull them back into the department and when to give them a second chance. I appreciate what our parole officers do, but understand Parole Board makes the decision and they're followed by parole officers who are professionals that make sure that if they are abiding by the rules, doing what they're supposed to, and transitioning into our communities, that we are safe and they are not taking unnecessary risk in the process. So I hope to have more conversation about the data behind each of these recommendations. I encourage you to ask questions. I'm happy to answer them. I suspect Senator Geist is happy to share her point of view with respect to any one of these and I look forward to a debate on the nonconsensus items and those things that we can do to move the state forward and use, and, and use-- better use our taxpayer dollar to get better results and improve public safety. Thank you.

ARCH: Thank you, Senator. Senator John Cavanaugh, you are recognized.

J. CAVANAUGH: Thank you, Mr. President, and thank you, Senator Lathrop. So-- well, like everybody else, I, I wanted to talk about criminal justice reform and the savings associated with not building a new prison that was-- we've set aside \$175 million in the budget, the Capital Construction Fund. But I know a lot of people have talked about the Working Group nonconsensus items. I started about, I don't know, seven hours ago going through the consensus items, but I started talking about the-- creating a new misdemeanor-level offense for possession of less than a half of a gram of controlled substance, fentanyl excluded. And I was talking about the fact that a half a gram is about-- well, half a paperclip because a gram is a paperclip. And how much is that really? And I talked about how marijuana is a \$300 fine for marijuana less than an ounce and an ounce is something along the lines of 28 grams. And so we're talking about a small amount of controlled substance and that a daily person with a serious methamphetamine use would be using about half a gram a day so it is a, a user amount of methamphetamine and those other types of drugs, excluding fentanyl. And the question is, yes, we want to get people into treatment. Of course that is the best course. And-- but the argument that maintaining a small amount of-- a personal use amount of drugs as a felony is, is-- the reason to do that is to force people to get into treatment. I think it is wrong headed because, one, our criminal statutes should be based on-- the amount of penalty should be proportional to the offense, meaning that we should determine the penalty based off of how, how serious we think it is and what the amount of-- what the penalty should be. We shouldn't use it as a threat against people in that way. We shouldn't say let's make it a way more serious penalty because we want people to undertake some other sort of problem-solving court. I-- certainly, problem-solving court is successful. It does work and it is a great system if people complete it, but they have to want to. And so forcing people into something is not necessarily going to be successful. And I have seen countless people attempt to get into problem-solving courts to avoid a conviction and they have, I guess, high expectations, high hopes. And they get into the problem-solving court, they plead guilty preadmission, they get into the court, and they wash out because they weren't committed to rehabilitation at that time and they only got in because of that threat. And so we did-- the state, though, resolves that case because the person has already pled guilty and then they ultimately get sentenced, usually to a term of incarceration because they've been given an opportunity already. And they-- we do not get the benefit of them getting the treatment and the corrected-- corrective behavior and we don't get that outcome we wanted because we forced somebody to undertake that, that problem-solving court that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

they weren't interested in. So that is not going to be the solution that some people might think it is just by forcing it. We have-- we need to make it more available because there are people who want to participate in it and we need to make sure that we are giving people every opportunity to take the positive steps in their life that they are ready to take. And we're going to-- much more likely to get a benefit as a state when individuals are taking those steps. We--

ARCH: One minute.

J. CAVANAUGH: --thank you, Mr. President. And so keeping possession at less than a half a gram or half a gram or less as a felony is not going to serve that purpose. We're still going to have things above that, which is-- there are a lot of those cases, as I listed, I think, three of them earlier, where individuals had more than that. Those would still be that felony possession level. But there's also another thing that says somebody with less than half a gram couldn't undertake programming and problem-solving court. And so-- I guess I'll push my light. I'm going to run out of time here, but I will keep talking about this later. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator McKinney, you're recognized.

McKINNEY: Thank you, Mr. President. I rise again to, to continue the discussion about criminal justice in our state and what we should do going forward. And I just will, if, if anybody's listening, is it smart to continue to invest-- I don't even know if it's an investment, it's an expenditure so it's not an investment-- \$280-plus million into prisons in our state or is it smarter to look at our, our system and see where we can make it better, more efficient, and not have to spend as much money on the Department of Corrections? We also have to really think about do we need to build a prison in the first place? There's still studies that need to be completed. There's still data that's not available that we need. I never will support building a prison, especially because there are so many people in need across the state that could benefit from half a billion dollars, pretty much. And we have these options from the CJI Working Group for us here on the table. And I just think and I would hope everyone, every senator takes the time to read through the-- read through the report and really evaluate the options from a nonbiased perspective so you can really understand what is in the report and how it could be helpful. I think if we all take a step back and look at things from a nonbiased lens, there will, there will be a lot of-- a lot more understanding on why these things were options. Now, if you don't want to do that, then we're not going to, we're not going to get anything done. LB920 is not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

going to pass. We're also not going to-- I don't know about the prison, hopefully not. But when you-- when we're making votes on things such as criminal justice reform or however you want to frame it, I think everyone should do their research. Look at all sides of the research. Just don't take my opinion. Don't just take somebody else's opinion. Form your own conclusion. That's what we, that's what we should do with everything is take all information in and form your own conclusion. And regardless if you agree with me or not, I can respect it if you took the time to take in all perspectives. That's how you're supposed to do things. It can't be so one-sided all the time because you never get to anything. And I know sometimes there are things that are nonnegotiable, but for instance, with the options, I don't think they're nonnegotiable. I just think we have to get to the table as senators and really have this conversation and actually find a path forward. I believe there is a path forward. I'm optimistic. I think it can happen, but we just have to work together. And I'm not going to get up here and disparage anybody or call people out their names, anything like that. I have my opinion. Other people have their opinions. But I just think if we're going to be smart-- and everyone stands up, a lot of people stood up today and say, we're spending too much money on this or that. We need to be fiscally responsible. We need to think about the future with our budget and all these other things. Well, if that is true, then we really need to think about what we're doing as far as our criminal justice system and this proposal for a prison--

ARCH: One minute.

McKINNEY: --and whether it's fiscally responsible to continue to spend this much on a Corrections system that isn't working. So when you stand up and talk about we're spending too much money on prop-- and we're not giving up property taxes, we need to help taxpayers, I hope you take that same approach to legislation that would-- that could affect our criminal justice system because we're spending \$280-plus million on the system currently and we have a proposal that will probably end up have us spending half a billion dollars on a prison. So let's be fiscally responsible when it comes to criminal justice reform as well. Thank you.

ARCH: Thank you, Senator. Before we continue, Senator Pansing Brooks has some special guests seated in the north balcony: Loel Brooks, her husband, Avary Pansing Brooks, her daughter, and Graham Pansing Brooks, her son on his 30th birthday. Please stand and be welcomed by the Nebraska Legislature. We will continue with debate. Senator Geist, you are recognized.

GEIST: Oh, good. One thing that I want to make sure that I don't leave out of the conversation because it is so easily left out of the conversation-- however, I'm reminded fairly regularly because I speak to parents a lot and I speak to parents of juveniles who are kind of caught up in the system. And I also speak to parents of victims or victims' families and-- or friends of victims in this particular case. And I'm just going to read a shortened version of this. But to keep in mind how important it is we get this right, I'm going to give you the situation many of you probably remember because it was not long ago at all. Two people in a York County Sheriff's, Sheriff's Office, K-9 patrol dog are dead after high-speed chase evolved into an apparent suicide Tuesday night, according to the sheriff. The incident started as an attempted traffic stop about six miles northwest of York just after 11 p.m. and culminated in a fiery crash that killed Joseph Stoltenberg, the man who dep-- whose deputies were pursuing-- the man who deputies were pursuing, as well as Kyle Ediger, a 31-year-old coach and math teacher at Hampton Public Schools, who was simply sitting in his car waiting for a train to pass. The school district announced Ediger's death in a news release Wednesday. His unexpected death was a shock to our students and staff. Crisis counselors were available for students and staff who needed extra support. Ediger, who attended Hampton High School and played basketball for the Hawks, had returned to teach at Hampton nine years ago. He was the school's boys basketball coach and just hours before the crash Tuesday night, had picked up its fifth win of the season over Dorchester. I'm going to skip ahead here a little bit because there's details of everything that happened. I want to read about the perpetrator and this is about Stoltenberg. Court records indicate he was well known to law enforcement, having been named in 21 criminal cases in Nebraska alone dating back to 1997, including an ongoing theft case in York. Stoltenberg had spent much of the last two decades in and out of custody. When he was arrested in 2008 for a string of vehicle thefts in Lincoln, he was wanted in three states and only a month removed from a stint in the, in the York County Jail. The 43-year-old, who in 2019 finished a ten-year prison sentence stemming from Lancaster County theft charges, was facing another ten-year prison sentence for being charged as a habitual criminal in York County in September, when he allegedly then stole more than 750 pounds of copper from York College. This incident had ripple effects all across the state. This was a habitual criminal. This was someone well known to law enforcement and someone we need to keep in mind when we put skin on these issues. This is not just about sentencing, sentencing on a paper. It's not just about changing this number to this. This affects

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

people's lives. To the degree that we mess this up is our responsibility to society. Here's another one: a 40-year-old man--

ARCH: One minute.

GEIST: --this just happened this year-- a 40-year-old man in Lincoln who was actively out trying to meet underage girls for sex less than two months after getting out of prison on a lengthy sentence for sexually assaulting a child got more prison time Thursday. I think you're just plain dangerous, said the judge. She said that when he's out in the community, the community ought to be afraid of him. Not only are they, they should be because of what you do. These are-- there are people like this. These aren't the whole of who we're talking about, but these are some of who we're talking about. There are real victims, real consequences, not just the criminal. Yes, we need to attend to the needs of the criminal, but number one, our obligation is to keep the people who are under our purview--

ARCH: Time, Senator.

GEIST: --safe. Thank you, Mr. President.

ARCH: Senator Morfeld, you are recognized.

MORFELD: Thank you, Mr. President. Colleagues, I'm glad that Senator Geist gave some examples of people that, quite frankly, I think we can all agree should be in prison. Sexual predators should be in prison. People who commit violent crimes should be in prison. Nobody's gotten on the floor here today and said that people like that shouldn't be in prison. We can all agree upon those people. But people like some of my family members who got caught up in opiate addiction because their doctors and pharmaceutical companies that won't be held accountable and then get charged with felonies for things like that and then are sitting in our prisons, what about their mothers? What about their fathers? So I think we can all agree that people who are violent criminals, people who are sexual predators should be in prison. So for me, those are not contrasting stories or stories that anybody is going to disagree with. I think we can all agree on that. And if somebody disagrees with me on that, I ask you to get on the mike and we can have a conversation about it or come up to me privately and we can have a private conversation about it. That's not what we're talking about here, colleagues. When we ended right before cloture on the first budget bill, I talked about addiction and substance abuse and folks that have committed nonviolent crimes who need, yes, accountability, but they also need treatment and they need services.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

And for the folks that are about to get out of prison and are about to get out of jail, we need to make sure that those individuals have services. That's what we're talking about here. We're talking about creating a foundation in which people who go into the system-- and in many cases, rightfully so, like the people that Senator Geist brought up-- that they come out better and that we ensure that people who are nonviolent, unlike the people that Senator Geist brought up, the people who are nonviolent, who have substance abuse problems and other issues that need to be addressed with rehabilitation and treatment, those people are given accountability, but also allowed to get the help that they need and remain productive members of our community and our society. That's what LB920 is about. And colleagues, I think the other thing that we've got to bring up and talk about is we've got a ton of people jamming out. We got a ton of people going into the prison system that we may very well want in the prison system, but eventually 99 or so percent-- I'll look at the exact percentage. It's above 90 percent, though-- they're going to be coming back out into our community. They're going to be walking the same streets as us. They're going to be in the same parks. They're going to be in the same grocery store. They're going to be in the same movie theater. And we want to make sure that they come out of the system better than they went in and that is not the case right now. So colleagues, I agree with Senator Geist. The people that she was talking about-- and I've read those cases before-- those people should be in prison. They absolutely should be in prison.

ARCH: One minute.

MORFELD: But we have to start determining who we're afraid of and who we're mad at. And then we also have to start determining who just needs a little bit of help because they have a substance abuse problem and they haven't hurt anybody but themselves? That's what we need to start figuring out. So we can get up on the mike and read all the horror stories and all the people that we can all agree that should still be in prison all night long, but that's not what we're talking about here, colleagues. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Good evening, colleagues. Yes, Senator Geist is correct. We need to do the right thing when we decide LB920. Well, what should guide our thinking? How should we make our decisions? What information should we look at? Should we look at anecdotal information or should we look at data? That's the question. And we don't have to look too far, actually. Thirty-five states have

been down this road. They've, they've looked at criminal justice reform. They've looked at their state data. So I think we simply have to look at the CJI reports, embrace their recommendations, and move forward. And Senator Friesen is right. He's been talking about the budget all day and he would talk about opportunity cost. And what is opportunity cost? Opportunity cost is when you decide to do some way-- something and spend money a certain way that precludes spending the money in some other way. You only have a finite amount of money and so if you go one way with that money, it's gone so you have no opportunity to spend the money on some other more productive way. And that's what we're doing here, doing here this, this evening, deciding how we want to spend the state's money. Do we want to spend \$270 million for a prison or should we be spending over \$500 million for a prison twice the size? Who knows what size to build this prison? We need to take that question on before we too-- do too much more. Well, some of the issues that we brought up today, work release. Work release: when I was in business, we would allow people there on work release to come work in our barrel reconditioning factory. Kind of unpleasant, un-- crummy job, dirty job, hot, but those people on work release, they were on time. They were sober. They were-- would go clear through the day and they would receive full pay and I suppose they were making restitution for some people. Sentencing reform: the answer seems obvious to me. If you're going to prevent jam outs, you got to give people incentives to not jam out and with good sentencing reform, I think we can do that. Some other statistics that I find interesting: Nebraska, over the last eight or nine years, grew 100,000 people and that's a rate-- a fairly significant rate, kind of mid-range in the country. And that rate was 5.5 percent over the eight years and during that same time period, our crime rate dropped 12 percent. That should tell us something. I keep going back to 1980 when the prison population was 1,400 people and now we have over 5,500 people. That should give us another message. We're doing something wrong, particularly when the rest of the country is able to close prisons and reduce their prison population. Nebraska's prison rate over a lower period of time--

ARCH: One minute.

McCOLLISTER: --2009 to 2019, grew 20 percent. How, how realistic is that? Yes, we need to guide our thinking. Let's use data rather than anecdotal stories that tries to convey a message of fear. We need to use data and do the right thing. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President, colleagues. I, I knew we were going to hear stories tonight because they have been a part of this process and tonight, we heard two and I got a couple observations to make about that. The first being, if you want to tell a story, then you are, you are talking about the failures of the current system. The things that have happened that we heard about are how things are right now. We're trying to find a way to stop the jam outs. And so we heard two stories of two deplorable individuals and I'll give you deplorable. The first one, Warnsing, was convicted and sentenced to prison and got out and apparently tried to engage somebody in sex or, or was chasing or trying to entice somebody. That guy just got out after serving 15 years and he jammed out. That guy was not on parole. Might have been a good thing to have that guy on parole instead of having him jam out. Stoltenberg, the guy that hit the police car, just got done two-- doing two consecutive sentences for theft and after ten years, he jammed out. And so it makes my point and when you, when you come and you respond to data with stories and the stories demonstrate the failures of our current system as you attempt to defend it and we look back-- and we can find these guys in the Department of Corrections and we did. Both these guys jammed out, both of them jammed out. We would have been better off having them on parole, where they would have been accountable to somebody and somebody would have had them in for a drug test. This is the problem, colleagues, when we talk about trying to make policy and then we talk about a terrible occurrence and we read something out of the paper. That's the current system and I'm trying to change it and come up with better outcomes and I'm up against those who want to maintain the status quo. As we try to make policy-- and if we are to be driven by stories, then we would inevitably be led to this place: any time somebody who's been convicted of something, does something bad, we're going to jack up the sentence on what he did the first-- in the first place so he never gets out. And now everybody convicted of the same thing will do a lot more time because one guy did something really bad. Some people, and this is just a fact, some people aren't going to learn from their time in the department. Some people are criminals through and through and they're going to get out and do bad things. The CJI process, colleagues, the CJI process also had stakeholder groups. And so they had a crime victims' group that I actually went to and I listened to people who were either victims of crime-- and it's heartbreaking when you hear it. When somebody loses a son or a daughter to a homicide or some senseless act, their pain is unspeakable and I understand that. I went to this meeting and a lot of these people were, were more concerned--

HUGHES: One minute.

LATHROP: Certainly, they're concerned about getting something that feels like justice. And I do a lot of wrongful death claims, right? I talk to people who have lost a son or daughter. It is heartbreaking. It is heartbreaking. Somebody runs a stop sign and somebody ends up dead. It's heartbreaking and nothing seems, nothing seems like it's going to be enough for the, for the loved one you've lost. But when we talk about trying to figure out what our policy should be with respect to corrections and what it would, what it should be with respect to sentence length and sentence structure, we got to be driven by the data because the stories, the stories, as compelling as they are-- and I feel for these families that have lost, lost loved ones and I've been at the hospital with people that have lost loved ones-- we're policy makers and at the end of the day, at the end of the day, we got to figure out--

HUGHES: Time, Senator.

LATHROP: --what's the best policy. Thank you.

HUGHES: Thank you, Senator Lathrop. Senator Walz, you're recognized.

WALZ: Thank you, Mr. President. I was not expecting to be up so quick. Sitting here listening to Senator Lathrop and wondering-- you know, the, the stories that Senator Geist told, I mean, it just-- it does not make sense to me and I want Senator Lathrop, if he would yield to some time, to just kind of explain why-- how does jamming out happen? How do these, these two criminal cases, how, how did they get out of prison? How does this all happen? Would Senator Lathrop yield?

HUGHES: Senator Lathrop, will you yield?

LATHROP: I'd be happy to and thank you, Mr. President, and thanks for the question, Senator Walz. So people jam out for either-- sometimes it's because their sentence is flat. So that high number and the low number, when they get too close to each other, you have what is, what, what is generally referred to as a flat sentence. So a 49 to 50-year sentence, there is a gap in between there, but it isn't wide enough to incent somebody to go through the programming to do the things-- the substance abuse, the anger management, the sex therapy. There are times, though, when people-- maybe they, maybe they do have a five to ten and they just go, I don't care. They go to, they go to treatment and they don't take. They're not participating. The counselor, the therapist says this guy is going through the motions and he's not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

doing it. That guy is going to flunk out of the-- or fail in the substance abuse treatment program and he will not be a, a suitable candidate for parole because he hasn't completed his substance abuse treatment. But more times than not or oftentimes, it's because the sentence doesn't lend itself to incentive to go through the programming and deal with-- from an offender's point of view, parole may offer you some opportunities for transitional housing or some services, but it's a pain. Like, you got to do reporting. You got somebody looking over your shoulder. You got somebody making you take a drug test. You got somebody telling you who you can hang around with and who you can't or that you can't be with your ex-wife because you beat her before you went into prison and she may be your only family. Those things, those things-- their lives are controlled on parole and a lot of people don't like it and some people say, I don't want it, which is why you really need to provide them with the incentive to do it and where they say, you know, I can save a considerable amount of time if I jump through the hoops and I get the rehabilitation. I accept the fact that I'm going to be followed and accountable to a parole officer. That's, that's how-- that's why this is such an important component of these recommendations. It's why having a difference between the high and the low number in an indeterminate sentence needs to provide the incentive for people to go through the programming and go through the parole process. And again, in many cases, they're also given-- a lot of people come out on parole and they still have things they have to do like go through outpatient substance abuse treatment. Senator Cavanaugh has a bill to enroll inmates that are being discharged from incarceration into Medicaid 30 days before they get out. Now, Medicaid won't pay for you while you're in prison, but when these guys get out on parole, you don't want them spending two months trying to enroll in Medicaid. You don't want them-- you don't want to give them two months to go get in trouble again. You want them--

HUGHES: One minute.

LATHROP: --to come out of, come out of incarceration and go right into that outpatient treatment or whatever the recommendation may be and then you have a better chance of success. And it's all about trying to figure out what do we got to do with the discharging inmate to improve the probabilities of success and that, that, that is why we have to look at data. What, what things can we do that are proven to make a difference? And in, and in any one individual's case, maybe it won't, right, but we know if we follow the data that at the end of the day, what we're going to do is at least set up a policy that data shows is effective. And it may not be effective in every case and maybe that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

person re-offends and that can happen. It certainly happens when people jam out and it can happen when they parole out too.

HUGHES: Time, Senator.

LATHROP: But ultimately, it's policy. Thank you.

HUGHES: Thank you, Senator Lathrop and Senator Walz. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. Well, it's a good segue from Senator Lathrop and talking about the bill that I brought about Medicaid access for individuals that-- they're coming out and Senator Lathrop did a nice job of explaining it there that the-- and the idea is we get people signed up while we know where they are, while we have a connection with them, and we help them make sure that they actually fill out the form correctly. At the hearing on that bill, HHS came and I think Department of Corrections sent a letter and the HHS said that they-- it is difficult to fill out, that they do get rejected. They do reject people's applications. DH-- currently, the department gives people a piece of paper and says you may be eligible for Medicaid, fill it out. What we're saying is we need to make sure that we walk people through either they can do it on the phone or they can have a person in person if that's something that-- say NSP is releasing enough people on a daily or monthly basis-- to have somebody there to do that. But they can help fill out this form, facilitate filling out the form, make sure that-- and they do it before they get released so that they know walking out, they have their, their approval for Medicaid. They know then they can get-- in some cases, they'll be able to get a next place set up because they have-- they know they're going to be Medicaid eligible and they know they're going to have those services. And that will allow people to get more of the programming that we want them to get and it'll save the state money and it'll get us the results that we're trying to get because it'll be easier. People won't have that one day between where they come out and when they get a place where they have to figure out what they're going to do when they go to the only person they know, which is maybe the person they used to use drugs with or something along those lines. And so this is making sure that we don't have a gap and we get people right into programming services, get people right in-- continuing their medication that they've been getting on that works for them while they're in programming. And so this is one more thing that we can do that is-- will be helpful to people to be successful, to get the benefit that we're attempting to give them, to reduce recidivism, which reduces crime. So that's-- I appreciate Senator Lathrop talking

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

about that, that bill and I, I feel strongly about that and that is a method of reducing crime and things we should do here. And I, and I agree with the comments that have been made recently about legislating through anecdote. And we hear that a lot, that we do a lot-- and we do that on a lot of things, not just this. We do it on a lot of other things. And it is-- you get-- we all get up and we talk and we tell stories. Of course, this is a job where we talk a lot. And so I think that's a-- it's logical. But fundamentally, this is a system, the criminal justice system, which includes the 5,500 people who are in the, in the system currently, but also thousands of others at many different stages over many different years. And so it is a large number of individuals that cannot be reduced to a couple of stories. And that is why this is data driven and that is why it is important to look at it overall. And of course, as Senator Lathrop said, that it's not going to be perfect. We are trying to make, we're trying to make policy for 1,000, 5,000 situations and we're trying to make the best policy we can. And so undertaking the CJI report, CJI project, the justice reinvestment project, to look at-- objectively look at where we're at and then look at what has worked to address those problems in many other states, many of them conservative-- more conservative states; Texas, Tennessee, Utah, I think we've heard. Those states have undertaken this process before and looked at the same problems we were looking at and they have addressed them in these ways and they have worked for them. So--

HUGHES: One minute.

J. CAVANAUGH: --thank you, Mr. President-- so when you're presented with any problem, of course, first step, wrap your arms around the problem in what way you can, which in this case, getting a data-driven analysis of the problem. Then you look at how other people have solved that same problem and you say, OK, here are some of the solutions that have worked. This is how they've worked and this is where they would fit into our particular problem. And that is what CJI did, that's what the, the working groups did, and that's what they presented as their report here. And so it is a objective, data-driven, looking at the problem way to, way to solve a major problem we're facing currently and going into the future if we don't address it. And so that's why I think this is-- LB920 embodies those recommendations and that's why that's the thing we should do to prevent ourselves from having to spend hundreds of millions of dollars continuing to incarcerate people that we don't need to incarcerate. Thank you, Mr. President.

HUGHES: Thank you, Senator Cavanaugh. Senator Slama, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

SLAMA: Thank you, Mr. President, and good evening, colleagues. I rise today in opposition to AM2256 and AM2252 and in support of the overall budget, LB1013. I wanted to take a moment to just step back and for the folks watching at home, kind of outline what's happening right now. Because if you're sitting at home watching the evening debate, you might be wondering why we're talking about criminal justice on a mainline budget bill. And here's what's going on: we have a stack of amendments that have been introduced in order to have this discussion on criminal justice reform. And we can't actually introduce substantive amendments that will make changes to the issues that we're talking about because we have this stack of filler amendments that are blocking any changes to the budget from getting attached. So while we're talking about all the needs and all the changes we need to make when it comes to mental health treatment, substance abuse, all of these issues that we could be investing in on the front end, whether it's education or any other kinds of interventions, we can't debate those issues on the mainline budget because we have this stack of amendments and that's by design. This is intended, I think, by those who have brought the amendments, those pushing the discussion, so that we cannot make any changes to the budget. And that's, I guess, their right to do procedurally. But I've been on Judiciary Committee for four years and I think I can provide a little bit of insight here. I've been around the block a few times. There's been some criticism leveled at a few of the stories that Senator Geist has raised on the floor this evening and there's been criticism of you can't legislate by anecdote, which is hilarious because that is what most of the arguments are most of the time on these issues and that's because every single one of the stories that's been brought up and will be brought up over this evening-- trust me, we have more stories. That's a life. That is a life that has been negatively impacted by crime in our state. And yes, these are horrible things that have happened in this system, but there are situations that will be made worse if we adopt an unamended version of LB920. When you're looking at the different arguments that have been raised in favor of LB920, it's, well, we can, we can solve our prison overcrowding crisis because of this. We can get people out of prison and into the community. Let me translate that for you. That means that we are letting felons out of prison earlier to see if that eases our prison overcrowding crisis. The data doesn't lie. We've seen in states like Oklahoma where that's happened, that violent crime rates spike. Nebraska already has a very, very flexible structure when it comes to sentencing, when it comes to whether or not somebody is going to go to prison or get probation. We already have very lenient structure in place. And if we implement LB920, we're saying, well, let's see if this works out. And I don't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

want to be in a position-- and I've got, I've got a stack of stories. I'll, I'll be on the mike a few times because I, I don't want to be in the position a few years from now where we're talking about the stories of someone who got out earlier than they should have because of LB920 and we're telling the story of a family that's been negatively impacted by violent crime that could have been prevented by adopting an amended version of LB920, which is the bill that we're discussing, even though that-- we're, we're on the mainline budget bill, with the consensus items that the CJI committee recommended unanimously. And these are all data-driven solutions that Senator Geist has outlined so many times and I'm hopeful. I, I think it's clear to everybody on the floor that--

HUGHES: One minute.

SLAMA: --thank you, Mr. President-- that LB920 doesn't have the votes. It doesn't have the, the support to advance without an amendment. So I am truly hopeful that both sides can come together and see the benefit of compromise and adopting at least the consensus items recommended by the CJI committee so that this isn't all for naught. So again, I rise in opposition to LB2256 [SIC--AM2256] and AM2252 and in opposition to the general process of dropping procedural amendments on the budget so that we can't make changes to the budget. Thank you, Mr. President.

HUGHES: Thank you, Senator Slama. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. Good evening, colleagues. I want to start by saying I don't think that anyone doesn't think every day about the victims of crimes when they're working on these issues. I know I think every day about the consequences of our sentencing structure. To be very, very clear, I do not want more victims. My primary concern is always about having less crime in our society. I take some offense at any kind of implication that somebody wants to coddle criminals. We want to protect our lawful citizens and the way to do that, I think, is making sure that no one is jamming out. Because the most dangerous person is the person who has been in prison, didn't get reformed, didn't get programming or didn't take programming because their sentence left them with a parole eligibility date too close to their jam out date. That's the most dangerous person I can think of. I think every time we talk about the-- this issue about Nikko Jenkins, who jammed out and then killed people. You know, I don't know as much about that story as some others do, but I know enough to know he jammed out and then killed people and I think about that. Could we have prevented that with a different sentencing structure? I don't know. Will there be another one of those? If we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

fail to do this, will we have failed to prevent that crime? Senator Geist asked earlier whether longer sentences means less crimes. And so I've been doing some research. I don't know if she's in here right now. And so far, what I've discovered is it's not entirely clear, which is maybe why you might not have gotten a clear answer. So I've been reading a lot of studies and conglomerations over the last few hours and I will continue to do so. And so these conglomerations that compile all these studies together and what I've seen so far is that age at release might be a greater predictor of lower recidivism than length of sentence. And in some cases, particularly those with shorter sentences-- so for the short sentences to begin with, longer short sentences have sometimes been found to create higher levels of recidivism. So the answer is it isn't entirely just a simple answer. The majority of studies I've seen so far say that there isn't a statistically significant relationship when all other things are equal that have yet been found between longer sentences and lower recidivism. So we can't necessarily just rely on this idea that putting people away for longer is going to mean that we have better outcomes for the citizens of our communities. We want to have sentencing reform to prevent crime. See, the reason we're all here advocating for sentencing reform is because we want fewer jam outs. We want fewer people going out into the community without being reformed by the prison system.

HUGHES: One minute.

DeBOER: We want fewer people going out in the community without supervision after they get out. If you're paroled, you have someone to be accountable to. There's a period between when you are in prison with all the things that are around you in prison and when you're just out with no one to answer to. And if that's an abrupt change, that's a dangerous change. We want to prevent jam outs. Everything that I have seen in LB920 that seems to be objected to on the sentencing piece is about preventing jam outs because jam outs are dangerous to the community. We want sentencing--

HUGHES: Time, Senator.

DeBOER: --reform because the current system is dangerous. Thank you, Mr. President.

HUGHES: Thank you, Senator DeBoer. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, I want to pick up a little bit where I left off and then I'm also going to talk about some

of the successes that we've seen in other states, which I talked about a little bit earlier. So first, I want to go back and talk a little bit about addiction and also the mental health supports that are needed. As I talked about earlier today, when it comes to addiction, addiction is-- it is a disease. It's a disease and has been identified by-- as a disease in the DSM. It's been identified as a disease among leading experts and it's also been identified as something that oftentimes people will relapse several times until they get better and get the help that they need. And oftentimes they'll relapse even when they are getting the help that they need and that's why it's important to ensure that we have robust programs that have good resources, good follow-through, and we have the ability, the ability to give people those second and sometimes third chances as long as they're not hurting themselves or anybody else and the resources wrapped around that. And I'll tell you, as somebody who has close family members that has suffered from addiction, how hard it is for them to get back on the right track. It often takes two or three relapses. And I think there are some studies out there about how many on average, but it often takes two or three different relapses for people who are addicted to substances to be able to shake that and get into a space where they are healthy. And quite frankly, they'll never, ever be able to shake that type of addiction and that kind of disease, but get it to a place where they no longer need that substance. And listen, we bring up felons and there are different degrees of felons, as we all know. In Lancaster County, we were charging people for simple marijuana possession as felony in some cases up until two or three years ago. And if you don't believe me, I have the court cases. So just saying, hey, listen, felons writ large, there are different degrees of felons. And when we have certain prosecutors and folks convicting people or charging and then getting convicted people who simply had marijuana possession and no other violent crime attached to that as felons, then we've got to step back and provide some context. Now, as I said earlier, Senator Geist's two examples, those are violent individuals. I think we can all agree that those people deserve to be in prison and have prison time. Now, Senator Lathrop gave some good context behind why the policies that he and others in here are pushing for actually would have potentially prevented some of that. They wouldn't have jammed out. They would have gotten the services they needed. They would have been able to have the follow up and the accountability that is necessary for those individuals and those crimes could have been prevented. So when we're talking about these things, it's important to provide the context. It's important to not only look at the data and not only look at an anecdote devoid of context, but to provide all of the context behind how they got in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

there, why they got in there, and then how they got out. And sometimes how somebody gets out can impact whether or not they're more likely to commit a crime. And this isn't rocket science, colleagues. So let's talk a little bit about violent crime in some of the states where we had JRI adopted. So South Carolina, 2010.

HUGHES: One minute.

MORFELD: The Justice Reinvestment Initiative was launched by the Bureau of Justice Assistance combat the nation's-- oh, I'm sorry. I already read that. I'll get down to the details here since I just have a minute-- South Carolina, 2010: in the five years prior to JRI, South Carolina's violent crime rate decreased by 12 percent. In the five years following JRI's enactment, violent crime continued to decrease at a rate of 17 percent, outpacing the national decline by more than 6 percentage points during this time. Georgia, 2012: in the five years prior to JRI, Georgia's violent crime rate decreased by 24 percent. In the five years following JRI's enactment, violent crime increased by 3 percent, which is consistent with a 3 percent increase in violent crime rates nationally during this time. And I'll continue later on. Thank you, Mr. President.

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

LATHROP: Thank you, Mr. President and colleagues, good afternoon or evening once again. I handed out an attachment this morning. It's probably still sitting on your desk. It actually has the Oklahoma violent crime rate and I'm going to read from that document in response to the comment or the assertion made by Senator Slama. In the five years prior to JRI-- so they did that in 2017, it looks like-- Oklahoma's violent crime rate decreased by 4 percent. In the three years following JRI's enactment, violent crime continued to decrease at a rate of 6 percent, outpacing the national decline by nearly 2 percentage points during the same time. So we talked about, we talked about data and we talked about antidotes and now I'm going to talk about facts. That's-- the fact is that's not what happened in Oklahoma. And here's the, here's the challenge when we talk about trying to make policy in this arena, which is invariably someone will stand up and say, well, I don't want to let somebody out earlier because I don't want their next victim on my conscience, something like that, but the reality is 95 percent of these people are getting out. And the fallacy with that argument is somebody that gets out three months earlier is going to be more criminal than somebody that's there for three months longer or four months longer or five years

longer. If that person's going to offend, they're going to offend and we're letting 95 percent of them out at some point or another. The question is-- and, and there is a science to this and there is data to support this, that if you get somebody rehabilitation and you follow them and they're accountable, they're less likely to re-offend and that's the science. And you can say, well, you're letting felons out early. My God, they can kill somebody or hurt somebody. Yes, they can, and they're more likely to do it if they jam out and less likely to do it if they're on parole. Those are the facts and stories about people that offend and do things that we don't want them to do after they've been discharged, that's an argument in support of a failed process. That's what we have right now. You want to have a story about something that's going on in Nebraska, it's an example of the status quo. I'm offering you something that's more effective and provides better for public safety than the current system; that's getting people rehabilitation and having them followed and getting them services as they are discharged from the Department of Corrections. To be clear, to be clear, when you look at the population, there's a lot of good, law-abiding citizens out there living in the homes and the apartments across the state. When you talk about the group that's leaving the Department of Corrections, they did something to get in there and some of them are still going to behave like that when they get out. And the question is, how do we intercept some of those people? What's the-- what gives us the best opportunity to ensure that they don't engage in that behavior when they are part of the 95 percent that are walking out the gate at some point or another? I understand the emotional appeal. Talking about a hypothetical victim. I understand that--

HUGHES: One minute.

LATHROP: --but it's not a data-driven approach. It's a fear-driven approach and it misses the fact that you are defending the status quo. You're defending the status quo and we offer in LB920 an opportunity for a-- for better outcomes, for lowering the crime rate, for having less recidivism and therefore better public safety. Thank you, Mr. President.

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

HUNT: Thank you, Mr. President. Good evening. These conversations continue to contribute to the disillusionment and it's so crazy making the things that we do in politics, isn't it, because what we're actually doing isn't what's best for people. We'll go knock doors and we'll run TV advertisements. Some will pay thousands of dollars to get

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

mail pieces printed and mailed out saying we're really behind all Nebraskans and we're really trying to do what's best for people. But everything we're doing is being boiled down to talking points that come from the base of one party or the other. And in Nebraska, of all places, this should be the place where we can hold things in our minds true at the same time. Just like I said, it can be true that we need to, to be tough on crime, that we need to do things to make sure that people don't recidivate, whatever. And it can also be true that we need to do things to reform our criminal justice system that aren't going to have a negative impact on public health. And the inconsistency of the arguments that we make in this body-- I'll tell you to normal Nebraskans, they don't make sense. It doesn't make sense to talk about, you know, how dangerous felons are and just kind of this "dog whistley" use of the word "felons." Like felons always means murderer and child abuser and all of the worst possible things, but then at the same time, we have the same people using this type of incendiary language fighting for the rights of felons to own guns. And what do you do with guns? You commit crimes. Like, I-- that makes no sense. The people who want to put people in the concrete box and lock them away forever for breaking a law that we decided in this body should be a law, you don't come with that type of passion when we're talking about gun crimes or when we're talking about gun ownership or Second Amendment rights or anything like that. At the same token, the same people are going to be the ones up here tomorrow talking about how we have to ban abortion to protect mothers, to protect the lives of mothers and families and, and support women, when if you actually look at most of the policies that we advance regarding gender and women and motherhood and parenting in this body, they're very regressive. They're very conservative to the point where a lot of young professionals who are mothers or hoping to become parents, they don't see Nebraska as a place where they want to move and live. Ask anybody who works at the university, anyone at UNL or UNO or UNK, any young professional working in any kind of serious way. Like, they all have colleagues and friends who say, I can never see myself living in Nebraska because of the regressive policies that you have there. So think about the rest of the session that we have here. It's March 24, it's the 47th Day. We're really running out of days here. At the end of today, we will have about 100 hours left of floor debate. At the end of this day, those of you who are term limited, you've all got about 100 hours left. We're going to spend however many hours it takes on the abortion pull motion tomorrow, right? We're going to spend eight hours on the first round of the abortion debate, we'll spend four hours on the next one, and we'll spend two hours on the last one.

WILLIAMS: One minute.

HUNT: That's at least 15 or 16 hours just spent on abortion out of the 100 hours that we have left and that's on a bill that wasn't even voted out of committee. Colleagues, think about the rest of the bills that we need to pass before this session is over. Senator Briese has a bill to regulate casinos. We're going to be having casinos opening up in Nebraska in the next year and we're not going to have the regulation on them that we need because we couldn't advance Senator Briese's bill. Senator Blood has a great priority bill. Senator Day has a great priority bill. Those bills are still on General File. What about the gun bill? What about the canal and the lake? Are you going to give up all of those things for abortion? I think you will. I think you will. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hunt. Senator Walz, you're recognized.

WALZ: Thank you, Mr. President. Last night, Senator McKinney and Senator Wayne and I were having a conversation about some really great programs out there for people who are incarcerated or on parole and I just wanted to yield some time to Senator McKinney and have him talk a little bit about the programs that he was explaining to me. So Senator McKinney, would you-- can I yield you some time?

WILLIAMS: Senator McKinney, you're yielded 4:30.

McKINNEY: Thank you, Mr. President. So we were having a conversation yesterday about an entity-- they're like a transitional housing, half-- it's transitional halfway back. It's called Bristol Station. It's in Hastings and it's one-- it might be the best or one of the best in our state that, you know, is a place where individuals that are released can go and slowly reintegrate, reintegrate back into, you know, our communities, but it's in Hastings. I went out there over the interim and visited and it's a nice space. It-- they have staff on site. I even think they have probation or parole on site as well, which helps with those that are returning back to, you know, have some type of structure. Also, you know, I knew an individual that was there for a while and he had told me it was, it was a good place as well. I walked around and a lot of the individuals that I spoke with were singing high praises for, you know, Bristol Station and that it was, it was assisting them and helping them on their transition back into society, which is why, you know, I introduced a bill, LB1111, to help entities like that that do have those transitional housing facilities and things like that because we need more Bristol Stations across the state because I think we need people that are transitioning-- they all

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

shouldn't have to go to Hastings because it just doesn't work in a practical sense because if I'm from Omaha and you send me out the Hastings for six months or a year and I'm working out there and, you know, released or however it goes, I have to get a job in Omaha. So I think, you know, facilities like that should be spread across the state because that's the way we begin to address our recidivism rate and making sure that those that are returning are provided the tools for success in a structured environment. You know, not everyone needs to stay in prison. It's many individuals that I talk to right now that are in Tecumseh, for example, that are classified as community, but they're not in the community. They're in a maximum-security facility in Tecumseh and that's the issue that I think we need to address. And I think the way we address that is provide more access to facilities like this and allocating dollars to facilities like Bristol Station so more individuals that are classified as community can be inside the community in a transitional place that is also close to where they live. Because although Bristol Station is amazing, it's in Hastings. And if you're from Nebraska-- I mean, not Nebraska, but Omaha, it's kind of difficult. It's about a-- what is it, a three-hour drive three and a half, two and a half, something like that? So if I get a job out there, I have to-- and then I get released, I have to find another job in Omaha. But Bristol Station is a nice place. If you haven't heard about it or, you know, know anything about it, I would advise you to Google search Bristol Station. It's in Hastings. It's a nice facility. Thank you.

WILLIAMS: One minute. Thank you, Senator McKinney. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. President. Good evening, colleagues. OK, so this bill is the third bill in the, the train of our budget bills. So this morning, we moved LB1011, which was the mainline bill-- budget bill. Then we moved LB1012, which is creating the cash funds and a lot of important language as far as the cash funds are concerned. And this last one is allowing for the transfer from the Treasurer-- from the State Treasurer to those cash funds. So each piece has its part to play and this particular one-- if people are wondering why we would use this one to talk about the prison, it's because on page 1 of AM2001 to LB1013, the amendment that we moved last time, on page 1, line 25 is where we start to talk about "the State Treasurer shall transfer two hundred fifteen million five hundred eighty thousand dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund" and that right there is where the money is that is building the prison. Now, not that entire amount is going to the prison. There are other projects within the Nebraska Capital

Construction Fund, but that is-- when we're talking about where that money is, it is in that fund and this bill, this is the last step in moving those funds. So I think it is very pertinent to talk about the prison when we're talking about this because we have to make a decision if that's what we want to do. I, I know it's a set-aside. It's not even-- like, you can't access it, but it still is that next step and saying that we're willing to set that money aside so just wanted to explain that a little bit. When groups come to like train, train citizen advocates-- and they always ask questions about, like, how best to lobby your, your state senator and things like that. And the two things I always say is, well, your personal story is important because it brings to life the data. Facts matter. Data matters. Stories are important, but they are still anecdotal. And they make it more interesting to tell the story of whatever the data is, but that-- the underlying thing that should move us in voting is the data. Is this a good public policy? Does this make sense? We hire consultants to do different reports for us so how does the data match up and-- to what we're trying to do? That's how good public policy is made. But the stories are important, but they're still anecdotal. And when I stand up here and I tell stories, it's still anecdotal. I mean, I-- of course, I believe in the stories that I'm sharing are important to share otherwise, I wouldn't be sharing them, but they're still anecdotal. And so I just wanted to say that for people who are watching at home because I know that's a question people have a lot is about how best to advocate. And that's kind of why when you see, like, in our committee hearings, organization-- advocacy organizations, they might come and have, like, their policy person testify, but they will also have somebody who has experience, personal experience in the situation that the bill is about testifying as well. And that's, that's bringing those two pieces together, interweaving them so that-- because we are citizen legislators. We are not experts in every single field possible. We are oftentimes learning on the job. So having those two things together--

WILLIAMS: One minute.

M. CAVANAUGH: --thank you-- helps different learners learn. I really like data a lot and stories I, I-- you know, I like to hear people's stories, but when I look at the information behind the policy, that helps me the most. Even though I like stories and I like to hear from the people, what helps me the most is the information. And so I appreciate the committee that worked on this report. I appreciate every report that we've had a committee. In Transportation, we had a broadband task force. There's a lot-- there's a reason that we do those things because we get some deep expertise beyond the anecdotes

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

to figure out how we can move forward towards solutions. Thank you, Mr. President.

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

McCOLLISTER: Thank you, Mr. President. Good evening, colleagues. I want you to know that I'm a door-knocking professional, door-knocking professional. Why do I say that? When I was first elected in 2014, I knocked on 11,000 doors. When I was in the campaign again in 2018, I knocked on easily 5,000 doors. In fact, even on some of the years in between, I would knock on doors just to get a sense of what people are thinking and that is really the best way to find out what your constituents are thinking. And during those 20,000 doors, I would talk about prison issues, prison overcrowding, prison reform with a great many people and I can tell you there wasn't a single person that kept telling me, build, build, build more prisons. We talked about what constitutes prison reform, sentencing reform, probation reform, parole reform, geriatric reform, and it made sense to everybody I talked to. And that's one of the reasons I'm so interested in this topic and so interested in what happens to LB920 because I think it's one of the preeminent issues of my two terms in the Legislature. When we look at what happened with LB605, that measure just went halfway. And what happened when we only go half way? Well, we are the most overcrowded prison system in the entire country and that's no way to go. And so as we look for this, the 21 different alternatives that we're looking at with-- considering in LB920, we need to seriously consider the four that weren't considered by the consensus and we need to debate those thoroughly. And what I really hope is that we can reach some consensus on that. I figure so far, we've debated this issue at least 30 hours, 30 hours. And are people listening? Are people watching the television thinking we're making any sense? Are my colleagues listening? I wonder. I guess we will find out when LB920 comes up shortly. One of the things we need to remember is that 95 percent of the people leave prison and how they leave prison is something we need to look at. Do they jam out and risk their idea of them coming back or can we incentivize those people to get the program they need and enter probation and do that on some kind of willing basis and get the training we need? So we need to give incentives for people to do that. LB920 is coming and I hope we make some good decisions then because we really need to. Thank you, Mr. President.

WILLIAMS: Thank you, Senator McCollister. Senator Blood, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand in support of Senator Lathrop's cause tonight and in support of the underlying bill, LB1013. With that, I would ask if Senator Lathrop would be willing to yield to a dialogue.

WILLIAMS: Senator Lathrop, would you yield?

LATHROP: I would be most happy to.

BLOOD: How you holding up, Senator Lathrop?

LATHROP: Great.

BLOOD: Good.

LATHROP: I have all the energy in the world.

BLOOD: Glad to hear that. So we've heard so, so, so, so much on the mike about prison reform tonight and well we should and some of it's been accurate, some of it's not been accurate. Some of it's been partisan, some of it hasn't been. Some, some of it's been rhetoric. Because we have people that are probably just now tuning in and watching, I want to give you the benefit of asking-- of answering this one question: what's your end game, Senator Lathrop? In a perfect world, what do you want to see happen as a result of all this time we've spent on the floor today?

LATHROP: Well, thank you for that question. I-- you know what? I have enormous respect for the states that have gone through this, the opinion of people on both sides of the issue. I-- Senator Geist, has served on my committee for two years-- or the Judiciary Committee. It's not my committee. We have served together on that committee. I have enormous respect for Senator Geist and her point of view. At the end of the day, though, at the end of the day, we have a significant problem here. And before we decide what to build and how much to build, we need to answer the questions. And I think this has been time well spent. Maybe not everybody's going to agree with that, but I think it's time well spent on a significant problem facing the state and the can has been kicked down the road through the Heineman administration. And I'll say this about the Ricketts administration: the Governor has put his money where his mouth is. He has tried to expand our capacity. We've spent \$148 million during his administration trying to expand capacity. And when you look at that chart that I keep coming back to, I, I can't help but look at that chart and think we're chasing the top line. We are chasing the top line by trying to expand capacity and we're just not reaching it and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

we're never going to reach it and we can't-- trying to build our way out of this is not sustainable. And I've heard people, particularly when we talk about appropriations, are we going to have an appropriation that's a continuing appropriation or is this a one-time thing? That's been a common theme during the appropriations. When we talk about tax policy, can we afford this tax policy year over year, over year? And what we're talking about here with the Department of Corrections is can we afford to keep doing it the way we're doing it? Do we need a new prison? I would concede that we do, but year over year, we can't sustain this. And we have tried to build our way out of it and we can't, we can't reach that line that is our average daily population, nor are we in a position to reach the line that is our expected average daily population by the time we get to 2030. And so when you look at that, it's, like, man, we have a problem that is as clear as can be and now we have a solution that has been crafted with the assistance of people who have been through our data who have brought their expertise, not their solutions. Every one of these ideas have come from someone from the state of Nebraska, not CJI, and they're supported by data and we will better spend the taxpayer dollar--

WILLIAMS: One minute.

LATHROP: --on better outcomes. So to answer your question-- and I appreciate that I've taken-- that's sort of a long-winded answer, but to get to the punch line, I think we need to pass these reforms. And I think when we pass these reforms, we won't see that we have sacrificed public safety. We will see that we have saved money on prisons that we can invest in the very things that Senator Geist talked about: substance abuse treatment, mental health treatment, those things that really are at the, at the core of why people get in the kind of trouble that lands them in the Penitentiary in the first place. So thank you very much for the question.

BLOOD: Thank you, Senator Lathrop. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Blood and Senator Lathrop. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I'm going to change direction here just a little bit. I'm going to talk about the bill. LB1013 is again, a cash transfer bill and I'm just going to read a few of the amounts and where the transfers are going. This is the bill that's actually being filibustered right now, but it doesn't have anything to do with the conversation we're having so I'll just start there. The first

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

thing on the, the amendment reads here is \$215,580,000 to the Cash Reserve-- from the Cash Reserve to the capital construction project and I think that's to, to finish out our construction projects here at the Capitol. The next one is the State Treasurer shall transfer \$53,500,000 from the Cash Reserve to the Perkins County Canal Project. The next one, the State Treasurer shall transfer \$30 million-- and that was 55-- now this is \$30 million from the Cash Reserve Fund to the Military Base Development and Support Fund. The State Treasurer shall transfer \$8,300,000 from the Cash Reserve to the Trail Development and Maintenance Fund. The State Treasurer shall transfer \$50 million from the Cash Reserve Fund to the Nebraska Rural Projects Fund. State Treasurer shall transfer \$30 million from the Cash Reserve to the Rural Workforce Housing Fund. State Treasurer shall transfer \$20 million from the Cash Reserve to the Intern Nebraska Cash Fund. State Treasurer shall transfer \$20 million from the Cash Reserve Fund to the Middle Income Workforce Housing Investment Fund. State Treasurer shall transfer \$80 million from the Cash Reserves to the Jobs and Economic Development Initiative. And the State Treasurer shall transfer \$20 million from the Cash Reserve to the site and building fund development and another one here: the State Treasurer will transfer \$50 million from the Cash Reserve to the Surface Water Transportation [SIC] Infrastructure Fund. So when you look at these transfers, these are two bills that were created to solve a problem somewhere and obviously some of the workforce development-- we need workers in this state. I'm not sure-- there's several funds doing that. There's a lot of workforce housing development funding and you'll see that in the ARPA funding and in the General Fund budget. And the last time I checked, there was well over-- around \$140 million for workforce development housing, whether it's middle income or workforce housing development. And so I, I-- again, we are not going to be able to build any more houses with this. What-- we're going to subsidize the building of a lot more houses that are currently going up, but we can't build houses fast enough in the state. Housing prices are shooting up. We are seeing inflation and the supply chain issues that we're facing is going to keep us from probably building as many houses we'd like in the near future. But whatever we do, it looks to me like at some point, we're going to overbuild our housing units like we did the last time. And that's what bothers me a little bit about government getting involved and trying to dictate market direction by using incentives to get things done because we're not very good at picking winners and losers. With that, I will yield the rest of my time. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Friesen. Senator John Cavanaugh, you're recognized and this is your third opportunity.

J. CAVANAUGH: Thank you, Mr. President. So I-- well, I appreciate Senator Friesen always and his conversations about the budget. As I've said before, he and I, I feel like we're, we're singing a two-part harmony. We have a lot of the same ideas, but for different reasons. But I-- what I was going to talk about last time-- I got up and got a little sidetracked, but Senator Flood brought a bill last year that I think I cosponsored, but I certainly appreciated, which was a bill that would require judges-- district court judges to articulate the cost of incarceration when they sentence somebody. So the-- we have certain requirements when judges sentence people and they say, obviously the sentencing range and, and what your expected time would be with, you know-- basically the truth in sentencing is what they call it, which is a calculation of how much time you're actually going to serve, your parole eligibility, and your jam date and all those things we've been talking about here. And so Senator Flood brought this bill that I know some people opposed-- not necessarily in this body, but outside of the body-- that would have required judges, when they list that, to say I'm going to sentence you to a sentence of 10 to 20 and that's going to cost the state of Nebraska X number of dollars, which would be-- you know, if it was \$50,000 a year, it would be something like \$500,000 to \$1 million for the state of Nebraska for your term of incarceration, something along those lines. And the reason I bring that up is because we're talking about criminal justice reform on the budget. And we're talking about it because the two things are related, because our decisions here, the length of these sentences, the, the ability for someone to be eligible for parole, the person's ability to get out of custody, get into programming, decrease recidivism, which is the likelihood of re-offending, that those are-- those have an effect on our budget. Those have an effect. We're talking about this at this time specifically because there is an appropriation moving-- well, not an appropriation, an allocation-- moving of money into the Capital Construction Fund for the purposes of building a new prison. And what we are saying-- what I'm saying and several others are talking about is what other things we need to do in the interest of decreasing crime, decreasing recidivism to avoid having to make these sorts of continued costs, spending this kind of money going into the future for the state in Nebraska forever. Because if we continue down the path we are going now, which is the current approach to criminal justice, this amount of money is not going to be enough and the next amount of money will not be enough. We're going to have to continue to come back every ten years or so and build another

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

facility, a bigger facility, add on to the facilities, hire more guards, pay more-- higher salaries to get them, and we will not be any better off. We will not get any better outcomes than we are currently getting. We will not achieve the objective that we set out to achieve, which is less crime. Less crime is the thing we all agree on. We all talk about how we want fewer people to be victims of crime. We want less property damage, less things stolen, less people injured, less people killed. We want all of those things and we achieve those things by decreasing crime and when we decrease crime, fewer people are--

WILLIAMS: One minute.

J. CAVANAUGH: --thank you, Mr. President-- fewer people are incarcerated. And so the question is, how do you decrease crime? And we are learn-- we have learned that locking people up does not, does not accomplish that and locking them up for longer does not accomplish that. What accomplishes that is finding out what is the root cause for individuals and, and making sure that they actually get the help to address that and getting them into programming, which is more readily available outside of prisons, outside of facilities, and making sure people have access to those things; housing, medical care. Those sorts of things are investments in decreasing crime and that is the type of thing that we need to be focusing on, not, not, not attempting to appear tough on crime because harsher sentences does not accomplish the outcome of less crime. Our goal is less crime and that's what we should be working towards. Thank you, Mr. President.

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

DAY: Thank you, Mr. President, and good evening, colleagues, I wasn't planning to stand up and talk on this tonight, but I did want to hop in and just mention that I greatly appreciate the work that Senator Lathrop has done on LB920 and I wanted to contribute a little bit to the conversation as we were discussing the sharing of some of the stories earlier. And I appreciate the intent of those stories, but to me, when we share the stories, the stories are just examples, as Senator Lathrop said, of how the current system is not working. We have overcrowded prisons. The rate of incarceration in the United States is trending down, while in Nebraska, it's trending up and we still have a pile of stories that we can share on the mike. To me, it's an example of why what we're currently doing is not working. So if we want to continue to have a pile of stories to share, then we can keep doing the same things that we're doing. If we don't want to continue to have a pile of stories to share, then we have to change

how we approach criminal justice. And I think that that's what Senator Lathrop is attempting to do with LB920 and I think a piece of that, from my perspective, that's really important. We're in a sea of attorneys in here and I am not one. I am not on the Judiciary Committee, but one of the things that I spend a lot of time talking about is mental illness, substance abuse. Senator Morfeld had mentioned it a little bit on the mike tonight. We had a conversation the other day on the mike about incarceration rates and its connection to literacy levels and education and I had mentioned on the mike the issue of adverse childhood experiences. We have overcrowded prisons, places where people are coming into the system not getting the appropriate treatment, rehabilitation, programming, they're leaving. This-- as, as Senator Cavanaugh just mentioned, does not decrease crime. The whole purpose of imprisonment is essentially to be a deterrent to decrease crime, which it doesn't do. What we do know works is getting people the appropriate rehabilitation and treatment when they need it. And as that relates to addiction, I found this body of research several years ago and it changed my life in terms of how I looked at addiction and substance abuse treatment and it comes from Dr. Daniel Sumrok. He's the director of the Center of Addiction Sciences at the University of Tennessee Health Center's-- Health Science Center's College of Medicine. The Center is the first to receive the Center of Excellence designation from the Addiction Medicine Foundation, a national organization that accredits physician training in addiction medicine. Sumrok is also one of the first 106 physicians in the U.S. to become board certified in addiction medicine by the American Board of Medical Specialties. And he says addiction shouldn't be called addiction. It should be called ritualized compulsive comfort seeking. He says ritualized compulsive comfort seeking what traditional-- what traditionalists call addiction is a normal response to the adversity experienced in childhood just like bleeding is a normal response to being stabbed. He says the solution to changing the illegal or unhealthy ritualized compulsive comfort seeking behavior of addiction is to address the person's adverse childhood experiences individually and in group therapy, treat people with respect, provide medication assistance when, when appropriate, and help them find a ritualized compulsive comfort seeking behavior that won't kill them or put them in jail.

WILLIAMS: One minute.

DAY: Thank you, Mr. President. Sumrok, a family physician and former U.S. Army Green Beret, who served the rural area around McKenzie, Tennessee, for the last 28 years, combines the latest science of addiction and applies it to his patients, most of whom are addicted to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

opioids, but also alcohol, food, sex, gambling, etcetera. He sees them in the Center's two outpatient clinics, his clinic, which the Center for Addiction Science has taken over as its rural clinic and another that opened recently in downtown Memphis. Since he first sat down in the early 1980s to write a research paper Public Health Legacy of the Vietnam War: Post-Traumatic Stress Disorder and Implications for Appalachians to describe the symptoms of the newly named post-traumatic stress disorder in Vietnam veterans, problems with the law, having trouble sleeping, anxiety, divorce, sleep troubles, substance abuse disorders, depression, anxiety, cognitive and chronic pain issues, Sumrok has pieced together the ingredients for a revolutionary approach to addiction. It's an approach that's advocated by many of the leading--

WILLIAMS: Time, Senator.

DAY: Thank you.

WILLIAMS: Thank you, Senator Day. Senator Matt Hansen, you're recognized. Matt Hansen is not on the floor, we'll pass over him. Senator Morfeld, you're recognized and this is your third opportunity.

MORFELD: Thank you, Mr. President. I'm going to yield my time to Senator Lathrop.

WILLIAMS: Senator Lathrop, 4:56.

LATHROP: Perfect. Thank you, Mr. President and colleagues, good evening once again. I thought I would continue through the list of the nonconsensus items and that would bring me to create geriatric parole eligibility. And let me talk about why this is in here. When the CJI group met and we talked about parole eligibility, this was one of those things that has appealed, right? It's like the average cost to-- for healthcare for inmates at the Department of Corrections, I think is about \$8,500 a year. That's the average. And of course, the younger person coming in probably has very little healthcare, and the older person probably has a lot more. Some of us can appreciate why that is. The older an individual gets, and by the way, they age a bit faster in the Department of Corrections. And that's not a-- any kind of a joke, that's a reality. They have healthcare needs. They need hips replaced. And we, we observe in the Department of Corrections a community standard of care. So if you're out in the community and you need a hip replacement, that's the same standard that's applied to an individual who is incarcerated and that gets expensive as an individual gets older. And the idea behind geriatric parole is there are individuals

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

who are going to become expensive to incarcerate by virtue of the care their, their age in years necessitates. Geriatric parole is one of those things where so what's the-- it, it really is sort of a two-factor parole eligibility. How old do you have to be to qualify? How long do you have to serve in order to qualify? So those two things you can adjust those as you try to come up with the sweet spot on geriatric parole. When we first started talking about this, I think we-- the, the first proposal, if you will, was like age 65 and 10 years in prison, and we looked around the room and maybe people were looking at me, hopefully they were at that point and thought that guy could still get in trouble. So the age that we started to look at got a little bit higher because 65 seems like an age, I like to think, where an individual can still get in some trouble or may not be done with criminal behavior and how long do they have to serve? I think our amendment says 75 and 10 years-- 15, 15 years, pardon me, there's a lot in that amendment, 75 and, and 15 years worth of incarceration. This is one of those things that while it is a consensus or a nonconsensus item, it's mostly a nonconsensus because we did not arrive during that afternoon meeting on what those two numbers should look like. The amendment reflects 75 and 15 years, making it probably a full-on consensus item, but it doesn't move the needle that much. Not all nonconsensus or, or proposals that touch on sentencing are going to move the needle that much, but only because that individual still has to get by the Parole Board. And if they're in there doing something like a life sentence, they're not going to be eligible. If they're in there doing a long time and they've, they've only done 15 of 50 years, maybe the, maybe the Parole Board looks at them and says, I think the guy needs to do more time and I'm sorry if you're--

WILLIAMS: One minute.

LATHROP: --you're old and you're starting to develop health issues. But this is one where it makes sense. An individual who is on geriatric parole then would be qualified for Medicaid, and the expense would not be of those knees-- knee replacements or hip replacements or cancer treatment or you name it, the things that happen to individuals as they get older and that are expensive to treat. That wouldn't be an expense of the Department of Corrections, it would be covered by Medicaid. And of course, the reimbursement rate is lower and, and better. And so that's the logic behind the geriatric parole. The next time I get on the mike, I'll talk about the next nonconsensus item on the list, which is creating a misdemeanor level of offense for possession of less than a half a gram of a controlled substance. And that controlled substance does not include two things: marijuana, and it does not include fentanyl. Marijuana because it's--

WILLIAMS: Time, Senator.

LATHROP: Thank you.

WILLIAMS: Thank you, Senator Lathrop and Senator Morfeld. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. President. Between now and the last time I spoke on the mike, I've been looking up on the worksheet the different bills that we still have to debate. Many, many priorities. But then some bills that we have already begun that are certainly controversial, that we still have to get through, Senator Brewer's gun bill, the lake, the canal, abortion, north Omaha funding, LB920, the criminal justice reform, tax cuts. Possibly opportunity scholarships again. Probably two or three or four or five things that I've forgotten or didn't mention, and then maybe three or four things that are going to be surprises that end up coming up. And let me reiterate, after today, we have 100 hours left in this session to speak. I agree with Senator Lowe, who is saying, yes. I know this is kind of the point in session where I can't wait to get out of here either. But we have a lot of important things to do. And I am in a little bit of disbelief, (a) about the conversation we're having around criminal justice in this body that doesn't reflect any rational view that most Nebraskans have, which is that we can take care of the prisoners we have. We can make sure that they're not, you know, sardines together in a tin can basically and they have space and we can renovate, we can build more, whatever we need to do, and we can have reforms that actually reflect what we know from research and what we know from, from information from experts and what actually reflects modern society and experiences in terms of what a crime is and what is a deterrent and what rehabilitates people and how do we do all these things in the interest of public safety? Being tough on crime and doing things in the interest of public safety doesn't just mean locking people up. And it also doesn't mean like going through this incredibly bureaucratic process of getting people justice and getting people treatment. You know, we were talking about problem-solving courts and drug, you know, rehabilitation courts and all of these different things that people access through the court system, that people can only access if they become system involved. And it's frustrating to me that as bureaucrats, we look at that as a solution instead of just making sure that people have what they need to begin with. Is going through the court system, going through the judicial system to access drug treatment for addiction not also some form of welfare? Is that not also some form of taxpayer-funded services by going through the court system? Yes, it is. But for some reason that's something that

conservatives accept because it also has this punitive aspect. It can't just be about treatment. It has to also somehow be about punishment. About bringing down a hammer where if we actually just give people access to healthcare, access to mental healthcare, addiction treatment, food security, housing security, job security, the things that conservatives consistently fight against and say is welfare is hand outs. I mean, the other state that hasn't applied for the emergency rental assistance, Arkansas, they're going to beat us to it, colleagues. They're going to end up getting the rental assistance before we do. And then Nebraska is going to be the only idiots in the entire country that said, oh, no, Uncle Sam, I know that we pay you all of these federal taxes, but we don't need any because we are pulling ourselves--

WILLIAMS: One minute.

HUNT: --up by our bootstraps and we don't need any help with our renters, not knowing you guys are once again shooting yourselves in the foot and looking really dumb because most of that rental assistance is going to end up going to rural Nebraskans. And it goes straight to landlords. So in a way, this is also homeowner relief. It's relief for people who own buildings that are renting them out to other people. Those renters like me, we don't take the rental assistance and put it in our pocket. We take it and we give it immediately to the landlord, just like we do with our paycheck normally every single month. And Nebraska is going to be the only people that don't take advantage of that because that's welfare. But is putting people through the expensive process of our justice system not also welfare? Taxpayers end up paying for that too. Let's go back to step one and help people where they are and give them the services they need when they first need them and not make them go through this bureaucracy of court systems, this and that, thinking that we're doing anything for public safety. Thank you, Mr. President.

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

M. CAVANAUGH: Thank you. Thank you. Thank you, Mr. President. Colleagues, so sorry, I was away from my desk. So the cash funds, I think, is what I was talking about last time. This bill has authorizing language for-- let's see, how-- I think if I go by the subsections, I can figure out how many cash fund transfers we're doing, 16. Looks like we're doing, authorizing 16 different cash funds in this Appropriations' bill. I don't-- I, I apologize, Senator Lathrop, I haven't looked at your amendment. I suppose I should do

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

that before I have to vote on it. So our wonderful Fiscal Office gives senators the Appropriations Committee budget proposal, which is sort of like the narrative to the, the actual bill, which is extremely helpful because the bill can kind of be a scavenger hunt in figuring out what you're looking at. So I'm trying to find-- I think this is it, starting on page nine, Appropriations Committee proposal, so delete USSPACECOM fund transfer, then from Governor's Emergency Cash Fund to NCCF Corrections facilities. And that's the part that we've been talking about. The Governor had included funding in the new multi-custody level correctional facility with capacity to house approximately 1,512 inmates. This \$270 million project was proposed to be financed by transfers from the Cash Reserve Fund to the Nebraska Capital Construction Fund or NCCF and that's \$175 million. Unappropriated funds remaining in the NCCF, \$66 million. And funds from the Prison Overcrowding Contingency Fund, which is \$15 million. After the transfers to NCCF, the Governor's recommendation then included a \$240 million NCCF appropriation to authorize the expenditure of those funds. And that's kind of the key thing here is to authorize the expenditure. The committee's recommendation includes \$175 million from the Cash Reserve Fund to the Nebraska Capital Construction Fund-- I'm going to stop saying the NCCF, sorry-- coupled with the \$63 million from the funds-- from funds transferred to NCCF in 2021 and unappropriated remains-- provides a-- remains provides a total of \$241 million. However, the committee proposal does not include the appropriation authority to expend those funds at this time. That's on page eight for any of the-- my colleagues who want to look at that in the Appropriations Committee budget proposal. Mr. President, how much time do I have?

WILLIAMS: 1:30.

M. CAVANAUGH: And do I have another turn?

WILLIAMS: Yes, you do.

M. CAVANAUGH: OK, thank you. OK, so then after the Corrections facilities, the next is the Perkins County Canal Fund, which I'm not sure how that it landed on the name Perkins County Canal. We've probably discussed it on the floor sometimes in the last 500 hours, and I just don't remember. But that is the canal in Colorado that the Governor talked about at the start of session. Then there's the Jobs and Economic--

WILLIAMS: One minute.

M. CAVANAUGH: --thank you-- and Economic Development Initiative Fund, which was previously STAR WARS and is now abbreviated JEDI. And that's all of the water funds across-- water recreational funds across the state. And I think a few other things. Then there's the university agricultural innovation facility, the Nebraska rural projects, the YRTC-Kearney project. And I have to say I am, I am very interested in this one. That campus really did need some new construction, new housing for the, the youth there, and I think it'll be really wonderful to update the facilities. They weren't in the disrepair that the Geneva facilities were, but they, they just were very, very old and kind of had a very severe feeling. I think somebody described the architecture of the downtown library in Omaha as brutalism that might be appropriate for the YRTC-Kearney's architecture is architecture brutalism, so.

WILLIAMS: Time, Senator.

M. CAVANAUGH: Thank you.

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

McKINNEY: Thank you, Mr. President. I rise again to, you know, continue the conversation about reforms in our state. And I was thinking about the \$175 million that is set aside for the prison that's not being expended and have some rough division that if we broke it down for every senator in the body, that's about \$3.5 million that we all could use. I'm sure each of our districts could use \$3.5 million for something. I'm sure I could find a project, Senator Williams, Senator Dorn, Senator Hunt, Senator Aguilar, Senator Lowe, Senator Day, Senator Blood, everybody could find a project with \$175 million because as you remember, only one person in the maybe are willing to even entertain a conversation about having a prison in their district. And there is still yet to be a senator from Lincoln or Omaha or in between that stood up and said that they would like a prison in their district. So if we don't have anywhere to build a prison, we might as well use the money. And if we broke it down with every senator, I'm sure we could find a project in each of our districts that will make somebody happy and improve the lives of our constituents with \$3.5 million. Since we're not building a prison, we should use the money. You know, we're not out of the pandemic. You know, it's still a thing. There's a war over in Europe. The future is uncertain. So why not use it? Next year, we might not be able to because of some economic things that happen. So why not get resources to people in need now so when something bad does happen in the future

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

we're better prepared to address those issues? It's just an idea. But again, I repeat, there is \$175 million set aside not being expended for a prison that nobody wants, at least not between Omaha and Lincoln. And if it's not between Omaha and Lincoln, we're going to have another situation like Tecumseh where you can't get people to go out there. So why not use the money for good and invest in the people in Nebraska and the taxpayers? We could even, Senator Friesen, put some money into the property tax relief fund if, you know, we need to help people with property taxes. We could also use \$175 million, I haven't done the math, but we could break it down and give every Nebraskan a gas card since gas is going up. There's so many possibilities that we could use \$175 million for. It's just a thought. You know, we're having a conversation about criminal justice reform and what do we do about our state and the budget? And I just don't think we take the time to really think outside the box and really innovate our state. We cannot be stuck in the '80s, '70s, '60s, and '50s. The world has changed and I'm not saying we have to eliminate all our supposed Nebraskan values, but I do think we have to evolve as a state to ensure that we retain the individuals that we have in our state, and we could be an attractive state for others that might want to come and, you know, raise their families. And thinking outside the box does that. We all don't have to agree on things, but that's what, you know, this is for, for us to have--

WILLIAMS: One minute.

McKINNEY: --a dialog. But again, I'll say, there's \$175 million set aside that's not going to be used. And who knows if the next Governor is even going to say build a prison, so let's put some-- let's put it to use for some good for our communities in our districts. It's just something to think about if you're looking for money and you can't find money, there's \$175 million that is not being expended that you could use for your community. Thank you.

WILLIAMS: Thank you, Senator McKinney. Senator McCollister, you're recognized and this is your third opportunity.

McCOLLISTER: Thank you, Mr. President. Good evening, colleagues. As I mentioned earlier, I think we've spent at least 30 hours, 30 hours on criminal justice reform. So just curious, I went around a few of my colleagues and asked them whether these arguments were making any sense to them. And the common refrain, refrain that I got was not exactly. I understand the arguments, but law enforcement is against LB920, law enforcement. Well, I ask you, does that really constitute a valid reason to oppose LB920? I think not. It is this body and the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

executive branch that makes up the budget. We use our wisdom and judgment to determine what are the priorities of the places we spend money. And I contend that smart justice, smart criminal justice reform is a way for us to go forward with this, this issue and LB920 when it does come up and I hope we do that. I hope we take an enlightened view of criminal justice reform because that's in the best interests of the state. We can maintain public safety and we can use the state's resources wisely. You know, we talk about why do people go to prison? I'll read this out of the, the CFA Institute booklet. People come to prison for three basic reasons: They have been directly sentenced by the courts to a prison term, new court commitments. They have failed to complete their term of probation and are now being sentenced to prison for a violation or a new crime. They have failed their term of parole, post-release supervision, or any other form of conditional release and are being returned to prison for a new crime or a technical violation, technical violation. A lot of states have looked technical-- looked at technical violations as a way to reform. Almost two-thirds of persons who are admitted to prison in the United States are those who have failed to complete probation or parole, a projection model that should have a feedback loop that captures the relative rate of probation and parole failures. There are so many smart ways to deal with prison reform, and we should be utilizing those. Other states have used those very same techniques and save money, reduce prison populations, and maintain public safety. I yield the balance of my time to Senator Lathrop.

WILLIAMS: Thank you, Senator McCollister. Senator Lathrop, you're yielded 2:10.

LATHROP: Thank you. Thank you. And Senator McCollister, thank you, and you bring up a great point. But before I continue, I, I just want to say this about my friends in law enforcement and I, I call them friends because they have been friends of mine and I have been supporters for as long as I've been down here. And many of the prosecutors across the state are also friends of mine. I count them among my friends. I appreciate what those men and women do every day. I appreciate what law enforcement does every day. I could never do their job. Going down a dark alley at night would terrify me and what they do to keep our community safe and the commitment of, of lawyers across the state who take up the cause of prosecution. I just want to, I just want to not get off of this topic tonight without extending my deepest gratitude for the work that they do. That said, these individuals who are in law enforcement and who are the prosecutors across the state, dedicated public servants to be sure--

WILLIAMS: One minute.

LATHROP: --dedicated public servants to be sure, they are, like everyone else, a little concerned about change. We're all concerned about change. And here's the, here's the challenge, though, it is the state of Nebraska that's picking up the tab for the incarceration. And these folks who are involved in the police work and the prosecutors, as much as I respect what they do, they're not responsible for what we're responsible for. And I think ultimately that's why it becomes the decision of the policy makers and particularly at this time when we are overcrowded, the number one overcrowded facilities in the country, for us to make the policy decisions, respect what prosecutors and law enforcement do, but not yield or not give them the vote on this one. We have to make policy decisions.

WILLIAMS: Time, Senator.

LATHROP: Thank you.

WILLIAMS: Thank you, Senator Lathrop and Senator McCollister. Senator Day, you're recognized.

DAY: Thank you, Mr. President. I would like to yield my time to Senator Lathrop.

WILLIAMS: Senator Lathrop, 4:55.

LATHROP: OK. Well, I think I made the point about the prosecutors and law enforcement, hardworking, good public servants dedicated doing, in, in the case of law enforcement, many times a very dangerous job. And the prosecutors, they see the worst of the worst. And I appreciate their perspective. I think it still falls on us to make policy recognizing that we're going to look at the data and figure out what's going to be best for public safety and for the state of Nebraska. I did want to talk about the next thing on the list, which is create a new misdemeanor level of offense for possession of less than a half a gram of a controlled substance not to include fentanyl. And of course, the controlled substance would not include marijuana. This is one of those issues where your first reaction may be, your first reaction may be, wow, I don't know if we can do that. And Senator Geist suggested tonight earlier that we're doing people a favor getting a felony conviction on them because now we can send them to a problem-solving court. There's a couple of problems with the logic related to that. One is that when you put a felony conviction on somebody, that stays with them for life, it stays with them for life. And here's why that's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

important, it's hard for them to find work. It's hard for them to find housing. Many times when they're incarcerated, they get behind on their child support and then they give up and they come out and they're in the underground economy. It's also, you should know not everybody that gets convicted of a felony drug possession gets problem-solving court. We don't have the capacity across the state. We don't have the capacity even in, even in populated counties for everyone. And in fact, many of these programs have exclusions that would prohibit or make ineligible individuals who are being convicted of possession of a small quantity of a controlled substance. So giving them a felony is not a favor. When we talk about possession of a small quantity of a controlled substance, it's a Class IV felony. OK? Class IV felony is the lowest level of felony. It will get you two years at the Department of Corrections, one year with good time. And many of these people have spent six months in the county jail before they're disposed of. So they're short termers down there and they're not going to get care. The fact is, most of those people that go down there on a two-year sentence for a drug possession on a felony, they're not going to be there long enough to get care. They barely have time to process them. Some of them are discharged shortly after they get there. And, and many of them discharge right from Diagnostic and Evaluation Center. So we're not doing people a favor by giving them a felony conviction. They also, by the way, become a prohibited, they become a prohibited person for the rest of their life. They're-- you talk about the Second Amendment, these people will never be able to have a handgun or a firearm because they're now a prohibited person. Regardless of how they can take the cure, they can buy into the substance abuse treatment and still never be permitted to have a firearm. So we're not doing these people a favor and an individual who is charged with a Class I misdemeanor is subject to a year in the county jail. So if you need incentive, if you need incentive to go through treatment, to go through diversion, to go through some--

ARCH: One minute.

LATHROP: --type of probation, there's plenty of incentive at a Class I misdemeanor. And if getting them into a problem-solving court is the issue, then we should have those problem-solving courts available to individuals with drug problems at the level of a Class I misdemeanor and not hang a felony on them that will follow them for the rest of their lives and make them ineligible for-- to be able to carry a firearm or to find adequate housing or employment. The amendment to LB920 would exclude fentanyl. And when we were-- when this bill was introduced, we had a number of individuals that came in from law enforcement and Don Kleine from the Douglas County Prosecutor's Office

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

and said this fentanyl stuff is in a class by itself, colleagues. It is a, it is an incredibly dangerous--

ARCH: Time, Senator.

LATHROP: --controlled substance. Thank you.

ARCH: Senator Walz, you're recognized and this is your third opportunity.

WALZ: Thank you, Mr. President. I, I had just read this article or this, I guess, news, news release. It's a publication from the Holy Family Ministries. I had talked to Senator Lathrop about it last week, and I just got another volume from March 2022 and reading through a couple of these articles, one was equal access for all long-term healthcare in our prison system. And the other article that I have started to read was under LB980, an offender serving a life sentence who has certain medical illnesses could be eligible for parole. And I've asked Senator Lathrop a couple of times, I hope he didn't leave. Is Senator Lathrop still here?

ARCH: Senator Lathrop, are you on the floor? Will you yield to a question?

LATHROP: Yes.

WALZ: Oh, OK. Thank you. Sorry, Senator Lathrop. I was talking about some articles that I was reading and it, and it reminded me that I really wanted to ask you a question about the Working Group nonconsensus items. One of those is creating geriatric parole eligibility. Have you talked about that yet?

LATHROP: Yes.

WALZ: OK.

LATHROP: I'd be happy to.

WALZ: Please. Thank you. I appreciate that.

LATHROP: So geriatric parole, we talked about that a little bit ago, but I'm happy to kind of put a little shine on that conversation and that debate. Geriatric parole is the notion that someone who has reached 75 and has already done 75 because some of us in the group thought 65 was old enough to still get in trouble. So the amendment put it at 75. And for those of you approaching 75 and think you can

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

still get in trouble, these people would be 75 and having done 15 years of time at the department. Class I and Class II, I think, or I-- II Class is higher level felonies or life sentences would not be eligible. And those individuals that they serve 15 years and they otherwise qualify. So the Department of Corrections is going to send them over to the Parole Board. The Parole Board would then have to go through the list of considerations for parole and determine whether they're suitable candidates. The rationale behind, and I'm glad you asked this question, the rationale behind geriatric parole is these are the individuals that are getting expensive to incarcerate. And by expensive, the state of Nebraska has to observe a community standard of care. So if somebody needs a hip replaced, they don't just sit in their cell with a bad hip. They get a hip replacement or a knee replacement, or if they have all manner of health problems, they're all addressed at the community standard of care. And those folks that are 75 years old and have done the time and they're suitable and, and the Parole Board determines that they are a suitable risk, then they would be paroled and allowed to enroll in Medicaid or, or some program that would pay for their care going forward. And the idea is that \$8,500 represents the average cost of care for an inmate. Most of that's, you know, there's a lot of people in there with very little care and then we have the older folks, not unlike society, the older folks that are more expensive and having them discharge, get on Medicaid, and get their care on the outside when they are not likely to be a risk to re-offend and gets a-- get the stamp of approval by the Parole Board would then be paroled under that proposal.

ARCH: One minute.

WALZ: \$8,500 a month?

LATHROP: No, \$8,500 a year is the average cost for care for all inmates at the Department of Corrections. Imagine some of them are very cheap. The younger guys, there's a lot of young guys in there, and the older folks are the ones that run that average up to \$8,500 per year per inmate.

WALZ: OK. All right. Thank you, Senator Lathrop.

ARCH: Thank you, Senator Walz, Senator Lathrop. Senator Vargas, you're recognized.

VARGAS: Thank you very much, Chair. I wanted to weigh-in here and, look, it's 9:00, and I, and I-- it's not to belabor the point, but I want to speak from at least from my perspective as a senator from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

south Omaha and also a member of the Appropriations Committee. And look, I, I think we've, we've really gotten to the point here. One, I agree with Senator McKinney. I don't believe that many of these communities, including my own, are seeking or want a prison in our backyard. It just is the reality. I think we've heard that from north Omaha. We've heard that from south Omaha. Definitely have heard it also from Senator Walz's district in Fremont. The question is, and we're still debating or at least informing is, how do we pass policies that are going to reduce, reduce the overreliance that we're currently seeing on our, on our prison, the Corrections system? And look, it is National Criminal Justice Month, if you did not know that. Part of the reason that this National Criminal Justice Month exists is to better inform lawmakers and better inform the public that criminal justice reform is not something that is just a day. It is something that this month is meant to both recognize and elevate commonsense policies that try to actually improve criminal justice reform. In my time in the Legislature, I've introduced bills to Judiciary and I've seen many of these and read through these reports that we've brought forward bills to try to reduce, either provide sentencing reform or to invest in the behavioral health, you know, drug courts or any of these other types of problem-solving courts that are going to reduce the number of people getting in our system. But this is-- this point is just simple math for the public. If we don't change something with sentencing reform or the entry points from juvenile justice to the number of sentencing years and the different types of charges, if we don't change this trajectory, it's not going to matter if we build a prison. It's not going to matter if we build high and medium security beds because the overwhelming majority that people that are currently entering the Corrections system are offenders that have a high percentage of behavioral and mental health needs and, and have substance abuse needs and may not and likely are not going to be using the high security beds even built with this facility. The question is how do we look at the Corrections system if we're really thinking about creating one that's going to meet the needs in the future? It has to be both Community Corrections and thinking about actual differentiation with both reducing the people coming into the system and changing how people are moving down and in a, a better state so that when they originally-- when they actually eventually do get to release and get to our community, and that's the hope, that they are fully engaged individuals, educated, provided every source of opportunity so that they can come back and be fully contributing members of society. That is the goal. The data, I can't speak to it any more than Senator Lathrop or any other members have spoken on this. But I do just want to talk about just the expensive price tag on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

this. I-- and I, I belabor the point, but the amount of funds-- people talk about the University of Nebraska system, which we've invested in over the years, our education system in terms of the pie of funding. But our Corrections system is one of the three for highest sort of bars of things in, in, in terms of what we spend from the General Fund. And the reason is because of the costs of both people and operations, and this cost is only going to increase when we build a new prison. It's not a question, it's--

ARCH: One minute.

VARGAS: --it is going to be the cost. So if we truly want to be fiscally responsible when we're talking about how we're spending our resources and, look, we have people on the floor constantly talking about property tax relief or making sure we're reducing our spending, which again, by the way, Appropriations has had record reduction and slowed growth beyond any Appropriations Committee we've seen in the last 20 years. It's just a fact. And then we're going to make sure that we're not growing the budget by this much in this next biennium. It's absolutely going to happen if we do something this way. We have to do meaningful criminal justice reform. We have to find ways to provide sentencing reform. It is a pragmatic way to address this part of the, of the problem of this, this issue that we're currently having. And if we don't get it, this chart that everybody's looking at with projected population for the replacement prison is never going to be addressed. So for the public, it is just a reminder these are very clear numbers and cents--

ARCH: Time, Senator.

VARGAS: --with what we're projecting. Thank you.

ARCH: Thank you, Senator. Senator Day, you're recognized and this is your third opportunity.

DAY: Thank you, Mr. President. I just wanted to go back to what we were talking about earlier when I had mentioned the conversation we had had previously on the floor about incarceration rates and adverse childhood experiences and the body of research that has come out in the last several years in terms of brain health and addiction and how they are related, mental illness, substance abuse disorders, and how they are related to adverse childhood experiences. I was discussing research from Dr. Daniel Sumrok, director of Center of Addiction Services at the University of Tennessee Health Science Center's College of Medicine. I read some of what-- I'm going to pick up where

I left off. Sumrok knows that, that the ACE score says a lot about their health and ability to cope. ACEs comes from the CDC-Kaiser Permanente Adverse Childhood Experiences study, groundbreaking research that looked at how ten types of childhood trauma affect long-term health. They include physical, emotional, and sexual abuse, physical and emotional neglect, living with a family member who's addicted to alcohol or other substances, or who's depressed or has other mental illness, experiencing parental divorce or separation, having a family member who's incarcerated, and witnessing a mother being abused. Subsequent ACE surveys include racism, witnessing violence outside the home, bullying, losing a parent to deportation, living in an unsafe neighborhood, and involvement with the foster care system. Other types of childhood adversity can also include being homeless, living in a war zone, being an immigrant, moving many times, witnessing a sibling being abused, witnessing a father or other caregiver or extended family member being abused, involvement with the criminal justice system, attending a school that enforces a zero tolerance discipline policy, etcetera. The ACE study is one of five parts of ACE science, which also includes how toxic stress from ACE's damaged children's developing brains, how toxic stress from ACEs affects health, and how it can affect our genes and be passed from one generation to another or epigenetics, and resilience research, which shows the brain is plastic and the body wants to heal. Resilience research focuses on what happens when individuals, organizations, and systems integrate trauma-informed and resilience-building practices. For example, in education and in the family court system. The ACE study found that the higher someone's ACE score, the more types of childhood adversity a person experienced, the higher their risk for chronic disease, mental illness, violence-- being a victim of violence, and a bunch of other consequences. The study found that most people, 64 percent, have at least one ACE. Twelve percent of the population has an ACE score of four. Having an ACE score of four nearly doubles the risk of heart disease and cancer. It increases the likelihood of becoming an alcoholic by 700 percent and the risk of attempted suicide by 1,200 percent. High ACE scores also relate to addiction. Compared with people who have zero ACEs, people with ACE scores are two to four times more likely to use alcohol or other drugs and to start using drugs at an earlier age. People with an ACE score of five or higher are seven to ten times more likely to use illegal drugs and report addiction and to inject illegal drugs. The ACE study also found that it didn't matter what type of ACEs-- what the types of ACEs were. An ACE score of four that includes divorce, physical abuse, an incarcerated family member, and a depressed family member has the same statistical health consequences as an ACE score of four that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

includes living with an alcoholic, verbal abuse, emotional neglect, and physical neglect. Subsequent research on the link between childhood adversity and addiction corroborates the findings from the ACE study, including studies--

ARCH: One minute.

DAY: --that have found-- thank you, Mr. President-- including studies that have found that people who have experienced childhood trauma have more chronic pain and use more prescription drugs. People who experience five or more traumatic events are three times more likely to misuse prescription pain medications. ACEs just don't predict substance abuse disorders, says Sumrok. All of our major chronic diseases link to substance abuse, so this is too big to ignore. Whether you're talking about obesity, addiction to cigarettes, alcohol or opioids, the cause is the same, he says. It's the trauma of childhood that causes neurobiological changes and the symptoms he saw four years ago in soldiers returning from Vietnam are the same in the people he sees today who are addicted to opioids or other substances or behaviors that help them cope with anxiety, depression, hopelessness, fear, anger, and/or frustration that continues to be generated from the trauma they experienced as children. Learning about ACEs helped him understand that the original definition of PTSD, which many people still cling to--

ARCH: Time, Senator.

DAY: Thank you.

ARCH: Thank you, Senator. Senator Hunt, you're recognized. This is your third opportunity.

HUNT: Thank you, Mr. President. My process for when I decide to speak on something is like unpredictable to me, it's-- I don't, I don't have a very consistent process. It is mostly me talking to my staff and kind of spilling all my thoughts out and just kind of word vomiting all of the thoughts I have about a certain topic. It's a, it's a rant, you know, and the folks who live, who live, who-- feels like we live here, but who work around me here have heard a couple of rants now and then too. And that has to somehow get turned into a point. A good point. And I always have these articles. I have this article that I've had on my desk since, like, 3 p.m. that I keep meaning to read. And I haven't read this article because I start getting on a topic and then I just get carried away with kind of whatever ends up coming into my mind and everything I talk about, every bill that ignites my passion

to come up on the mike and get-- be going off on something comes down to this belief I really have that this state is circling the drain. When you look out at rural Nebraska, there is no way that that part of Nebraska is going to grow. It doesn't matter if you're building a lake, which I think is going to end up being a big, muddy hole that, you know, after world gone and the Governor is gone, the AG is gone, and all the Mikes are gone out of here. Nothing is going to come of this lake. It's ridiculous to invent a lake thinking that this is going to attract young people or anything like that. If you're going to build an amphitheater or a, a riverwalk or whatever it is that folks are doing in these, in these rural parts of Nebraska, the people that need to populate those areas were never born there. Nobody is coming back there. Nobody is excited to move there because we don't have the very base, the very bottom of the hierarchy of needs that people need to have a good quality of life. That's culture. That's diversity. That's intellectual freedom. I still talk to professors at the University of Nebraska-Lincoln who are afraid to say something on Facebook or whatever because they think, you know, Senator Erdman or somebody is going to sue them. Jeff Fortenberry is going to sue them, you know, he did that. And I talked to people who say they're looking for culture and then you point to the community theater or you point to an art gallery. And we've tried so hard to support these communities by putting in arts districts and grants for arts funding all of these things. And this is all important because it gives the people hope who have to live here, who still live here. But it's not attracting anybody, and we cannot be fooling ourselves that it is. A lake is not going to attract anybody. New prisons, terrible. Not going to attract anybody. It's going to do nothing for public health, public safety. And then on top of all of that, an abortion ban. It's not only not going to attract anybody, it's going to make people leave the state. Young, professional women, I've spoken to half a dozen OB-GYNs in Nebraska, most of them in rural Nebraska where we need more healthcare providers who have said if this abortion ban passes, I'm not going to do the OB stuff anymore.

ARCH: One minute.

HUNT: I'm just going to do the gynecology. They'll be doing pap smears and, you know, LEEP procedures and all of the things that, that women need for their health, but they're not going to be doing any obstetrics. Because they don't have an affirmative defense if somebody says they caused an abortion. This is the Dark Ages, colleagues. And for the people who say they can't wait to get out, I totally understand. I don't blame them and I hope they do. But I'll be here, you know, trying to do something about this base level of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

hierarchy of needs. And it's frustrating to feel like you're the only one sometimes. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. I don't know if everyone caught this, and it was really funny so I do want to point it out. When Senator Hunt said when all the Mikes are gone, she didn't mean the microphones. She meant all the guys named Mike in here because there so many guys named Mike. That's very funny. Thank you, Senator Hunt, for that. Colleagues, I have to say it's, it's an honor to be here having this discussion with you tonight. I know it's late. I know we've been here for a long time, but I feel like some fruit is being found here when we're talking about these issues. I think that we can all agree that what we want is to have safer communities. What we want, at least I'll speak now for myself, is to sort of flatten out our increasing prison population curve, so it at least is not rising as quickly as it is now. And part of that is reducing recidivism. And part of that is to develop a sentencing structure that prevents jam outs, which are the most dangerous thing that we can be doing is prevent-- is putting hardened criminals who have been in our prisons, possibly learning how to be better criminals, out without giving them any incentive to take their programming without giving them any time when they come out under the supervision of a parole officer, someone like that. So I think we have a very similar set of goals that we all want to get to tonight, that we're all trying to find a way to that same end goal. I think most everyone in here is, at least on a global level, trying to get to kind of the same place. And I think we've seen why there are more consensus items in the CJI report than nonconsensus items because we're all trying to kind of come to the same end result. The issue is we're trying to figure out how to get to that result. And, you know, that isn't always an easy thing to figure out. There's a group of people who worked together over a long period of time this summer who have expertise, who've seen what's worked in other states. When they put this together, it's not like they're just throwing spaghetti at the wall to see what sticks. What they're doing is they're going through a process that is proven to bear fruit in the past and has helped other states in the past to try to make a safer community. And at the same time, lower their recidivism rates and figure out how to keep people, the most dangerous people, those who jam out, from going back into the community without having someone who's going to watch over them and help them to readjust to life amongst all of us and keep an eye on them and see if they start going down the wrong path. And I think that's something that we should all sort of be able to get behind. And the way to do that, of course, is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

to incentivize them. So that's-- I have great hope, colleagues, that after going through this somewhat painful day of a lot of talking--

ARCH: One minute.

DeBOER: --about sentencing reform and all of the things, we've had other conversations about the budget, which is good too, but that this process of going through all of this together, it's kind of like a-- when I was in seminary, I used to have what I called broom closet theology, which is you can't hate anyone if you're locked in a broom closet with them long enough. I mean, with the caveat that you both emerge alive, you probably don't hate the other person anymore because you see their humanity. I think we've been stuck in this room long enough, we're starting to understand there may be some compromise. There may be some way where we all get to a safer community. So let's keep working, colleagues. Thank you, Mr. President.

ARCH: Thank you, Senator. Mr. Clerk.

ASSISTANT CLERK: Mr. President, priority motion, Senator Machaela Cavanaugh would move to bracket the bill until April, April 5, 2022.

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

M. CAVANAUGH: Thank you, Mr. President. I don't know if this motion will go until cloture or not, but I would highly recommend not voting for it. It is just a placeholder for time, and I figured you all wanted to hear me talk for ten minutes straight at 9:22 at night. So I think the last thing I was on was the Kearney project. And so we're, we're giving \$15 million to the Kearney-YRTC, which is the Youth Rehabilitation and Treatment Center in Kearney. And that is where our male youth are sent when there's really no where else to put them for a variety of reasons. Some of them are because of being system involved. But there's all kinds of reasons that a person could go there. And so back in 2019 when Geneva had the emergency on their campus where the girls are and I think-- I thought about this a couple of days ago or maybe it was last week, someone-- it might have been Senator DeBoer said something about the, the sky is falling or the ceiling is falling. And at YRTC-Geneva, the ceiling was literally on the floor. So that's where they were at. The sky had-- wasn't falling, it had fallen. And so understandably, the youth that were there were not pleased and they made their objections known and they were moved in an emergency to Kearney. And this was my freshman year so this started a really long journey for me of learning a lot about our child welfare system and our juvenile justice system. So they moved to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Kearney and-- but it's a boys campus, and so they had to move all of the boys out of a building, and they had to have the girls in a specific building. And because of our youth rehabilitation treatment centers or this kind of strange mash up of Corrections and DHHS so they have to abide by PREA, which is a Corrections policy, and so the, the boys and the girls couldn't be comingling or together. And so you can imagine teenage boys and teenage girls who have been on separate campuses and now are on the same campus, how much fun that was for the staff. So then that led us to moving or, or renting, leasing-- sorry, it's late-- leasing part of the youth detention center here in Lancaster County and turning that into the Lancaster YRTC, I believe, right? Yeah, I think so. And, and so we ultimately shut down the Geneva campus and took over a campus also in Hastings. So now the female youth in the YRTCs are in Hastings and the male are still in Kearney and then we now have this facility here in Lancaster County that is for high acuity and really has a lot of really great specialized behavioral health treatment happening there. And so, to be honest, something that was a complete tragedy turned out to activate us to do something really good and move in a new direction. And I think that this, this piece, this Kearney campus piece is the next great step that we can take to make sure that these youth who are system involved are living in "niceish" accommodat-- as nice as can be because the accommodations that they currently are in are terrifying. So with the metal beds in, in a big room and it's like a big, it's like a big, big room with metal beds and the lights are always on, the fluorescent lights. And so it's kind of unpleasant as you can imagine. The accommodations at the other campuses are not like luxurious. When I say nice accommodations, they're not luxurious accommodations, but they are private and safe and more humane than just a big open room. And also, I mean, I grew up with five brothers and having them in just a big open room every single night would have probably sent my mother to an early grave. So I can't imagine having, you know, 20 boys in a big open room. OK. So that's the YRTC, and that's part of the reason that these cash funds are important because this one, LB792, which I believe was Senator Lowe's bill. Is that correct? Yes, LB792 was Senator Lowe's bill. And another thing that's in a lot of these cash funds are related to our youth and helping lift our youth up. So we have the middle-income housing, anything that has to do with housing is going to positively impact the lives of young people because housing insecurity is devastatingly disruptive to youth if they don't have a place to sleep at night that is safe and secure. How can we expect them to get up in the morning, go to school and thrive? So LB15, sorry, LB1252 is a middle-income housing fund, and I'm not sure who's bill that was. I think maybe Senator Williams. Was that Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Williams, Anna? Senator Wishart, was middle-income housing Senator Williams? Oh, Senator Vargas. Glad I checked. I, I have to fact check with the, the number one female member of the Appropriations Committee, Senator Anna Wishart, always here to help. Thank you, Senator Wishart. So middle-income housing fund, LB1252, that was Senator Vargas, and it creates a middle-income workforce housing program that was established in 2020 and financed with \$10 million transfer from the General Funds. The funds would be used by the Department of Economic Development to provide grants to nonprofit development organizations with a one-to-one match. I don't-- sorry I wasn't-- I just realized I was going to roll right into another five minutes. With a one-to-one match requirement, grant funds are to be used for workforce housing development in urban communities. This would include new construction of owner-occupied housing in a neighborhood and community with a demonstrated need for housing that is affordable and attractive to first-time homebuyers. That, that concept of it not being a rental property but being a homeowner is, is really essential to that building a pathway out of intergenerational poverty to have homeownership, to have that equity, to have something that you can, you can always have for an emergency, a house. Like, that's, that's a huge thing for equity and intergenerational poverty is oftentimes associated with housing insecurity and food insecurity and lack of access to education and healthcare. So that's a great step for addressing intergenerational poverty. I know I've talked about the task force that happened a few years back with Senator Campbell-- Kathy Campbell and Senator Heath Mello and I keep talking about it, and I keep forgetting to, to get you all a copy of it. So I apologize. One day I will remember. Of course, you can probably get a copy yourselves, but it's a really interesting approach and concept, and I think it is worthwhile in the discussion about justice reform, sentencing reform, Corrections, housing, food, all of these things are really intertwined and in communities and even more specifically in households that have--

ARCH: One minute.

M. CAVANAUGH: --intergenerational poverty, it is very often very closely tied to incarceration of family members, and it is also known that when a family member is incarcerated it is much more likely that other family members that are the next generations will also be incarcerated. And so it's not just about addressing recidivism, but also addressing how do we stabilize those next generations and make sure that they have the tools that they need to succeed moving forward. I think you said one minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

ARCH: 20 seconds.

M. CAVANAUGH: I will yield that to you, Mr. President.

ARCH: Thank you, Senator. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good evening. There are, believe it or not, some people watching from home. I have no idea why, but they told me they were. And they were wondering what we were doing. And I'll explain it to them. First of all, we've spent 32 hours on the three budget bills and the ARPA bill, 32. When we get done here at 10:30 this evening, we will have spent another 12 hours. That's 44 hours of time wasted. And that's probably OK because we're not passing other bills, but there are things that need to be done. So what we're doing, and Senator Lathrop and the group are doing a fabulous job of wasting time. And if you're interested in prison reform, put LB920 up there, let's talk about it. But that's not what we're doing. We're, we're doing this for several reasons. One, we want to make sure we never get to an amendment to actually build a prison. We have not decided to build a prison. We set aside money that if a prison is found to be needed, we have the money to do that. We haven't decided to build a prison. But they're worried that we may put an amendment to do that. So that's one reason why we have wasted 44 hours. Second reason is they're not wanting to get to talk about Senator Albrecht's bill that would take away funding from the Department of Education to teach things that shouldn't be taught in any public school, private, or any other kind of school. That's the second reason. The third reason is we don't want to deal with the budget. I've only been here six years, but I've never been in a budget discussion that we spent 44 hours and we didn't really talk about the budget. And so that is probably a good thing for those who don't have to defend the budget. And so we don't get to any other amendments except what has been put up there. So that's what we're doing. So 44 hours is more than one full week-- work week for most people. And I can see why people at home are wondering what we're doing. They send us here to actually accomplish something. So if prison reform or sentencing reform is that important, why don't we just fast forward to LB920, put it up there and see what it is? The Governor and the committee, I think, agreed to about 85 percent of what was suggested. Why wouldn't you just take that 85 percent and move on? I don't know the answer to that and we probably never will. So maybe we need a rule, a rule change that says if you want to run a filibuster, the person will introduce the bill and then if we get a majority-- major majority like 35 votes, we just automatically fast forward to cloture and forget about wasting eight hours of everybody's life. But stop and think about it for a moment,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

how much money we've wasted on salaries being paid by the staff that's here till 10:30 per hour to do 44 hours of a filibuster. Those are tax dollars, but we have plenty of money. Don't worry about it, we have plenty of money. And the comment was made earlier by Senator Vargas that he didn't want to add--

ARCH: One minute.

ERDMAN: --to the next year's budget. Well, I'm here to tell you it's 9:35 p.m., and we have added to the ongoing budget at least 10 percent. Those contributions, those appropriations that we made from ARPA will be ongoing obligations that will be as much as 10 percent increase in our budget the next time we do a budget. And when we get to that point and it is 10 percent, it will be not much value when I stand up and say, I told you so because we'll already be in the hole. This revenue will not continue as it has in the past. We've got a drought going on that's pretty significant. And agriculture is what drives the state. So just wait and see, we will have a shortage again. And when we came in '17, we were down a billion one.

ARCH: Time, Senator.

ERDMAN: Thank you.

ARCH: Thank you, Senator. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President, colleagues. So first off, I, I don't think we've wasted any time here in the sense that we're talking about probably one of the most important issues facing our state and that's keeping our communities safe. And right now, what we are doing is not keeping our communities safe. It is absolutely not keeping our communities safe, the status quo is unacceptable, and quite frankly, we can talk about that for an entire session, and I don't think it'll be a waste of time. And we're not wasting very much money, because last time I calculated I make about \$2 an hour here. So I think we're OK. And we can continue having this conversation until we actually do something, Senator Erdman, something you haven't been a part of. And so let's talk about what the solutions are. Let's get together and actually do something different because we aren't doing anything different and our communities aren't any safer for it. Going back to the actual data and not just antidotes, Mississippi in 2014 and the five years prior to JRI, Mississippi's violent crime decreased by 3 percent. And the five years following JRI's enactment, violent crime continued to decrease at a rate of 4 percent, while national violent crime rates increased by 6 percent during this time. Utah 2015 and the

five years prior to JRI, Utah's violent crime rate increased 3 percent. And the five years following JRI's enactment, violent crime continued to decrease at a rate of 1 percent, while national violent crime rates increased by 2 percent during that time. Maryland 2016 and the five years prior to JRI, Maryland's violent crime rate decreased by 5 percent. And the four years following JRI's enactment, violent crime continued to decrease at a rate of 6 percent, outpacing the national decline of 5 percent during that time. Oklahoma 2017 and the five years prior to JRI, Oklahoma's violent crime rate decreased by 4 percent. And the three years following JRI's enactment, violent crime continued to decrease at a rate of 6 percent, outpacing the national decline by nearly 2 percentage points during this time. So colleagues, I've read through all of the statistics and the data from the FBI and other national sources that indicate that after adopting JRI, communities were safer. Crime rates were down and the results were positive. So when folks get up on the floor and say this is going to lead to higher crime, this is going to make our communities less safe, it just simply isn't true. And it rings hollow. And it's particularly disappointing when we provide antidotes, specific instances without all of the context behind those instances and how these reforms actually would have potentially led to different outcomes with those individuals because they jammed out. So when we bring up specific instances, one, I think we have to ask ourselves, is that anything, anything that people can disagree with? So the instances that Senator Geist brought up earlier is a good example. I don't think anybody could disagree that those are violent individuals that should be in prison. I don't think anybody disagrees with that. If they do, I haven't heard it on the floor and nobody's come up and talked to me. What's enlightening about those two instances, though, are those are two cases that exemplifies the problem--

ARCH: One minute.

MORFELD: --that Senator Lathrop has been talking about. Those are individuals that jammed out based on the failures of our current system, the current system that we are trying to reform and prevent. So we can continue to provide antidotes without the proper context. We can continue down the path that we've been continuing down for the last eight years, but our communities are not getting any safer. Our prisons are continuing to be overcrowded and people are coming out of it worse than they went in. Which makes our communities less safe. So I think that this is an important discussion to be had, and I think dedicating a few days to it is worth the time. The only thing I regret is I'm not quite sure anybody's going to do anything different. So,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

colleagues, I urge you to consider doing something different. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Vargas, you're recognized.

VARGAS: Thank you very much. Well, hello, Senator Williams. Thank you, colleagues. I just wanted to continue on with a, a couple of thoughts on this. You know, one of the things that I want to make sure people understand about our current population of individuals in the Corrections system here is there's the overwhelming percent of individuals that have been diagnosed with some sort of mental behavioral health or substance abuse issues. And it's important to recognize because if we see about 70 percent of our population that has those issues, our first response should be how do we make sure that we're addressing these while they are in the system? And how can we make sure that's happening? Because if we do, do address these issues, then we're going to find more pathways for the people in the system to be able to get education, to get training, to get support, utilize the programs, many of which have been talked about on the mike that are going to make sure that when they eventually do hopefully get back into society at some point they have some level of skill and development and have been provided the mental and behavioral health treatment that will make it better for them and for our communities. I, I want to see more of that in terms of the plan of action here. I think what we tend to do here is react very-- we're very reactive in terms of the policies. And one of the things that's probably the most frustrating is even when we talk about these sentencing reforms, I hope the public and/or people don't see them as a one-time reaction now to this conversation about expanding or creating a new prison. Because if you actually looked at the Corrections system and you looked at the Judiciary Committee not only back when Senator Lathrop was in here in the Legislature previous, but even now under his tenure, these bills and this conversation has been an ongoing conversation, many discussions and many hearings on this subject matter. It's more the will of the majority of the members on whether or not there is something we can and should do about it. And at the same time, there's also the will of the Governor's Office to want to do a, a pragmatic, balanced way of addressing this overcrowding situation and the clear, the clear data that's driving the increases in what we have to do here. There is a pathway here that I hope everybody understands that it doesn't matter even in the child welfare system. Look, in the child welfare system, we don't simply say we need more child welfare workers to be able to meet the undermined demand. That is not what we talk about even in Appropriations. We're asking about case counts, we're asking about the quality. It's also we are--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

what we're expecting now of the administration and what we did when we had PromiseShip. The reason why we ask those questions is because we didn't just talk about making sure we were going to meet the need, we're also trying to address making sure that fewer children were in the child welfare system. Because if we address that need, we're also not growing this part of the pie of our budget. I think that is a pragmatic expectation of what we would look for, not only from this body but also from the administration. I know we've had many of those conversations and I've asked that of the director, but we are where we are right now and the place where we're at is can and should and do we have the resources to do something--

ARCH: One minute.

VARGAS: --that's going to be a proactive way of addressing these issues right now? And the answer is we don't have enough of a plan. But we do have clear policies in place that we can do something about. They're not just represented in LB920, there's more things that we haven't put on the table yet, and we absolutely need to do something. Because at the end of the day, we're constantly talking here about saving more resources. I don't disagree with Senator Erdman. We've had this conversation in Appropriations about not sort of slowing spending, and he is a bit of a fiscal hawk when we talk about doing those things. He asked those questions and we, we discussed them with ARPA, but we've also discussed them with main General Fund appropriations and code agencies. And we do it because it's the responsible questions to ask. We've always invested in our Corrections system when there was a need for investing in people, in resources, in FTEs.

ARCH: Time, Senator.

VARGAS: Thank you.

ARCH: Senator McCollister, you're recognized.

McCOLLISTER: Good evening, colleagues, friends all, to hear a familiar refrain. As I look around the body, I see everyone that I consider a friend, truly a friend. Of the 48 other senators in this body, I, I can't think of a single person that I, I really don't like. But as I review the way some people make their decisions, I'm a little distressed. Why do I say that? As we look at the facts of this situation, we are the most overcrowded prison population state in the country. We have made a mistake somewhere down the line. No mistake about that. When did we make that mistake? I consider 2015 as the date

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

we made a mistake. LB605 came to the body and we decided to kick the can down the road. Are we going to do that once again? Are we going to do that in 2022? Am I going to be sitting on my patio telling people about where we went wrong on prison reform? I hope not. I hope we can come out of this with a system and a plan to deal with this prison overcrowding situation. I think that includes criminal justice reform. If we want to deal with the jam out situation, yes, we need to look at sentence reform. We want people to go through the programming, but we're sure not doing that now. Too many people jam out with the essential programming that they need. And we have no plan. What is the plan? How big a prison do we need? Without vision, the people perish. And without vision, I think we are on the wrong road. The same road that we followed in 2015, when we put down LB605. We do need a plan. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Lathrop, you're recognized.

LATHROP: Very good, thank you, Mr. President. Colleagues, good evening. I want to continue on this list of nonconsensus items. And one of the items on the nonconsensus requires a bit of an explanation. And it's the one, the last one on the list that says requires specific findings before court can impose consecutive sentences. Let me read that section, which is Section 14 of the bill. It says, "Except when a consecutive sentence is required by statute, a 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." Now when we talk about consecutive sentences, by the way colleagues, some of them are mandatory, primarily with mandatory minimums, there's some gun, gun offenses that carry a mandatory minimum. Those are nondiscretionary, and we don't change that. We're talking about the 86 percent of consecutive sentences that are discretionary. The factors are as follows: The offense occurred on different days. So someone who's going on a, you know, commits a felony on day one, the next day he gets up and he commits a felony on the second day, that would be eligible for consecutive sentences. The offense involves the use of force or threat of serious bodily injury against separate victims. So if you pull a gun out on four people, you can get four consecutive sentences for that. That is, that is not a, that is not a, a situation where concurrent sentencing is necessary. The third consideration is one of the offenses is a violation of several of these sections that are listed, they're sexual offenses. So if you're engaged in several sex offenses, they would not be-- would not require that you go through this process before imposing a, a consecutive sentence. And the fourth consideration is "One of the

offenses was especially heinous, atrocious, or cruel or manifested exceptional depravity by ordinary standards of morality and intelligence." So the idea behind consecutive sentences and, and this is kind of a big deal. This is a needle mover, if you will, colleagues, and why it's important. Oftentimes, when a-- when somebody commits an offense and, you know, having been in the Judiciary Committee, we see a lot of times prosecutors will come in or the Attorney General will come in and go, I had this case and this guy did this and we couldn't get a conviction. And so you-- we make a new crime and make a new felony, and we've done that for a long time, generations. And the consequence has been oftentimes you can commit an offense and be guilty of about four or five-- I'm exaggerating, three or four things in a single occurrence. So, for example, you go in to a store to steal something, you-- let's say it's something expensive. You go steal an Apple computer. If you do it at gunpoint, that's-- you're now at about three felonies. If you don't do it at gunpoint, but you get in a fight on your way out, that can be another one, depending on how seriously it is. If you run from law enforcement, that can be a third. And so in one, one criminal activity, you pick up three felonies and--

ARCH: One minute.

LATHROP: --the idea here and why this is important in this, in this reform process is if you can be charged with multiple felonies, all for the same thing, then, then the point is that those should be-- those should run concurrently and your sentence will end up being the longest one of the two or three or four or however many it is. Why did this end up here? When you look at the data from CJI, what, what you will see and what they noticed is whether a person gets consecutive or concurrent sentences varies wildly depending on what jurisdiction you're being sentenced in. So in Douglas County, they impose consecutive sentences only 10 percent of the time, discretionary consecutive sentences. This wouldn't affect Douglas County very much. But there are other jurisdictions where it is used--

ARCH: Time, Senator.

LATHROP: --20 percent of the time. Thank you.

ARCH: Thank you, Senator. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President, and I, I will always appreciate following Senator Lathrop because I was actually thinking-- planning to speak on the same subject matter that he was talking about

that particular section. And I was sitting here looking at it and I was looking at the CJI PowerPoint presentation, and I think Senator Lathrop was just referencing some of those particulars. But if you look at that PowerPoint presentation on page 32 in particular has the least serious offenses are most likely to have consecutive sentences. And Senator Lathrop was correctly pointing out that there's a disproportionate application of the law, which is this discretionary ability to stack these sentences on top of each other across counties in the state. And, and there are some counties that are putting more charges on top of each other than others and sending more people for longer periods of time for these offenses. But if you look at this, Class IV felonies have a single conviction, which means there's only one offense, 40 percent. Concurrent sentences, only 30 percent and then 30 percent of Class IV felonies are consecutive. And so a Class IV felony, if you recall, is a-- the lowest level felony. So it's a felony that carries-- a felony is a penalty-- an offense for which a penalty is more than a year. So a Class IV felony is zero to two years, meaning they can sentence you from zero to two years, but Senator Lathrop laid out a couple-- a scenario under which someone could have multiple offenses in the same conduct and that then those get stacked on top each other consecutively. And I would pose to Senator Lathrop that there's a much easier way to accomplish that, which is possession of a controlled substance. If somebody has, say, some prescription medication that is not theirs and they have a bottle that has ten pills in it, that technically could be ten separate offenses, ten separate Class IV felonies that could be charged separately, could be sentenced consecutively. And so that's-- and those sorts of things people do get separate offenses for separate, controlled substances within their, within their own pocket when they get stopped by the police for some sort of traffic infraction or if they're shoplifting and they get stopped and they have the controlled substance in their pocket, they could get all of those offenses stacked on top of each other. And so that's a very simple way that somebody could have consecutive sentences in one, one fell swoop as it were. And so I was sitting here looking at the list, I've got a 78-page document here, which is the list of all of our offenses in the state of Nebraska by classification. So I was just flipping through Class IV felonies and one that jumped out at me is violation of a grain dealer act. I'd just be curious what that is for anybody-- if anybody has an answer to that. I see, I see somebody who I think I might ask that off the mike over there, who I know knows about at least the Wheat Board, if not grain dealers. But this is as Senator Lathrop was talking about, and I'm jumping on top of as well, is that we have a large number of people in custody, and again, you can go

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

back to the jail census, prison sentences showing the number of people in custody, 770, if I remember right, are in on theft related-- or I'm sorry, on drug-related offenses, 770 is the-- is their highest level of offense. And then if you look at that same page, which is page two of eight, it has the recidivism rate. And this is-- I was sitting here thinking about this and you can look and you can see prison discharge goes down for recidivism, but this PRS goes up at, at its creation in 2017, which Senator--

ARCH: One minute.

J. CAVANAUGH: --thank you, Mr. President-- McCollister just talked about, LB605, which created this new status called post-release supervision. And you see people decreasing, there are people being released, committing, re-offending, but then people on PRS, post-release supervision re-offending. Those are individuals who had Class IVs, Class IIIs, and Class IIIA's, who then got released to post-release supervision after their mandatory, mandatory release date. And those are the people we're talking about here, with those lower level offenses getting mandatorily released after stacking them and then re-offending. So with that, I would push my light again. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Mr. President, how much time do I have left? How much time do I have left?

ARCH: You have 3:20.

ERDMAN: Thank you. Mr. President, how much time do I have now?

ARCH: You have 2:15.

ERDMAN: 2:15, time flies when you're having fun. You know what I said in his first three minutes makes almost as much sense as what other people been saying when they're talking. Thank you.

ARCH: Thank you, Senator. Senator Morfeld, you're recognized.

MORFELD: Well, I'll actually use my time to talk. And since Senator Erdman doesn't believe that what we're talking about makes sense and that apparently overcrowded prisons, the most overcrowded prisons in the country, isn't worthy of the time that we're here tonight, I'll discuss it a little bit more. This is an important issue that we are talking about. And the fact that we are talking about it this long is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

because of the inaction of people like Senator Erdman. So you can get up and talk about how this is useless, this is a waste of time, and all those things. But the bottom line is it's not a waste of time to be discussing these things. It's not a waste of time. And the reason why we are sitting here talking about it this long is because there has been inaction on it. And some folks may think that that inaction is worthwhile and that that makes our community safer, but the problem is, is that factually it does not. And we have people coming out of the system worse than when they went in. So I don't find this funny. I don't find Senator Erdman sitting there for three or four minutes saying nothing cute or point deserving of time or of this body. The bottom line is, is that we do have an acute problem in this state with prison overcrowding and this body has failed to take action on it, action that in other states have proven to make their communities safer. And I think that we should do the same. I went through all the states today that have taken the action and the recommendations put together by bipartisan committees to actually address overcrowding, but not just overcrowding, but actually creating policies that make our community safer. And this has been proven by data. I can go through the data again, but it's clearly falling on deaf ears. So in the meantime, we're going to continue to discuss this and to Senator Lathrop's point earlier, he's worked on this for four years now. I know it was an interest of his before he was term limited in his first two terms. And despite Senator Lathrop being eminently reasonable on these issues and being somebody who works hard, probably one of the hardest workers in the body, there's a bunch of them in here, nothing's happened. And so that's why we're here at 10:04, 10:05 now, because this is an issue worthy of debate, worthy of discussion, and worthy of action. And yet we have failed to take action. We have failed to take action, and our communities are not safer for it. And it's detrimental to our state, and so I do hope that we take some kind of action on LB920. I will follow Senator Lathrop's lead on that if there is any room to compromise or be found. But the bottom line is we need to do something, colleagues.

WILLIAMS: One minute.

MORFELD: Because what we're doing right now isn't working. Thank you, Mr. President.

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

M. CAVANAUGH: Thank you, Mr. President. I, too, will be using my time to talk to my colleagues and the people of Nebraska. I-- I'm-- it's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

after 10:00 now, so I don't recall who was talking about how long we've spent on debating the budget. But I mean, it's over a billion dollars, it seems worth taking every minute to talk about it. And the first day that the budget was discussed, a lot of people did get involved in the conversation and I think that was really great. It's important because it's-- I mean, it is our job. It is, it is the only thing that we absolutely have to do. Everything else that we do is just gravy. But the budget is what we have to do. And so taking as much time as is available to us to discuss the budget is extremely appropriate and the fact that so many people in this body have spent so many hours talking about the piece of the budget that is the prison is significant and substantial. There are people who over the last week have been spending a lot of time discussing sentencing reform and the pros and cons of building a new prison or what, what are the guardrails around building a new prison? What is the intention? Is the intention to grow the population or to create a new facility that is more updated than the current one? This has been a really, really robust conversation and a really important one because building a new prison isn't something we should do lightly. And sentencing reform isn't something we should do lightly. And I am grateful to all of those who have participated in the conversation about sentencing reform because we are talking about thousands of people's lives and we are talking about intergenerational poverty. We are talking about children who are being left behind. So I think this is an extremely important conversation, and I think this is an extremely respectful conversation about a very, very important document and what we are doing as stewards of the taxpayer dollars. Any time one of the agencies comes in and testifies in opposition to a bill and their opposition is based on the money, I always say, whether I agree with the bill or not, that that's not their concern. What I want to know from them is, can you do this or can you not do this? Whether or not there's money for something is our job. It is our job to be stewards of the state tax, the state, the people of the state and their tax dollars. That is our job. That is our number one job. Our number one priority should be the being the best stewards possible for the taxpayers of Nebraska and doing the most good with those dollars. I don't believe a prison is the most good if it isn't coupled with sentencing reform. We need both. They need to be together. And I think that's a really, really important conversation to be had. There's a whole host of other things in this bill that I think are worth talking about. On the previous bill, there was like three hours taken on talking about Offutt Air Force Base. I kind of thought that it was being--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: One minute.

M. CAVANAUGH: --eulogized the way that it was being talked about. Thank you. I-- everyone approaches this job differently. There's no reason to be critical of people who are passionate about the policy at hand and act like it's not genuine because it is genuine. I genuinely care about each of these cash funds, how they're being used and if they're necessary. If I didn't, I wouldn't be in Lincoln at 10:10 on March 24, I'd be asleep at home. So thank you, Mr. President. I'll get back in the queue. I think I have one more time and then my close?

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

LATHROP: Well, thank you, Mr. President. And colleagues, good evening once again. We're getting a little bit closer to a cloture vote. And so I did want to take it, take this opportunity to talk about the vote that will be coming up. And I think it's a, a 10:30 vote. I did suggest to the Speaker that when my kids were little, sometimes like at 7:30, I'd turn the clock up to bedtime like 8:30 and tell them it's time to go to bed kids. And I suggested to the Speaker that if he had some control over this clock and he wanted to move it straight to 10:30, I'd be fine with that. But until that time, I do want to say that I'm in opposition to, though I appreciate having an opportunity to speak a few more times with the bracket motion, I'm in opposition to Senator Cavanaugh's bracket. The two amendments need not be attached to the LB1013. They, they-- there's no point in having them attached. So when we do get to cloture, I ask that you vote in support of cloture so that we can move this bill on to Final Reading. And along the way and when we have an occasion to vote on the motions and the amendments on the board, that you vote no on the bracket and no on the two Lathrop amendments. I also want to take this time and, and, and say something very sincerely. And that is I know that we've spent a good deal of time talking about prisons and talking about Corrections reform. And I hope you appreciate that this is, this is a topic that's very important to me, and it's not important to me because I have somebody that I know or love or care about that's in the Department of Corrections. But it's important to me because as long as I've served, I have looked for big problems facing the state. I've invested time learning everything there is to know or everything I can learn about those topics, put the time and the energy in to determining a solution and then bringing it to the floor. And this one happens to be one that has not really been part of sort of our political culture in Nebraska. We have been in the tough-on-crime culture in this state for long enough to, to realize the problems we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

have in overcrowding. And for that reason, it was important that we spend some time educating those who are listening, educating the public, which I think is very important when we're talking about making changes to our criminal justice system and our Department of Corrections and then talking about it in the context of a budget bill or budget bills because, colleagues, this is no different than setting up a new program that's going to cost us millions of dollars a year. It's no different than if we set up a number of programs in the-- and funded them in Appropriations, and everyone would stand up and say for the love of God, we can't afford this. It's not sustainable. We don't want to do this to the budget. We don't need to be growing government. But that's precisely what inaction in this arena is going to mean to the state of Nebraska. And I, and I will end my remarks tonight where I began several days ago, we have a crisis at the Department of Corrections. We do need to build capacity and we don't know what we need until we have been through the process of determining Corrections reform so that we can identify what--

WILLIAMS: One minute.

LATHROP: --thank you, Mr. President-- what our growth in population will be over the next 10 years or 20 years. And when we know what that's going to look like, when we are able to chart our growth in prison population, whether that's flat or has some growth, then it will inform the decision on what we need to build, how much we need to build, and what it should look like, should that be maximum, medium, low custody or Community Corrections beds. And that really is why it is very important. And, and I would say critical that when we talk about this crisis, we begin the process by determining the long-term strategy and that begins with criminal justice reform, in my estimation. I very, very-- and I, I mean this sincerely, I very much appreciate your patience over the last several days, your attention to the remarks, the data, the things that I've been handing out,--

WILLIAMS: Time, Senator.

LATHROP: --and your questions. Thank you, Mr. President.

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

J. CAVANAUGH: Well, thank you, Mr. President. Senator Lathrop is always a tough act to follow. So this-- I would echo the comments everybody has made. The reason that so many individuals have been talking about this for so many hours is because this is so important

and it is a serious issue as Senator Lathrop talked about facing the state of Nebraska going forward and that it has not been addressed in a responsible way for a long time because of a desire to score political points. There is an article, I think that it's on the Judiciary's website, from the World-Herald about a decision this Legislature made in the not too distant past to make increased penalties on a number of offenses that has resulted in increasing the population in our state correctional facilities and some of the people who pushed for that regret that decision because they realized that they made it for the wrong reasons. And so what people have been talking about here are the, the facts and the data and that we don't really need to go over that again and again and we have, but we continue to, and I have partly because the number of people I've talked to after the number of hours we've had this conversation who still I don't think have quite-- it hasn't quite sunk in about the gravity of the situation, the magnitude of the problem, and the clarity of the solution. The, the answer is clear that we need to make reforms in how we are doing this. That if we continue on the path that we are on now that we will have a problem that will run away from us. We are currently the, the-- have the most overcrowded prisons in the country. We have the fastest growing and I think we-- I don't know if we are number one in growth, but we, we are one of the only states that is growing in this population. We have-- the actual number of people entering the facilities is going down. The number of people remaining in the facilities is going up. We have repeat offenders. We have low-level offenders. We have longer sentences, more stacked sentences. We have disproportionate application of law across the state, which should be very concerning to people. And when I say disproportionate application, I mean some people are getting treated differently based off of where they're from. And that is a big concern. That means that justice in one part of Nebraska is not the same as it is in other parts of Nebraska, and that is leading to the overcrowding crisis we have in our Penitentiary. And it is leading to the population, I don't think it's on the screen, being disproportionate. Trying to get back to this. Well, it's in here somewhere. Here we are. This is on the CJI screens, page 23, Nebraska adult population, 82 percent white, admissions to Nebraska Department of Corrections by race, 57 percent white, population-- Nebraska population, 9 percent Hispanic, population in the Department of Corrections, 13 percent Hispanic, Nebraska population by race, 4 percent black, Nebraska admissions by race, 22 percent black, and then Native American is 1 percent of the state and 6 percent--

WILLIAMS: One minute.

J. CAVANAUGH: --of the admissions. So we are disproportionately locking people up in different parts of the state, and we're disproportionately locking people up by race in this state. And that is another problem we haven't really addressed or talked about very much because we've been specifically talking about the problem in a, in a very objective data standpoint. And we've been talking about it in a very solution-oriented standpoint in the last several days. And so I appreciate the conversation everybody's been undertaking here and I hope everybody takes the time in their free time to look at some of this information that's on the, the Judiciary's website and takes a look at these and take a look at LB920 and the solutions that are presented there. They are common sense. They're not scary, they're not revolutionary, but they will make a substantial difference in our overcrowding crisis we have in the Department of Corrections. Thank you, Mr. President.

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

M. CAVANAUGH: Thank you, Mr. President. Good evening, colleagues. It's been about ten minutes since you last heard from me. So a lot has happened in my life in the last ten minutes. I sat here for a little bit. I walked around and then I came back here again. I know it's very late and I have this motion up here, and I believe Senator Lathrop said that he did not like my motion. And if those of you that were in here earlier, I did start out by saying, please don't vote for my motion. But just to make extra certain that nobody's going to vote for my motion, I am going to pull my motion so we don't have to worry about it. So Mr. President, Clerk-- Mr. Clerk, I'd like to pull my motion to bracket until April 5, and I should have made it April 1 for somebody's birthday. Next time. Thank you.

WILLIAMS: Thank you, Senator Cavanaugh. Your motion is withdrawn. Senator McCollister [SIC] and Senator Hunt, you have already spoken three times. Senator John McCollister-- he has also spoken three times. Senator Machaela Cavanaugh, you're recognized and this is your final opportunity.

M. CAVANAUGH: Well, golly, aren't I a lucky gal? Oh, would you? I would love to yield some time to my dear colleague, Senator Megan Hunt.

WILLIAMS: Senator Hunt, you are yielded 4:50.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

HUNT: Thank you, Mr. President. Thank you, Senator Cavanaugh. I still stand perplexed about the reason that we want to grow capacity of our prisons, but we don't want to take steps to reduce the rate of incarceration in the state to the point where we're going to be locking people up at a rate faster than we're building beds to house them, than we're building prisons to keep them in. And I think the truth is that a lot of the people in this body don't mind locking folks up because they think it would never be them. It would never be their family. It would never be their loved one. It's always someone else, and it's always someone else who deserves it because our justice system is always fair. Because in the experience of most of us, colleagues, most of you who are white, who are male, who are wealthy, who are property owners, which we know for how much you complain about property taxes, for most of you, you don't think that this could be you or your kids or your family and you're straight up not interested in reform because you believe that people should have to pay for their mistakes forever in Nebraska, and this is reflected through the other types of policies you support. It can't be enough to incarcerate someone for a drug conviction. You have to keep punishing them after they serve their time by saying they can't access food stamps. And its policy after policy like this where the people who are really the bad guys, the capital F felons, it could never be you. And so you don't have to worry about where they go. We just have to keep building prisons, so we have space for them. Mr. President, I'd like to ask Senator McCollister a question.

WILLIAMS: Senator McCollister, would you yield?

McCOLLISTER: Yes, I will. Thank you.

HUNT: Do you have any further thoughts to share, Senator McCollister?

McCOLLISTER: I do. As we end this particular session tonight, what is the legacy of this Legislature going to be? Are we going to come together and deal with this problem of prison overcrowding? And in some way that is a credit to this body, are we going to continue to kick the can down the road? Those are my thoughts. Thank you, Senator Hunt.

HUNT: Thank you, Senator McCollister. Colleagues, adding new prisons, expanding prison capacity without reform is going to be a waste of money, and maybe you feel comfortable with that because it's never going to be you or your kids in that prison. Maybe you feel comfortable with that because it's not your money. Because we've got all of these funds in Nebraska burning a hole in our pocket and by the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

time we have to build yet another new prison, all of us are going to be out of here thanks to term limits and so we're not going to bear the responsibility of these decisions. But it also reflects a pattern of behavior in this Legislature, our habit of setting aside large sums of money for things that are not certain yet, whether that's a canal or a lake that's supposed to bring so much recreation and fun to Nebraskans or a prison that we don't yet know what kind of capacity we have to have for that prison. Colleagues, whether it's a prison or a lake, I don't see how this is anything other than a hand out, a gift of taxpayer money to a handful of engineers and contractors who are going to take this money, do their little studies and, you know, feasibility studies and everything, and find out either that we're going to have to build another prison soon so please give me another check Nebraska taxpayers--

WILLIAMS: One minute.

HUNT: --or it's not going to be possible. The Governor will be gone. Scott Frakes will eventually be gone. All of us senators will be gone from here and we'll be worse off than we started. But we know that none of us are going to be on the hook for the blame and that's irresponsible. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hunt. Senator Lathrop, you're recognized and this should be your close.

LATHROP: OK, well, thank you, Mr. President and colleagues. You know, as I, as I look at this issue, I appreciate that there is a diversity of opinion on the way forward. To me, looking at the chart that I've handed out, and I've waived this around for a week, and the one thing about facts is they can be pretty stubborn. They can be pretty stubborn. And we can't-- we cannot put our head in the sand and pretend like this isn't our reality here. When I was down in my office and I talked to Josh Henningsen, who by the way has been here through every bit of this, and I said, Josh, we need a graph that shows-- illustrates this problem, illustrates the facts, the very simple facts of the problem, and he came up with this chart and I've been handing it out over and over, and I hand it to anybody that I talk to about this only because it so clearly illustrates our problem. And, you know, we come and go in this place. We get to serve for four years at a time and after two terms you're term limited and you don't know when you campaign and when you're knocking on doors and you tell people, I'm going to go down to Lincoln and try to get you property tax relief or I'm going to go down-- you don't campaign on these kind of issues, but when you show up, you don't know which of these issues are going

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

to be and come up on your time. And this issue has come up in our time. And it's not something that we can say, oh, I'm not going to worry about it. We'll let somebody else deal with it. This chart demonstrates what happens when you don't deal with it, right? We've, we've gotten ourself in this position. Having studied what happened during the Heineman administration in 2014 and our special investigative committee, the Department of Corrections was begging them to expand capacity. And Governor Heineman chose not to. And Governor Ricketts has done his level best to expand capacity and it simply looks like we're chasing, we're chasing that line with millions of dollars in construction. We've spent \$150 million trying to catch up with the population that's over at the Department of Corrections, and we can't do it. It's not sustainable. So this problem is no different than establishing some new program that everybody's reluctant to do around here because it's going to add to our ongoing expense. We, we added \$150 million in capacity or will have by this summer and \$10 million in operating costs. And we've gotten no closer to having that operational capacity line catch up to the average daily population. And other states across the country, over the last decade, only two states have grown their population, while every other one has gone down. We're out of step and it's our turn to solve a problem and then to inform our constituents, this is why we did it. It is financially irresponsible not for us to move forward to address this problem. And I didn't expect when I got into this business 16 years ago that this would be what we're working on. But it's our turn. It's our turn. We have a significant issue. We need to solve a--

WILLIAMS: One minute.

LATHROP: --significant issue and we can no longer kick the can down the road and expect somebody else to solve it or act like it's not a real problem. And with that, thank you once again for your patience, for your attention and your willingness to hear me out. Again, these two amendments do not need to be passed. You can, you can vote no on them, but please vote for cloture and let's move LB1013 on to Final Reading. Thank you.

WILLIAMS: Thank you, Senator Lathrop. Mr. Clerk, you have a motion on the desk.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

WILLIAMS: It is the ruling of the Chair that there has been fair and full debate afforded to LB1013. Senator Stinner, for what purpose do you rise?

STINNER: I'd love it if we have a call of the house. Thank you.

WILLIAMS: Thank you, Senator Stinner. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yes; all those opposed vote nay. Record, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 5 nays to place the house 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. Senator Pansing Brooks, would you please check in. All members are accounted for. Members, the first vote is on the motion to invoke cloture. All those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 41 ayes, 3 nays for the motion to invoke cloture.

WILLIAMS: The motion to invoke cloture is adopted. Members, the next vote is on the adoption of AM2256. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 0 ayes, 41 nays on the adoption of the amendment.

WILLIAMS: The motion is not adopted. Members, the next vote is on the adoption of AM2252. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

ASSISTANT CLERK: 0 ayes, 41 nays on the adoption of the amendment, Mr. President.

WILLIAMS: Members, we will now vote on the advancement of LB1013. All those in favor say aye. All those opposed say nay. LB1013 is advanced. Items, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Mr. President, Senator Day introduces LR360, that'll be referred to the Exec Board. And Senator Bostar introduces LR361, that will also be referred to the Executive

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 24, 2022

Board. Finally, Mr. President, priority motion, Senator Brewer would move to adjourn the body until Friday, March 25 at 9:00 a.m.

WILLIAMS: Members, you've heard the motion to adjourn until tomorrow morning at 9:00 a.m. All in favor say aye. Opposed say nay. We are adjourned.