

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

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

CLEMENTS: Please join me as we open this day the Lord has made with prayer. Today we pray the words of the psalmist. Oh give thanks to the Lord, call upon his name, make known his deeds among all the peoples. Talk of all his wondrous works. Bless the Lord, oh my soul, and all that is within me. Bless his holy name. Bless the Lord, oh my soul, and forget not all his benefits. Oh Lord, you have searched us and known us. You know our sitting down and our rising up. You understand our thoughts. You comprehend our paths and are acquainted with all our ways. We will praise you, for we are fearfully and wonderfully made. Marvelous are your works, for you formed us in our mother's womb. Let the words of our mouths in the meditation of our hearts be acceptable in your sight, oh Lord, our strength and our redeemer. Now I will read Reverend William Rogers' special prayer for the Constitutional Convention on August 15, 1787: We fervently recommend to your fatherly notice our legislative session. Favor us from day to day with your immediate presence and be our wisdom and our strength. Enable us to devise such legislation as may prove instrumental for healing all divisions and promoting the good of the whole, that the United States of America may furnish the world with one example of a free and permanent government. May we continue, under the influence of your virtue, to partake of all the blessings of cultivated and civilized society. Amen.

FOLEY: Thank you, Senator Clements. I recognize Senator Blood for the Pledge of Allegiance.

BLOOD: Please join me in the Pledge of Allegiance. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

FOLEY: Thank you, Senator Blood. I call it to order the eighth day of the One Hundred Seventh Legislature, Second Session. Senators please record your presence. Roll call. Mr. Clerk, please record.

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

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

CLERK: I have no corrections.

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

CLERK: There are, Mr. President. First of all, LR14 is reported to Select File. Notice of hearings from the Judiciary Committee signed by Senator Lathrop as Chair. I have a series of gubernatorial appointment letters, appointments to the Power Review Board; to the Tax Equalization and Review Commission; the Nebraska Investment Council; and the Nebraska Educational Telecommunications Commission. Mr. President, unanimous consent request to the Business and Labor Committee would like to ask unanimous consent to conduct its hearing on Monday, January 24, in Room 1003, as opposed to 1524. That's all that I had, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Geist would like us to recognize Dr. Rachel Blake, of Lincoln, Nebraska, who's serving as today's family physician of the day. Dr. Blake is with us under the north balcony. Doctor, if you could please rise, like to welcome you to the Nebraska Legislature. While the Legislature's in session and capable of transacting business, I propose to sign and do hereby sign the following four legislative resolutions: LR265, LR267, LR270, LR273. Members come to order, please. We'll now move to the agenda. We'll hold off on the introduction of new bills till a little bit later. Moving on to the-- on the agenda to motion to suspend the rules. Mr. Clerk.

CLERK: Mr. President, Senator Kolterman, as Chair of the Retirement Systems Committee, would move to suspend Rule 5, Section 15(a), so as to permit the introduction of Request number 3750 by the Nebraska Retirement Systems Committee.

FOLEY: Senator Kolterman, you're recognized to open on your motion.

KOLTERMAN: Thank you, Mr. President. Good morning, colleagues. I'm moving to suspend Legislative Rule 5, subsection [SIC] 15, which limits the introduction of retirement bills to the long session if the bill proposes a structural change which impacts the benefits of funding status of a retirement plan. The need for this bill was brought to my attention by NPERS over the interim because of the increasing number of scenarios that NPERS is dealing with that are addressed in this bill. The bill would clarify and codify current practices at NPERS regarding the eligibility, enrollment, termination of employment, retirement, separation of service time period, and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

reemployment rules related to certified employees, teachers, who work for state agencies under the State Code Agencies Teachers Association contract, known as the SCATA contract. The Department of Corrections and the Department of Health and Human Services employ certified employees who fall under the SCATA contract because these employees teach at state-funded entities such as youth rehab and treatment centers. Current statute addresses certified employees working for the Department of Education, but it does not specifically address the eligibility, enrollment, termination of employment, retirement, and reemployment of certified employees who may be employed, retired, terminate, and seek new employment as a teacher for the state agency with SCATA positions. The goal is to apply the same rules to these SCATA contract employees, regardless of which state agency they are employed by, or if they return to or begin to teaching at public schools. This bill would have no funding impact on any of the retirement plans and no fiscal impact on NPERS or other state agencies that are already dealing with these scenarios. Since the provisions of this bill technically propose a structure change to the school and state employment retirement plans, I ask your support for this motion to suspend Rule 5, subsection [SIC] 15, so I can introduce this bill this session. I would glad-- gladly try to answer any questions anyone might have. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Is there any discussion of Senator mo-- Senator Kolterman's motion? I see none. Senator Kolterman waives closing-- excuse me. Senator Ben Hansen's light was on. Senator Hansen.

B. HANSEN: Thank you, Mr. Lieutenant Governor. Just a couple questions for Senator Kolterman if he would yield, please.

FOLEY: Senator Kolterman, would you yield, please?

KOLTERMAN: Yes, I will.

B. HANSEN: I apologize. I'm just-- this is the first time I'm reading it. I'm trying to get understanding of what this all entails and if this does have any unintended consequences. It doesn't look like it does. But do we usually typically make a lot of big structural changes in the short session?

KOLTERMAN: Well, we-- if we do, we typically will put in a shell bill that-- that we know that we have something coming. This is something that's been worked on. It's not really a major structural change. This only affects about 85 per-- 85 people. What we're dealing with in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

past, if you were a certified teacher, and this deals with certified teachers, if you were a certified teacher and you were working as a teacher in a school district and you went to work for the Department of Education, you would-- you could elect to either go into the state plan or stay in the teacher retirement. We've taken that away and they have to stay in the teacher retirement going forward, but it also opens up that same opportunity for somebody that maybe is going to teach in the Corrections system. They have to be a certified teacher. Or they might be teaching at Kearney, at the-- at the rehabilitation school for youth. So they brought this to me and asked me if I would introduce it. It's-- it's boilerplate. It's really borderline whether I needed to even suspend the rules, but I'd rather err on the side of doing it right instead of taking a chance.

B. HANSEN: OK. I appreciate it. And just to make sure, this-- this-- this really won't affect, you know, any kind of appropriation or any kind of stuff?

KOLTERMAN: Absolutely not.

B. HANSEN: OK, good. Thank you very much. Appreciate it.

KOLTERMAN: Thanks for--

FOLEY: Thank you, Senators Hansen and Kolterman. Senator Groene.

GROENE: Thank you, Mr. President. You know, what's wonderful about this place, you-- you come here, you have a sip a coffee, and all of a sudden somebody throws something at you, you never heard anything about before in your life, and you're supposed to vote on it five minutes later. This is not a comment on Senator Kolterman. This is just how we live around here. But to clarify, this isn't about the bill. I mean, most of this introduction is about the bill that the Retirement Committee-- this is about suspending a rule. And what I heard, it's not a big deal, it's-- it's not an emergency, so as far as I'm concerned, why suspend the rule? It can come-- whoever Retirement Chair is next year can bring it and bring it in a bigger bill that addresses the retirement. I'm-- I'm not-- just reading it and been on the Retirement Committee, I'm not real "hepped" anyway on letting an employee of Department of Corrections be in the school employees' retirement plan. But I guess what we're talking here is about suspending a rule. I don't see the emergency to do it. So any "nilly-nally" thing that comes along and we want to start bringing a bill later and start suspending rules. Why? There's a reason our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

forebears in this body created this rule. Senator Kolterman, do you-- could you ask a question-- answer a question?

FOLEY: Senator Kolterman, would you yield, please?

KOLTERMAN: Yes, I will.

GROENE: Have you looked into why this rule exists? Was there a time in the Legislature where something was happening that-- that-- you know, we've all gone through trying to change rules-- why this rule was added in the first place to our rules?

KOLTERMAN: Yeah, the rule-- the rule was put in place originally if-- so that you couldn't bring a large funding bill in the second part of the biennium that would have a huge impact on the budget. This is--

GROENE: Just-- just specific to education and retirement?

KOLTERMAN: Just, yes, education and retirement.

GROENE: That rule is specific to retirement?

KOLTERMAN: Five-fifteen, yes, it is. And-- and that doesn't prevent us from bringing structural changes. It does-- but it-- if-- if it could have a funding impact, the rule is there for that. This really doesn't have a funding impact. And right-- and-- and since they brought it to us and they're starting to see more activity of teachers retiring and then wanting to stay in the workforce and go to work for the Department of Health and Human Services or the Department of Corrections, this just allows them to do that.

GROENE: But, you know, that-- thank you. But that, that can be debated, all that, ifs and buts and whens, if the bill came to the floor. But I don't see the emergency here, so I'm going to be inclined to-- unless it comes through the Rules Committee, some change or something, I'm gonna be inclined not to support a suspension of the rules because I-- as I said, there's no emergency here. So thank you.

FOLEY: Thank you, Senator Groene. Senator Kolterman.

KOLTERMAN: Thank you, Mr. President. I appreciate Senator Groene's concern about suspending the rules. And if this had been a-- a large bill to increase funding or make major changes, I-- I probably wouldn't have brought it. But I have a close working relationship with NPERS. We've-- and they asked me if I would introduce it. I said, yes, I will. I knew full well that it would take a suspension of the rules,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

but I was willing to do it anyway. My legal counsel has worked hard on this bill through the interim and we've got all the players involved. We've talked. We've reached out to the NSEA. We've reached out to the Department of Education, Corrections, Health and Human Services. We have no objection, from my-- from what I've been told to that. And so I brought it so we could clean it up before I'm gone. And if you don't want to support it, don't support it. But I'd like to drop the bill. Thank you very much.

FOLEY: Thank you, Senator Kolterman. And you did waive closing, that's correct, Senator? Question before the body is the adoption of Senator Kolterman's motion to suspend rules. Reminder, members, 30 votes required. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 34 ayes, 1 nay, Mr. President, to suspend the rules to permit the introduction of the bill.

FOLEY: The motion has been adopted.

CLERK: Mr.--

FOLEY: Introduction of new bills. Mr. Clerk.

CLERK: Thank you, Mr. President. New bill, LB1043 by Senator Kolterman; it's a bill for an act relating to retirement; it changes provisions of the School Employees Retirement Act and the State Employees Retirement Act; it defines and redefines terms; it changes provisions relating to termination of employment for certain school employees. Other new bills, Mr. President: LB1044 is by Senator Hilkekmann; it's a bill for an act relating to public health and welfare; adopts the Care Team Innovation Grant Pilot Project Act. LB1045, Senator Bostelman; it's a bill for an act relating to public power; changes qualifications to be eligible to serve as a member of the board of directors. LB1046, Senator Bostelman, a bill for an act relating to public power districts; it changes provisions relating to qualifications, eligibility, and election of members of the board of directors; it provides creation of new election subdivisions for certain districts; and provides for appointment of certain directors and chief executive officers by the Governor. LB1047, Senator Bostelman, a bill for an act relating to the Power Review Board; defines a term; it changes requirements for an annual report; it harmonizes provisions. LB1048, Senator Blood, a bill for an act relating to appropriations; appropriates federal funds to the University of Nebraska. LB1049, Senator Kolterman, a bill for an act

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

relating to appropriations; it appropriates funds to the Supreme Court; states intent regarding appropriations. LB1050, Senator Flood, a bill for an act relating to education; prohibits postsecondary education institutions from discriminating against student organizations based on their viewpoints, beliefs, and missions. LB1051, Senator John Cavanaugh; it's a bill for an act relating to criminal procedure; provides for setting aside and expunging records relating to convictions and adjudications for concealed weapon offenses and defines a term. LB1052, it's a bill by Senator John Cavanaugh; it's a bill for an act relating to appropriations; it appropriates federal funds to the Department of Health and Human Services. Any more? That's all that I have at this time, Mr. President.

FOLEY: Thank you, Mr. Clerk. Moving on to the agenda, Select File 2021 carryover senator priority bill. Mr. Clerk.

CLERK: Mr. President, LB496, carried over from last session. The bill is on Select File. It was considered as-- on January 13 earlier this year, at which time the Enrollment and Review amendments were adopted. Offered on that day was an amendment by Senator Hunt, AM1283, as an amendment to the bill, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Hilkemann and Senator Hunt, if you'd like a couple minutes each to kind of refresh us on where we left off from the other day. Senator Hilkemann, you're recognized.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I'm excited that we're returning back to my 2021 priority bill, LB496. This is a bill I believe will help Nebraska be smart on crime by using DNA to exonerate the innocent and identify individuals responsible for unsolved crimes. As you may recall, this bill requires that DNA be collected when an individual is arrested for a felony crime of violence. It defines the crime of violence and enumerates those specific crimes currently in statute. It specifies that the DNA sample shall be collected by a law enforcement official at the receiving criminal detention facility during the booking process, and that such DNA samples shall be collected by a buccal cell collection kit, which is basically a swab on the inner cheek of the-- of the mouth. It also provides for expungement if an individual is not ultimately convicted or should be exonerated. On General File, we adopted the Judiciary Committee amendment that introduced and proposed a few changes. First, the sample would be collected when an adult is charged with a crime; second, the sample could not be tested until there's been a judicial determination of probable cause; and thirdly, that the expungement

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

process be simplified. The record would be expunged when the supporting charge is dismissed. I am grateful to Senator Lathrop and his staff for working on this bill. These changes brought this process outlined in LB496 to more closely reflect the process that the Supreme Court upheld as constitutional in Maryland v. King. We also adopted two additional amendments to the committee amendment, one from Senator Pansing Brooks that replaced the word "adult" with "a person 19 years of age or older," and I thank Senator Brooks for that and strengthening that language. The other amendment was from Senator John Cavanaugh, from his LB316. It clarifies the date from which the one-year limitation profiling a motion for post-conviction relief shall run. I was glad to accept that as a friendly amendment. That should catch you up on where we are in this bill, and you will also see that I have introduced-- introduced an amendment to the E&R amendment that simply changes the operative date now to January 1 of 2023. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hilkemann. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Good morning, Nebraskans. The proponents of LB496 claim that collecting DNA samples from people who are arrested, and these are people who are presumed innocent, who haven't been convicted of anything, is going to help lead to solving unsolved crimes, potentially even exonerating these people who are accused of crimes because they've been arrested. That assertion is not accurate, in my opinion. But assuming it is, assuming that we accept the assumption of LB496 and the reasons behind it, then it only makes sense that we collect as much DNA as possible to solve unsolved crimes and to exonerate the innocent and so forth. So what my amendment, AM1283, does is it requires all adults to submit their DNA to law enforcement because this would follow the logic of LB496 that innocent people should have their DNA collected in the interest of solving crimes. I don't agree with that assumption and AM1283 is sort of to point out the hypocrisy in the logic of the assumptions of the underlying bill. As I said before, I understand the motivation behind LB496. I think it's coming from a very good place, but we just can't be collecting DNA from innocent people. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hunt. Moving now to the speaking queue. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Speaker. I want to just reiterate what LB496 is and isn't. Number one, we are not doing mass collections of DNA on private citizens that are just-- as-- as the amendment that's being

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

put forth. These people are-- have-- are-- if you look at the list on-- on the bill of the-- of the violent crimes that these people have to be committed, this-- you-- you have to work at creating a felony. This is not a matter of driving down Interstate 80 at 86 mile an hour and pulling over and getting your DNA. The-- these are serious crimes. We are looking for the-- the violent crimes. That's what this is all about. This bill, I just want to re-- 31 states have-- already have this bill and-- and-- and actually, some have been much more strict form and-- and broader form than we have. Thirty-one states have adopted this over a 15-year period of time. Not one single state has repealed that. And I'm going to be showing, during the course of the morning and tomorrow on this issue, that this bill is doing exactly what it is intended to do. We've had people who have been exonerated who have spent years in prison that the DNA collected from some other individual now matches that crime and we've had people exonerated for that purpose. This is going to help law enforcement do their job better. Number three, it is also-- what we are going to do is we're going to and I will again show you-- give you examples that have occurred. In the states that have acquired this bill, we're finding people who are oftentimes arrested of-- of-- of crimes are also people who have done other crimes or that they may do other crimes; or in the case of sometimes a rapist, we can get that rapist off the street before they have an opportunity to rape someone else while they're going through the whole process. That's the purpose. The DNA is the 21st century fingerprint, and we need to give law enforcement every opportunity to use the technical devices that we have and, therefore, that's what I want you to take into consideration of this bill. I-- I-- listen, I am open for a good, robust debate. Let's make it very germane to what's actually in this bill. Let's not throw out things of-- of testing everybody in the-- in the state of Nebraska. That is not what this bill is about. This bill will make a safer Nebraska. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hilkemann. Senator Machaela Cavanaugh.

M. CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I rise still opposed to both AM1283 and LB496. I would like to speak to the comments that were just made by Senator Hilkemann comment about the AM. I do think that it is important to understand that Senator Hunt is making a point. You-- you may not feel that the bill is about collecting everyone's DNA at random, but that is just one way to look at it. Senator Hunt is pointing out that that's basically what could happen. And if collecting DNA isn't a big deal to the people in this Legislature, then we should make it something that everyone has to submit to. And I don't think that she agrees with that

either, but is making a very important point and distinction. I am looking over DNA collection in other states, and I haven't found a-- a comprehensive list of the 31 states, but I am interested to see which states currently have this in practice. All 50 states do require DNA collection if they are a rec-- if they are arrested for a recordable offense. A recordable offense will end up on the-- the police national computer record; nonrecordable offense, so the police cannot make [INAUDIBLE], gives a fingerprint or DNA sample, so fingerprint should be what we are collecting upon arrest, not DNA. And I just-- this notion of using sexual violence and sexual assault as a reason to forgo our due process is very upsetting to me. Due process is important; even for people who have committed crimes, due process is important. It holds us all accountable and to a standard. And to just throw that aside on the supposition that we're going to be solving sex crimes really does not sit well with me, not at all. I think it's really important that we solve sex crimes, which is why I have introduced bills about sexual assault kit testing and making sure that we are testing these sexual assault kits, and I view this bill as potentially diverting resources away from that endeavor, which you can't compare DNA if you haven't processed the kits. And if you are a victim of sexual assault, you already are waiting almost two years in the state of Nebraska to have your kit processed. So if we have resources to divert to DNA testing, that is where those resources should be di-- diverted, in my opinion, because you can have people in the registry, the DNA registry, but it doesn't matter if you don't have the victims' kits in the registry. So if we want to keep this conversation germane, let's stop using victims of sexual assault as a crutch for undoing due process. How much time do I have left?

FOLEY: 1:15.

M. CAVANAUGH: Thank you. So I've started looking at the fiscal note. There's a new fiscal note on here, and it does raise additional questions about the feasibility of this and how it would work in the State Crime Lab. I will go into those questions on my next time on the microphone. I act-- I will say that it was the other Senator Cavanaugh that raised some questions about the fiscal note, as well, so, I don't know, he might be speaking to that too. But I do think that it is really important that we look at the merits of this and ask ourselves, is this really necessary and is this who we want to be? I view this as allowing for racial profiling, I view this as undoing our justice system, and I think that it's really important that everybody take a close look at this. I understand the intentions behind this bill, but I don't agree with what this bill achieves. Thank you, Mr. Lieutenant Governor.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

FOLEY: Thank you, Senator Cavanaugh. Senator McKinney.

McKINNEY: Thank you, Mr. Lieutenant Governor. I rise in opposition to AM1283 and LB496. This bill is very troubling for multiple reasons, but first I just think about how this can be abused by the police and the county attorneys to mass arrest individuals and charge them with crimes they probably didn't do, but they're charging them with these crimes in an attempt to collect their DNA, which isn't out the realm of thinking. I know many believe that couldn't happen, but I disagree. I think it is possible, very possible considering who the Omaha Police Department is and who the county attorney is. The expungement isn't clear. Would Senator Hilkemann rise for a question?

FOLEY: Senator Hilkemann, would you yield, please?

HILKEMANN: I certainly will.

McKINNEY: How does an individual get their DNA out of the national system? How is that possible?

HILKEMANN: Well, but what-- what we're proposed in this, Senator McKinney, is-- is that at the time that the charges are dropped, that they be given a form that they can complete and shown how to complete it. By submitting that form, that gets their DNA out of the CODIS system.

McKINNEY: Is that done in any other state currently?

HILKEMANN: Yes, it is.

McKINNEY: I'll-- I'll ask you, off the mike, if you could just provide me some examples, but thank you.

HILKEMANN: OK.

McKINNEY: Also, you know, we're throwing out the word "violent," "violent," "violent," "violent," in an attempt to scare the citizens of Nebraska into supporting this bill and other senators. You know, burglary, depending on where it happens, when it happens, and who-- how it's done, isn't-- may be not a violent crime, but that's included in this. This is also not an exoneration bill. We already have a DNA innocence law on the books. And DNA is not fingerprints. It's totally different. And in last session-- and I'll rise again later and provide examples of how, when DNA was collected, it was abused; and also, you know, individuals who had their DNA collected were wrongfully convicted of a crime because of DNA. It's not a foolproof system, and

this can disproportionately affect individuals that live in my community and other communities across the state because it's not clear. I understand that the motive behind this bill is to try to prevent individuals from, you know, committing horrible offenses, but I just don't think this is the solution to doing that, especially, as Senator Machaela Cavanaugh stated, if we do this, this potentially pushes back the process of rape kits getting tested. How's that solving anything if we're creating a law to make it harder for rape kits to get tested? That just doesn't fall in line with the nature of this bill. It's-- I don't know, I just fully just disagree with, you know, giving up my DNA. I just don't understand why anybody would just, no matter what-- what if like-- I just don't get it. Just because a person is charged with a crime, doesn't mean they're guilty. You should-- we should allow for the judicial process to go through before we collect an individual's DNA. If they're convicted of the crime, then that's understandable. But if they're just charged with it and then they end up--

FOLEY: One minute.

McKINNEY: --not being convicted, why should they have to go through a whole process that's not even clear to get their DNA removed when it already shouldn't be there in the first place? Thank you.

FOLEY: Thank you, Senator McKinney. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. And good morning, colleagues. I want to rise, and first of all I rise with shared hesitations and opposition, as Senator Hunt, Cavanaugh and McKinney have all spoken before me. I want to address something Senator Hilkemann said in his beginning, because he compared two things. First he said it's hard to get on this list, it's hard to get you-- hard to get on this list of crimes in which we're going to swab for your DNA, and then shortly thereafter he talked about this DNA exonerating completely innocent people who've been wrongfully convicted. Colleagues, those ideas inherently clash against each other. If it's hard to get on this list in the sense that we're going to treat it very seriously and you have to commit a serious crime in order to get on this list, but at the same time we're acknowledging we have a huge pool of wrongfully convicted people that we're hoping we're going to exonerate, those ideas are hard to hold together. And that's-- that's my fundamental concern is, in my mind, it's actually not hard to get on this list. The amount of suspicion you need for an arrest, sure, it's probable cause, but as we've all seen wrongful identification, you know, just all sorts of things can lead to somebody getting booked in jail for

the night-- oops, it was the wrong guy; oops, we overreacted; oops, the witness was incredible; you know, you're free to go in a day, a week or so. That person's in the system. That person's in the system and they might have not done anything other than just be outside at the wrong time, and we see that over and over again, and I'm stopping well short of actual wrongful convictions, which Senator Hilkemann acknowledges that we have. And that is kind of the fundamental crux I have with this issue, is it's kind of going to solve these institutional problems that we have but not create any new ones and it's certainly not going to exacerbate the institutional problems that we're trying to solve by adding another layer to that. It doesn't all fit together in the same way. If our justice system is leading to wrongful convictions and we know it is and we know people are getting exonerated, then we know that some of these arrests are not going to be accurate. And that is why I prefer the current system where the DNA can get searched after a probable cause hearing and you, at least in the light of day, have a judge looking over the materials and saying, yes, no. It is not solely on in the arresting officer and the booking agent at the jail, you know, at 3:00 in the morning and a chaotic situation, maybe you've got the right person, maybe you don't, maybe the witness was accurate, maybe it wasn't. You actually have some time to look at it before this database goes forward. That is kind of one of my fundamental things is we know errors in the justice system happen. It's acknowledged as one of the benefits of LB496 is probably to exonerate some wrongfully convicted people. I think that's a noble goal, and I think that's one we should support, but recognizing that that happens already, we also have an obligation to make sure that we are appropriately expanding the duties and requirements of our justice system in a way that's not going to be counterproductive. And that's fundamentally here in-- in my issue. You know, it's been called a 21st century fingerprint, and that is, I guess, something we as a society are going to have to sort out and decide, because there's a lot of people who don't feel that way. I think that's just off the mike, you know, out of this building, talking with colleagues between this last fall and last summer when we debated this bill, and now there's a lot of people who don't care about their DNA that, sure, I'll send it off, sure, it's not a big deal, and there's other people who feel that it's incredibly important and connected to them and that it's an incredibly private piece of information.

FOLEY: One minute.

M. HANSEN: Thank you, Mr. President. You know, to put it up there, you know, if you do the-- it's-- it's that fundamental piece that I think we're missing in this conversation is that some people, DNA isn't just

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

a fingerprint, it isn't just something that is-- is easily, you know, passed around or thrown away or-- or not-- or not core to their being. It's an incredibly personal thing, and I understand its importance in law enforcement, which is why I support the current standard where they can already do this after having the hearing in front of the judge. If they have the need for a search, they can get it, but they have to show their case in front of a judge. It cannot just go in the middle of the night at the booking officer of the jail based on, you know, one officer's report. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator John Cavanaugh.

J. CAVANAUGH: Thank you, Mr. Lieutenant Governor. Well, again, I rise in opposition to LB496. And I've been listening to the conversation. I've been listening to the conversation this morning. I wrote down a couple of notes to myself about this. Basically, the-- the question of not mass collection of every citizen, of average citizens, which I take issue with characterizing the accused as something other than an average citizen. And our criminal justice system is premised on the idea of innocent until proven guilty and that we should have proof beyond a reasonable doubt before we convict somebody and deprive them of their rights. And we have a very strong and robust system of protection of rights in this country. And I was sitting here thinking about the LR14 debate that we had and the Convention of States, and there are those in this body and in this country who seek a Convention of States to pursue further restrictions on the power and jurisdiction of the federal government. I would extend my concern in that to all government. And the Fourth Amendment of the United States Constitution and Article I, Section 7, of the Nebraska Constitution have the same language, which is that the rights of the people to be secure in their persons, houses, paper, and effects against unreasonable searches and seizures shall not be violated, no-- and no warrant shall be issued but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the person or thing to be seized. I've read this many times in this debate because I think it's important that we-- it really hits home the fact that we have a structure under which we are protected from unreasonable searches, from the overreach of the government. And we've had this conversation and there are those-- and it had-- I believe Senator Halloran could tell you-- I think 32 votes on the first round in favor of LR14 for the further restriction of government overreach. That's exactly what we're advocating for in this bill, is a-- is a further erosion of individuals' privacy rights, a further erosion of our protections from the government, because the Fourth Amendment of the U.S. Constitution and Section 7, Article I of our constitution protect

individuals from unreasonable searches. We have a structure for reasonable searches that is working, that Senator Hansen just explained. We have a structure for warrants probable-- based upon probable cause and particularity where we search for a reason. Our-- LB496 is seeking to allow the government to search individuals, in this case particularly for their DNA, but to search individuals with no specific reason. It is a search just to see if there is a reason to search someone, which is an erosion of our fundamental protections against the government. And so there are all these people in this body and outside who have advocated for restricting the government's intrusion on our rights, and yet I'm not hearing from a number of them today about, or at any point in this debate, about their willingness to allow the government to further intrude into our personal space, into our privacy, into our lives without a reason. There-- this is-- it has a justification, which Senator Hilkemann has talked about, which is to match unspecified amounts of DNA against the national database. And there are problems with how that works and people have articulated that. But the fundamental question here is whether we as a Legislature want to be a Legislature--

FOLEY: One minute.

J. CAVANAUGH: I'm sorry? One minute? Thank you-- that continues or allows for a further erosion of privacy rights while we are arguing for further protection. We don't need to create a constitutional convention for further protection. We just need to stop this bill to afford ourselves a protection we already have without eroding it. I'll push my button, continue talking, because there is a case that I'd like to reference on point that kind of, I think, is counterpoint. But thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Cavanaugh. Senator DeBoer.

DeBOER: Thank you, Mr. President. This bill has been a bit of a struggle for me to figure out what is the right thing to do. It wasn't for me, at least, as open and shut a case. I think everyone will agree here that Senator Hilkemann is bringing this bill for the right reasons, and I would be against anyone who applied-- implied otherwise. I don't think anyone will because we know that he's bringing this bill to try to solve some crimes and to try to exonerate some people if-- if it happens. It's not a major portion of the bill, I'm sure, but a side effect, and it will stop some crimes, potentially. We've seen in other states where it has, so that's on the one hand. On the other hand, there are a great many things we could do to stop more crimes or to solve them, but we also want to live in a

free society where we don't all get called to the village square and given lie detector tests every time a crime happens. So it seems to me there has to be a balancing here between safety and freedom. And in this case, we're not talking just about those ideas generally, but about one of the fundamental bedrocks of our society: the presumption of innocence. Someone implied that the people who are getting arrested on these severe charges, which I appreciate that we're limiting this to very severe charges, and maybe we need to-- Senator McKinney pointed out maybe we need to look at that list again. But we're limiting this to severe charges. Someone said maybe the people who are getting arrested for that are not generally upstanding citizens, and maybe that's true. It probably is. But what about the time that it isn't true? What about the time when someone who's just a hardworking person in our community is arrested, is falsely accused? Historically, we know that the reason for the presumption of innocence is that that did happen. You might argue that if they're innocent, then they have nothing to fear from a DNA sample being taken, and that's probably also true. Someone this weekend, when I was working on trying to decide on this bill, said to me, I don't know anyone who's been harmed in this country by this DNA being taken, and that's an important consideration. But we must also consider not an individual harm, but a societal harm, the harm of eroding our innocent-until-proven-guilty standard. And this particular bill, since we already take DNA from those who are convicted of felonies, in fact, targets specifically arrestees, particularly if you're exonerated if the-- if the DNA sample goes away, which others can argue about that. But let's say that it is true that the DNA sample goes away if you're not convicted. Then it's really arrestees that we're targeting here, and that does implicate our innocent-until-proven-guilty standard. Nevertheless, the Supreme Court has said this DNA extraction is part of an arrestee's identification and processing and doesn't violate the constitution. And when I was first presented with this bill, I voted for it out of committee because it seemed like taking fingerprints to me, but others have told me they don't see it that way. So I thought it was important to look towards what the prevailing--

FOLEY: One minute.

DeBOER: --cultural perceptions are of taking DNA. I thought back to when I applied for taking the bar exam the first time. They took my fingerprints, but they didn't take my DNA. I think someone mentioned last week that when you're applying for an insurance license they take your fingerprints, but they don't take your DNA. I don't know, and I'd be willing to listen to any other place where we compulsorily take DNA from folks that are not already convicted of a crime. So it seems to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

me that, although it's possible that someday DNA sampling will be like taking your fingerprints, that isn't how we treat it yet. I suspect that someday it will be true that taking your fingerprints and taking your DNA will be largely seen as the same thing.

FOLEY: That's time.

DeBOER: Thank you, Mr. President.

FOLEY: Thank you, Senator DeBoer. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I want to just respond to a couple of things that have been said here. First of all, to Senator Matt Hansen, I would refer you to the amendments that were subsection-- or Section 5, subsection (3)(b). It says: A DNA sample collected under this subsection shall not be tested or placed in the state DNA database until after a judicial determination of probable cause. It gives you the section there on crime and violence, burglary has been made, or a hearing to determine probable cause has been waived unless requested or consented to by the person whose DNA sample is to be collected. You can read the rest of that, but I think that that should put to rest the concern that you shared there a little earlier. I want to tell you about a very good friend of mine, a man that many of you know, James Martin Davis. Jim Davis was one of the more prominent defense attorneys in Nebraska, in the Omaha area. Jim was my neighbor for over 25 years. We shared through the sadness when he lost his son. He ran for the U.S. Congress, did not prevail. We shared dinner together about two weeks before-- before he passed, but we lost him in September. One day, and I'm going to have to say that some of these attorneys on this-- on this floor who are-- their whole nature is to create reasonable doubt, they actually-- I-- I-- well, one, I thought, you know, I'm-- I'm-- I don't think that that's right. I'm not an attorney. I'm a podiatrist. So I'm not out here to try to pers-- persuade people to-- as attorneys do. So I went over on a Sunday afternoon after our debate and I said to Jim, these are what these guys are saying down there, and we had a wonderful conversation, probably an hour or better. And Jim was so supportive of this bill, he wanted to come down here to the Legislature and-- and lobby for this bill, lobby some of the people. But at that time, we had the COVID ban. There wasn't an opportunity for him. But he really said we need to get these people square and on board with it. His actual term to me was, it's not a matter of should we have this bill, it's why don't we have this bill in Nebraska, as we have in 31 other states that it is working with and working quite well, thank you. And so I just wanted to share that. We lost Jim over-- over Labor Day. He was planning to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

come down and help me with this bill this year, and he won't be able to do that. This was a very important-- but he said, I'll take DNA evidence over a sworn testimony or confession anytime because, he said, it helps us get things right. That's what we want. We want to have-- we want to help the judicial system--

FOLEY: One minute.

HILKEMANN: --get things right. Thank you, Mr. Lieutenant Governor.

FOLEY: There was one minute, Senator. Thank you, Senator Hilkemann. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. Why don't we have a bill like this in Nebraska? Because in Nebraska, we still value personal liberties and individual rights and due process and that people are innocent until proven guilty, and I hope that we keep it that way. Also, defense attorneys oppose this because we believe in the principles of being innocent until proven guilty. One thing that's really wild to me is that, you know, in my-- in my city of Omaha, our, you know, public health director made the decision to impose a mask mandate in our city because of the pandemic and COVID-19 and our hospitals are at capacity. UMNC entered and Nebraska Medicine entered a crisis standard of care, which means that they're delaying elective surgeries. And elective surgeries are not like cosmetic surgeries. It's not like stuff that you're just choosing to get for fun. You know, this is cancer surgery. This is heart surgery. These are procedures that, if they're put off, could really have long-term effects for those patients and affect their-- their standard of living and their future health. And so our public health director said, we're going to go back to a mask mandate; in public buildings and businesses, you've gotta wear a mask. And the Governor is saying that she shouldn't be able to do that and now there's like a whole issue about whether or not we can have a mask mandate, and it's really wild to me that the state can't mandate that people wear a little piece of fabric to slow the spread of a deadly pandemic that we're still in the midst of, but if a police officer makes a decision that you look like someone who's-- who's been accused of a crime, they can take your DNA and the state can have that forever. How does that make sense? Once again, I'm in the position of making a conservative argument and fighting against government overreach. And once again, we see this, this effect in this body where we don't care about government overreach as long as we don't think it's going to affect us. I'm sure there's nobody in this body who thinks that they could ever be wrongfully arrested or wrongfully convicted because that doesn't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

happen to people like you, because it doesn't happen to people like us. But to piggyback off a point that-- that Senator Matt Hansen made so, so clearly and so well, if one of the purposes of LB496 is to exonerate innocent people, then we've acknowledged that-- that our prisons are full of innocent people. Not all innocent people, no one reasonable would say that, but we know that this happens. So if Nebraska is going to be maintaining a database of DNA of innocent people, how do we decide which innocent people that should include? I have another amendment that says you should have to submit your DNA to become a podiatrist, to receive a podiatry license. Colleagues, if we're serious about exoneration and serious about solving cold cases, if every single person put their DNA in the database, we'd probably solve a lot of them. But there's a reason that most people would be opposed to that. It's the same philosophical logic that people use when they say they're against--

FOLEY: One minute.

HUNT: --mandated COVID testing or mandated vaccines or mandated anything by the heavy hand of the government. And I've had so many emails from conservative Republicans about LB496 saying, you know, this seems like government overreach to me, and I agree completely. This is not an exoneration bill. It has nothing to do with innocence. We already have a DNA innocence law in Nebraska, passed by Senator Chambers and Senator Pansing Brooks, and that law allows for the wrongfully convicted to seek DNA testing to establish their innocence. We already have that law in Nebraska. That's not something that LB496 would establish. And maybe that's a big problem with government today is we're passing too many laws, we're putting too many restrictions on Nebraskans, and we're infringing in the liberty and the rights of too many people.

FOLEY: That's time, Senator.

HUNT: Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hunt. Senator Wayne.

WAYNE: Thank you, Mr. President. Colleagues, senators misspeaking on this issue when it comes to getting it right, let me explain how a trial works. When a trial works, a court will automatically order DNA for that trial, so it's not about getting that trial right. This is actually a witch-- witch hunt to get people's DNA to bring people into the justice system quicker, and you-- and you said that in your first opening. This is about people who may have DNA that may have done some

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

other crime that haven't been caught in some other area, some [INAUDIBLE] time. At this time, I'll ask Senator Lathrop to yield to a couple questions.

FOLEY: Senator Lathrop, will you yield, please?

WAYNE: These are not trick questions, Senator Lathrop, just, as Chair of Judiciary, I just-- two simple questions.

LATHROP: I'd be happy to yield.

WAYNE: Senator Lathrop, in your-- well, three questions. In your years as being on Judiciary, I'm sure you read lots of studies of overpolicing and overcharging in low and Hispanic and black communities.

LATHROP: Yes, had two days of hearings a couple summers ago.

WAYNE: So is it fair to say that in low-income and black and brown communities, they are overpoliced?

LATHROP: I would say they have a higher per-capita disproportionate number of arrests and charges in-- for people of color. The statistics, I think, routinely show that, Senator Wayne.

WAYNE: And is it fair to say that they are often low-income, black and brown communities, individuals are often overcharged?

LATHROP: The overcharged part I can't speak to. But I can-- I can say that they are more often arrested disproportionately, and our Department of Corrections is disproportionately people of color.

WAYNE: Thank you, Senator Lathrop. Colleagues, the reason why I asked Senator Lathrop those questions is it's logical here that if communities are overpoliced, and study after study shows that they're overcharged, then the result of this bill is going to be over-collection of certain people's DNAs. That is just a byproduct of this bill. So I'm going to speak directly to Democrats here. Democrats, if you are supporting this bill, knowing the inequity and overpolicing and overcharging in black and brown, low-income communities, supporting this bill means you are in favor of over-collection of the DNA of black and brown and low-income communities, period; you are OK with the racial disparity that will happen as a result of this bill. Second thing, to my conservative colleagues who fundamentally believe that, you know, government shouldn't even keep lists of people who have guns, government should

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

not know anything, this bill fails to address the federal problem in it. So I'm going to read for you frequently asked questions on the CODIS and NDIS, which is the national database. It says: How do you remove your DNA? And this is actually very interesting because you really can't. You-- first, you gotta hire an attorney. But question 24 says, what are the expungement requirements? And it says: laboratory participating in the National DNA Index are required to expunge the qualifying profiles from the national index under the two following circumstances. For convicted offenders, there has to be a certified copy of a court order that the conviction has over-- been overturned. Now I want you to key in on a word, and you can ask Senator Hilgers, he's a lawyer: Conviction has been overturned. For arrestees, if the participating laboratory receives a certified copy of the final order, that it has been dismissed, resulted in acquittal, or no charges have been brought.

FOLEY: One minute.

WAYNE: What that does not say is if you plead down to a misdemeanor; what that does not say is if you plead no contest and it's a misdemeanor. It's only if you are acquitted, so your DNA, if you get charged with a felony and you plead to a misde-- misdemeanor disorderly conduct, stays in the national database in which you should have never been charged with in the first place. As a conservative, that is mind boggling. You wouldn't let a gun right, if they were-- if their charges were dismissed to a felony from a-- to a misdemeanor, you wouldn't say they couldn't own a gun. But for some reason, your DNA is now in the federal database to be used for whatever purposes, entirely, indefinitely, even if you weren't convicted of that felony charge. It is only acquittal. That is a fundamental problem that I think conservatives should have a huge problem with. You are forever in a DNA database, whether you are convicted of a felony or not.

FOLEY: That's time.

WAYNE: Thank you, Mr. President.

FOLEY: Thank you, Wayne. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. Colleagues, I appreciate Senator Hilkemann referencing that specific section of the bill, and I will recognize that, as written, it does allow for some instances where the DNA has been collected to be destroyed before it gets into the state database. I want to clarify why that's important and why that doesn't contradict anything I've been saying. This is a hearing after the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

search has been conducted to see if the search evidence should stay, and the probable cause standard is not on whether or not the search was reasonable, whether or not the search was relevant; the probable cause standard is whether or not the charges are going to stick for now, whether or not they've been charged with the appropriate crime. And if they failed that standard, in that instance, it appears that the DNA can be destroyed in some instances. Certainly, there is the option for the defendant to allow for it to enter the DNA database, which is a concern in the sense that my worry is that there would be some conditional plea agreements that would require that. My worry is that there'd be other ways around this. This isn't like a *carte blanche*, oh, you're-- you're innocent, it goes away. There are all sorts of mechanisms to undo and still get this into this-- the-- the crime-- the state DNA database. And the key thing here and the key thing I want to keep coming back to is it's permission to-- it's looking at the cau-- probable cause after the search has been conducted. That is-- that is the concern, among others. We are going to allow at 2:00 in the morning the booking officer of a jail to conduct a search, and there's provisions that if everything cuts the accused's way, if everything cuts their way and they exert their rights perfectly, they might not go into the state database. That's the level and standard we're setting. This isn't like a real simple if-then, if-or process. This is saying, if you're arrested on these charges, you're going to get your DNA collected, period. The search is going to happen; no opportunity, no hearing, it's going to happen. And then, after the fact, you could potentially get that search destroyed, the evidence from that search destroyed, if everything cuts your way. In my mind, colleagues, this would be like any other search if-- this would be a preposterous standard if we held it to any other search, if we made a standard to that, say, upon arrest you had to let the officer go through your entire house, your cell phone, your records, all sorts of things; and only if they've totally messed up, later, you can get all evidence of that search destroyed if you play your cards right and everything goes your way. Colleagues, that's not how it works now, that's not how it works on any search now, and that's not something we-- I want to support. If there is reasonable-- if there-- sorry. If there is a reason, if there is a probable cause to get some of these DNA in the evidence of solving a crime, we have a way to have that happen now. We collect data now at trial. There are different ways to get this done. This is a preemptive and speculative search that in many instances won't have anything to do with the crime being committed. If somebody is caught red-handed-- let's put it in a case where it is a genuine case. Somebody is caught red-handed, burglary or there's reasonable probable cause, you know, there's a broken gate,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

there's a person there, what have you. You know, there's no DNA evidence in the burglary. It's a witness saw them on the property. That DNA evidence isn't going to solve that burglary. That DNA evidence is maybe going to be used in another instance. It doesn't even necessarily tie into the things you've been arrested for, even if they are severe things. And again, it's the speculative search without a search warrant, it's the speculative search without a hearing in front of a judge that is such concern because, again, we wouldn't hold this up to any other standard.

FOLEY: One minute.

M. HANSEN: Thank you, Mr. President. If there was another thing that we said that, you know, you get arrested, you turn over your cell phone and the police automatically get to go through all of your texts and phone calls and then later, if they're not relevant, you can maybe get those copies destroyed, that's not something we would support. Why do we feel the same with DNA? Why are we just on a speculative this might be helpful, let's take it, and then if they play their cards right, they can maybe get it destroyed later? That's-- that's the disconnect here is, are we going to make a stand and say, you know, we want to have some reasonable standards on searches? I would like to keep them, and that's why I have my continued hesitation and opposition to this bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. That was your third opportunity. Senator McKinney.

McKINNEY: Thank you, Mr. Lieutenant Governor. I'm gonna rise again in opposition of AM1283 and LB496. While I was sitting down, I was looking at an article from Harvard Law about the ethic-- ethical concerns with the collection of DNA, and I'm going to point out a couple parts of this article that I read. So in 2011, researchers Itiel Dror and Greg Hampikian found that DNA interpretation varied significantly among lab technicians and forensic experts. Dror and Hampikian sent exact DNA mixtures to 17 different experts to ascertain whether they were-- they would arrive at the same conclusion as their original fil-- as the original forensic analysis. Challenging a viewpoint that context doesn't matters [SIC], the 17 forensic scientists arrived at remarkably different results. Dror and Hampikian argue that this demonstrates that what the forensic science knows about the investigation-- for example, that the prosecutors are relying on the results generated to move forward-- may impact the interpretation of a DNA sample. Perhaps, then, it's no surprise that there are now numerous cases of lab techs who make mistakes or argue

that there was a DNA match when there was none. There is also basic fear creating a genetic dragnet, bringing families and individuals with little to no link to a crime into the investigation and in turn forgoing traditional forms of investigatory work that would actually broaden the scope of the search. This also-- this article also pointed out a couple other issues. Privacy issues is one. It says: Privacy issues may im-- even impact those who are falsely accused of crimes. Thanks to the use of social media, wrongly accused individuals may end up in deep reputational damage or, in-- or, in addition, to increased stress from believing that they may be falsely accused of a crime. What do we do about the individual who is charged falsely, gets their DNA taken, their name is planted on the news stations across the state, but they had nothing to do with this crime, but for the rest of their life they could submit a Google search that says John Doe was arrested for shooting somebody, but the-- but John Doe never shot that individual? That is going to be stuck on the Internet. What are we going to do about that when somebody gets falsely accused of a crime and forever and a day their name is going to be planted on social media and Google saying they were arrested for a crime? Imagine applying for a job and the recruiter goes, search your name on Google, and you never was convicted of a crime but your name is on KETV, for example, saying John Doe was arrested for felony assault. Think about that. And then it says: Finally, one of the most powerful critiques of the use of the database for familial DNA searching is the disproportionate impact it would have on black and Latino individuals who are already ensnared by the criminal justice system. This argument has been carefully made by numerous legal scholars. Racial disparities and imprisonment translate into disproportionate collection of African American men having their DNA taken and stored in federal and state databases. It-- it also states that, in 2006-- it's a while ago, but it's still relevant-- that 40 percent of the U.S. federal database originated from African Americans. Other estimates suggest that 41 to 49 percent of CODIS--

FOLEY: One minute.

McKINNEY: --profiles are from African Americans. That is an issue. That's something we need to think about. Most of the individuals look like me and Senator Wayne. Thank you.

FOLEY: Thank you, Senator McKinney. Senator John Cavanaugh, for your third opportunity.

J. CAVANAUGH: Thank you, Mr. Lieutenant Governor. So I left off talking about our-- our opportunity here, our ability to prevent the

further erosion of individual liberty and individuals' rights and to prevent further government overreach, and that a number of people here have expressed their interest in affirmatively restricting government overreach. Senator Hilkemann referenced the case of Maryland v. King that was in the Supreme Court that allowed the state of Maryland to undertake this similar type of program, and I just wanted to make sure and point out a few things about that-- that case and the-- kind of the state of the law, I guess, so, you know, I've talked about the Fourth Amendment to the U.S. Constitution that protects people from unreasonable searches and seizures and that the Nebraska Constitution has a similar provision. What I wanted to point out is that there's language, it's a common principle, but the language in State v. Haveat, H-a-v-- oh, no, Hav-- Havlat, H-a-v-l-a-t, it's 20-- 222 Neb. 554 from 1986. It was a search case where the court found a number of things about a search in a field, and basically the thing I wanted to draw attention to was basic-- on the page number 560: Although the state may not impose greater restrictions on police activity as a matter of federal constitutional law, a state may impose a higher standard governing police practices on the basis of state law. What that's saying is, if the U.S. Constitution allows government to intrude upon someone's rights, the state cannot restrict the action based off of the constitution-- the U.S. Constitution; however, the state may restrict government intrusion on individual rights as a matter of state constitutional law or a matter of state law, which means it's-- the principle essentially is that the-- the-- your rights cannot be lower than the-- the federal government has said they are, but the state has a right to make them more expansive, and currently the state of Nebraska does not allow this search. And so we are discussing here a further erosion of our constitutional rights, of a-- of the protections of individuals who are accused of crimes, not convicted. We're talking about a further erosion of the Fourth Amendment of the Constitution and specifically of Article I, Section 7 of the Nebraska Constitution, that we do not have to do. The idea that you can do something doesn't mean you should do something. So I did want to address the-- the probable cause standard here that we've talked about, Senator Hlikemann addressed in the bill. The probable cause hearing in the bill, that-- that point in time, goes from individual is arrested, they are booked into county, they have their DNA swab taken, which is the search where they swab their DNA, they don't test it until after a probable cause hearing on the charge for which they have been arrested, not on the reason for the search. And so it is not a probable cause hearing specific to that search. It is separate from a Fourth Amendment-required probable cause hearing for the reason for that search. And that is the difference here, is we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

have a hearing to determine whether or not you are the person to be charged in this case, which is the probable cause hearing, which we called the preliminary hearing, and that is to determine whether or not you stand trial for the specific charge for which you are being held. That is not a hearing about whether or not your DNA or any evidence should be collected against you in that particular hearing. I believe Senator Hansen talked about whether they should search people's homes.

FOLEY: One minute.

J. CAVANAUGH: If in any case they were going to want to search your home, your car or your cell phone, they would then need to get a-- a separate particularized warrant that articulates why they're searching it and for-- for what they're searching. So the standard here would be cutting around that and saying, just because we find that you were charged of one of these particular crimes, that you have no right to privacy in your DNA. And that is the problem with LB496, is that we are searching individuals without respect to a reasonableness about the reason for the search and we sh-- that is just an erosion of our rights, of the rights of Nebraskans, of all people, whether accused of a crime or not, that we should not tolerate, and that an erosion-- the reason for the-- the beyond-a-reasonable-doubt standard in our criminal justice system is fundamentally the protections of the rights of the-- the accused--

FOLEY: That's time.

J. CAVANAUGH: --is a protection of the rights of everyone. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Cavanaugh. Senator Machaela Cavanaugh, for your third opportunity.

M. CAVANAUGH: Thank you, Mr. Lieutenant Governor. OK, so going back to the fiscal note-- actually, I need one. Going back to the fiscal note, the fiscal note is \$829,000 for a full year. There's a-- because it's starting halfway through the year, there's another for that. But this would cover 5,000 samples that are anticipated to be taken annually. Based on the fiscal note, they said that that's approximately how many of this type of arr-- qualifying arrests have been made on average, so 5,000 samples. Now I go back to this issue of the untested sexual assault kits. If-- if we have close to a million dollars to spare for the Crime Lab, our priority should be making sure that victims know that their case is being taken seriously and that we are putting every

resource we possibly can towards that end. And if we're not testing their kits in a timely manner, we are not giving them justice. So if we have a million dollars to spare, I would hope that that would be our priority. I echo the sentiments that several of my colleagues have made. I've said this before. This is racial-- allowing for racial profiling. It's-- I encourage everyone to look up the debacle that was stop-and-frisk in New York and how it was deemed unconstitutional. It might be constitutional to collect DNA, but that doesn't mean that it is going to be done in a way that respects people's individual rights, especially based on color. I question why fingerprints aren't enough in this instance. When you have to do a background check for, say, working at a childcare, you do a fingerprint. Part of that fingerprinting process is for them to check and make sure that you aren't someone who has a record of child abuse or other things related to children that have hurt them. And so if that's good enough for our children, for the people that are taking care of our children, why is that not good enough for a starting of a pro-- a judicial process? I remember when I had a background check done for an intern-- a government internship that I had and I had to submit my fingerprints for that, but I didn't have to submit my DNA. And I had to go through security checks and clearance and all of that, but they still didn't need my DNA, just my fingerprints. I also agree with those who have said today, talking about personal freedoms, you don't want to have to wear a piece of cloth over your face, you don't want to have to get a vaccination, you don't want to have to report if you have a gun or not, but you do think that people who are arrested should give their DNA. So if you are arrested for, let's say, improperly storing your gun-- oh, wait, we took care of that.

FOLEY: One minute.

M. CAVANAUGH: You can store your gun in a locked box in your car if you don't have a concealed carry. That was a good thing we did last year. But let's say we hadn't done that and you got arrested for that. They could collect your DNA, potentially. There's a lot of instances where white folk would fall under this. It's just that black and brown folk will be more likely to be required to do this because they are more often the ones that are detained, so it is disproportionate by nature. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Cavanaugh. Senator Wayne.

WAYNE: Thank you, Mr. President. Would Senator Friesen yield to a question?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

FOLEY: Senator Friesen, would you yield, please?

WAYNE: And, Senator John Cavanaugh, you're going to be next.

FRIESEN: Yes, I would.

WAYNE: Senator Friesen, do you know what the standard is to be arrested? And "I don't know" is a fair answer.

FRIESEN: Hmm. No, not being an attorney, I'm just-- from watching lots of TV shows, I would say, you know, you could be in the wrong place at the wrong time. They--

WAYNE: Well, to be-- to be randomly stopped on the street, it's-- it's-- it's reasonable suspicion or articulate reasonable suspicion. But to actually be arrested, it's probable cause. So the hearing-- just think about this. So the hearing that senator is speaking about regarding whether your DNA should be taken or used is also called a probable cause hearing. So the standard that is used to be arrested is probable cause, is the exact same standard a judge is going to look at to see if they should use your-- take your DNA and use it. So my point is, is they wouldn't have arrested him if they didn't think they had probable cause. Now-- now wa-- now watch how this plays out. Senator Cavanaugh, will you yield to a question?

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

J. CAVANAUGH: Yes.

WAYNE: So besides me, you are a practicing-- or you maybe still are a practicing defense attorney. Correct?

J. CAVANAUGH: Yes.

WAYNE: How many probable cause or preliminary hearings have you had?

J. CAVANAUGH: Hundreds. I don't-- I lost count year--

WAYNE: Over 500?

J. CAVANAUGH: Probably. Lost count years ago.

WAYNE: And how many have you actually won?

J. CAVANAUGH: A handful. I-- I've-- yeah, not--

WAYNE: One percent?

J. CAVANAUGH: I'm sorry?

WAYNE: One percent or even less than that?

J. CAVANAUGH: Oh, I-- I mean, if it was-- if I had 500, I won't-- I would say 1 percent, yeah, less than-- less than 10, less than 5, probably.

WAYNE: The burden for probable cause hearings are extremely low. That's why it's called probable cause hearings. It's a preliminary hearing to bound you over. Now, after a probable cause hearing, Senator Cavanaugh, somebody still may be found not guilty, right?

J. CAVANAUGH: Correct.

WAYNE: Or they can plead down.

J. CAVANAUGH: Yes.

WAYNE: So probable cause just means they had enough to arrest you with those charges at that time.

J. CAVANAUGH: Yes.

WAYNE: And that is the same standard for a cop to arrest you.

J. CAVANAUGH: Yes.

WAYNE: Thank you. My point, colleagues, is that you hardly ever win a preliminary hearing or a probable cause hearing. In fact, you-- you never do. The one that I won-- I won 2 out of probably about 300. One that I won was an individual went to Walmart with his grandmother's credit card and they said it was stolen, and we went all the way to a probable cause hearing and I had to have the grandmother come in and say, I authorized my son to go buy milk. And the judge said, oh, yeah, we're not going to bound that over. My point is, is that if you get arrested, they've already done their probable cause, supposedly, analysis by the police and it's bound over to district court and district court will let-- Douglas-- or at least county court will let you fight that out in district court. So I just want people to understand how technically it actually works in a practical setting. All the judge is looking at is probable cause. Now where does that weigh at? Well, if you sue somebody civilly, it's typically beyond preponderance of evidence, which is more than likely, or it's by-- in a criminal setting, it's beyond a reasonable doubt. But probable cause is one of the lowest levels of standards you can have. So in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

arbitration, you have scintilla, which is I think-- I think-- I think there may be something, which is crazy, but we use that in arbitration, especially in labor hearings. Then you have reasonable articulate suspicion, and that's where you have somebody walking down the street-- and this was actually used a lot in New York with stop and frisk, and a lot of it was thrown out. But they say, if you reasonably ar-- can articulate--

FOLEY: One minute.

WAYNE: --something specific that person may have done, you can stop them and ask for their ID and-- and frisk them. Probable cause is just slightly above that, so it's-- it's not very high. It's just "I think something happened," and the judge looks at that and says, well, I look at the evidence and more likely than not or maybe so, or people have different definitions of probable cause, we'll bound it over. That's the basis of your DNA being taken and I'm just not comfortable with our federal government having our DNA on that low of a standard. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Hilkemann, your third opportunity.

HILKEMANN: Thank you, Mr. Lieutenant Governor. Appreciate this opportunity to try to talk just a little bit about some of the things that-- that-- what the misunder-- the misinformation that's been given out this morning and the whole argument here of creating reasonable doubt on this bill. The first one I want to address is that which was said by Senator Wayne about the CODIS and needing to have an attorney to get-- what he was talking about was for federal charges, and these are state charges, totally different ball game. And in fact, that specific question I discussed with-- with my friend Jim, and he said it's as simple as signing a piece of paper which could be given to that individual when those charges are dropped or changed or the person's exonerated at that time. That could be-- that-- they could show them how to fill it out. They could submit it. They do not need an attorney. Secondly, let's talk-- I want to just talk a little bit about Senator McKinney's comments that he made regarding the CODIS. Let me just talk with you just about the-- what-- what the CODIS actually is, is 20 markers of over 3 billion of the DNA, that these 20 markers totally do not identify the individual. The only one of the markers that can be-- that mark would be the sex of the individual. They cannot tell the race or origin or anything else with these 20 markers of the DNA. These 20 have been specifically selected for that. If you're-- if-- when they take the CODIS, they submit this into the--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

to the CODIS file. Only if-- only if there is a match is this law enforcement even know who that DNA or who that CODIS from. They-- at that point, there is-- that's when the specimen number and the name are actually matched up, only if there is a match. Then, if there is a match, there is more extensive DNA that was-- that is-- is done at that time. Now one of the things that I find interesting in Senator McKinney's argument about it is-- is that he apparently isn't objecting to the fact that at the time of arrest, that we take a photo, which is oftentimes released and published by the newspaper. We take those fingerprints of that individual and those become permanent. Can't get rid of your fingerprints and you sure as heck can't get rid of all the-- you can't get rid of the fact that your paper-- that the paper has published your name had said you did such and such and such and such. The DNA, which we collect if you are-- if-- if you're not further charged, then you can get that out of the system. You cannot get your photo back off of the Omaha World-Herald or the Lincoln Journal or whatever else, and your fingerprints are part of that. So I take-- personally, I'd rather they had my DNA than the-- if they-- if I'm charged for a crime, I'd rather they had my DNA instead of having my picture put in the paper, particularly if I'm not a guilty individual, and because that picture will never go away. So those are just a couple of things I wanted to-- to--

FOLEY: One minute.

HILKEMANN: I-- I-- I go back once-- I just realized this is not-- this is new legislation for Nebraska. This is not new legislation. This is already enacted in 31 states by-- now every state it's just slightly different. There's what crimes or whatever. Actually, this would be the-- from my understanding, from working with the people who are from the DNA Saves, it was where I got the-- the-- first met these folks. We would have the most restrictive use of the DNA of any of the states, or at least one of the most restrictive uses. So at either rate, 31 states have done it over a 15-year period of time, not a single state has rescinded it, and it is working. And we'll-- when we get to-- further on this and I have time, I will share--

FOLEY: That's time.

HILKEMANN: --with you stories that people--

FOLEY: That's time, Senator.

HILKEMANN: --have-- have had--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

FOLEY: That's time.

HILKEMANN: Oh, thank you, Mr. Speaker.

FOLEY: Thank you, Senator Hilkemann. Senator McKinney, your third opportunity.

McKINNEY: Thank you. I rise again in opposition of AM1283 and LB496. Where do I start here? Well, one, Senator Hilkemann, I'm curious, are you implying that every person that has their DNA in CODIS is guilty?

FOLEY: Senator Hilkemann, would you-- would you yield, please?

HILKEMANN: I am not at all, implying that everybody who has their-- that-- that is guilty.

McKINNEY: So why does all this data that we could easily Google showcase that there is a disproportionate-- disproportionate amount of individuals from-- that are black and Latino inside this database if--

HILKEMANN: Senator, I understand that, and I'm sad that that's the way it is, but I think that that's a societal issue that has developed and-- and that, again, I'm sorry that that's the way it is, but that is true.

McKINNEY: All right, thank you. That societal issue is an issue that-- that I have to deal with my whole life, is being falsely accused of something I didn't do, and many others that I know throughout my life. And you were talking about you would rather have your picture than your-- or-- or your DNA instead of your picture. But if they take my DNA when I'm falsely accused, my picture is forever online as someone that was arrested for a crime that I didn't commit. I-- I cannot-- that just doesn't sit well with me that I could be falsely accused of a crime, the government takes my DNA, which it isn't really clear whether or not my DNA can ever be removed, and-- and my name is forever online on these news sites that very rarely retract any-- any-- anything that does with an individual being acquitted, being found not guilty. They only keep the "John Doe was charged with a serious assault." You never see the retracting articles that say, "John Doe was found not guilty." It's-- it's very few and far between. And also, if it-- this makes no sense if it's only going into the state database. How's that going to work? We really need to think about this because this is government overreach. It's-- it's going to create a disproportionate amount of individuals from our state that are black and Latino and Native American that are going to be included into this database. I don't know how we could just say, oh, it's OK,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

let's just try to find somebody; there's somebody out there that's guilty and, because there's somebody out there that's guilty, let's mass collect all this DNA just to find this one person. Our police department's budget, at least in Omaha, is like over \$200 million. Maybe they should, you know, get better at policing and we don't need this. This is definitely not needed. We need to rethink this. I understand the spirit of the bill is to help find individuals that may have committed serious offenses, but the unintended consequences far outweigh the benefits of this bill. Thank you.

FOLEY: Thank you, Senator McKinney. Senator Hilkemann, your light is on, but I can't recognize you. You've already spoken three times. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I totally get the desire behind LB496, and I obviously and understandably share the public safety concerns around catching people who have committed crimes and got away with it, particularly to take the example that LB496 has really leaned on throughout, you know, the whole process of debate: sex crimes. But we already know that we aren't prosecuting sex crimes in a just manner because we have so many rape kits on file that have never been tested. Let me pull up the fiscal note for this bill. There have been three different fiscal notes. Let me look at the most recent one. So when I'm looking at the fiscal impact of LB496, it looks like it's going to end up costing nearly a million dollars in fiscal year '22-23, and those are costs for the swab kits to do the-- the cheek swab. That's estimated at \$32,000, \$32,700. The Crime Lab supplies for the processing of the samples, that one is nearly a million dollars, and I would ask proponents of LB496 to think about, when we're allocating funds for processing of samples, why do we have samples sitting in storage for sex crimes that have never been tested? I feel like we have this tendency in government as elected officials to be constantly reinventing the wheel and acting like we've really done something helpful to people, but we already have, you know, DNA innocence laws thanks to Senator Chambers and Senator Pansing Brooks. A long time ago, before my time, I think Senator Lathrop was here, but Senator Avery introduced a bill that says, when you're convicted of a felony, you get the cheek swab and that, that DNA gets put into our database. And that-- that's a felony, whether it's, you know, a violent crime or not. So we have all of these little things that we do to ensure due process and protect due process, and LB496 just really steps over that boundary that we've put in place to protect the innocent, because for all of the shortcomings and problems that we have in our justice system, we do agree that we need to protect due process and make sure that we're not targeting innocent people and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

keeping their DNA, you know, the-- the building blocks of life, in a database. I also share Senator Machaela Cavanaugh's frustration with the constant using sex crimes as a shield on LB496, and other bills, too, we do this a lot, in order to get rid of due process. To me, the real bogeyman here is the overstepping the boundaries of justice and taking away the rights of innocent people. We should not be collecting the DNA of innocent people. That, to me, is putting us on a much more slippery slope. And if you hold up this-- this other bogeyman over here as a shield for this, this terrible policy, and say, oh, but-- but rapists might go free, we might not solve sex crimes, guys, look at the policies that we already passed in this state. Look at the-- the practices we already have in our justice system. They're already going free. You know, less than 1 percent--

FOLEY: One minute.

HUNT: --of rape survivors ever-- ever say that-- that it happened to them, that ever report the crime? And there's many, many reasons that people do that: not being believed; increasingly, living in a state or a community where they would have stigma and shame put on them if they needed to terminate a pregnancy. You know, we're increasingly making that hard for them to do if they survive an assault. When I survived my assault, I didn't report it for that exact reason. And I think that there are more societal problems that we need to get to the root of in terms of how we can prevent these crimes and support survivors instead of storing the DNA of innocent people, like we're really solving the wrong problem here, and I'll continue to talk about that at length. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hunt. Senator Hunt, there's no one else in the queue. Was that your close or did you-- did you-- OK. The question before the body is whether or not to adopt AM1283. There's been a request for a call of the house. Those in favor of a call of the house vote aye; those opposed vote nay. Record, please.

CLERK: 13-- 13 ayes, 2 nays to place the house under call.

FOLEY: House is under call. All members please check in. The house is under call. Please check in. The house is under call. Senator Clements, please check in. Senators Wayne, Moser, Williams, Vargas, Stinner, please return and check in. Senator Hunt, we're lacking Senator Stinner. We could wait or proceed. We'll proceed with the vote. The question before the body is the adoption of AM1283.

HUNT: Roll call vote.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

FOLEY: Roll call vote has been requested.

CLERK: What-- what kind of order, Senator? Regular? Thank you. Senator Aguilar. Senator Albrecht voting no. Senator Arch voting no. Senator Blood voting no. Senator Bostar voting no. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer voting no. Senator Briese. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting no. Senator Day. Senator DeBoer voting no. Senator Dorn. Senator Erdman voting no. Senator Flood voting no. Senator Friesen voting no. Senator Geist. Senator Gragert voting no. Senator Groene voting no. Senator Halloran. Senator Ben Hansen voting no. Senator Matt Hansen voting no. Senator Hilgers voting no. Senator Hilkemann voting no. Senator Hughes voting no. Senator Hunt not voting. Senator Kolterman voting no. Senator Lathrop voting no. Senator Lindstrom voting no. Senator Linehan voting no. Senator Lowe voting no. Senator McCollister voting no. Senator McDonnell voting no. Senator McKinney voting no. Senator Morfeld. Senator Moser voting no. Senator Murman voting no. Senator Pahls voting no. Senator Pansing Brooks voting no. Senator Sanders voting no. Senator Slama. Senator Stinner. Senator Sanders, I'm sorry, did you vote no? No. Thank you. Senator Slama. Senator Stinner. Senator Vargas voting no. Senator Walz voting no. Senator Wayne not voting. Senator Williams voting no. Senator Wishart. 0 ayes, 37 nays on the amendment.

FOLEY: AM1283 is not adopted. I raise the call. Mr. Clerk, you're recognized for items and new bills.

CLERK: All right, Mr. President, first of all, new bills: LB1053 is a bill by Senator Lathrop; it's a bill for an act relating to courts; it changes, provides, and eliminates provisions relating to conducting court proceedings by virtual conferencing and telephone. LB1054 is by Senator McDonnell; it's a bill for an act relating to appropriations; it appropriates federal funds to the University of Nebraska and declares an emergency. LB1055 is Senator McDonnell; relating to appropriations; it appropriates federal funds to the Department of Health and Human Services. LB1056, Senator Brewer; relates to counties; changes provision relating to zoning regulations, violations, and codes. LB1057, Senator Brewer; relates to schools; changes provisions relating to Class III school district membership and under what conditions such schools may continue to operate. LB1058 is Senator Brewer; it's a bill for an act relating to public power; provides requirements for public power suppliers relating to retiring and shutting down base load units. LB1059 is a bill by Senator Flood; it's a bill for an act relating to the Open Meetings laws; it exempts

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

the Judicial Resources Commission and subcommittees or subgroups. LB1060, Senator Briese; it's a bill for an act relating to the Community Development Law; changes provisions relating to certain findings and the validity and enforceability of certain agreements. LB1061, Senator Albrecht; relates to insurance; changes provisions relating to a board of directors on insurance corporation. LB1062, Senator Albrecht; relating to the Nebraska Workers' Compensation Act; it changes provisions relating to compensation for total disability. LB1063 is Senator Morfeld; relating to appropriations; appropriates federal funds to Department of Labor. LB1064, Senator Arch; relating to state government; changes powers and duties of the Materiel Division and provisions relating to Materiel Division. LB1065 is a bill by Senator Groene; it's a bill for an act relating to the Community Development Act; it changes provisions relating to redevelopment plans receiving an ex-- expedited review. LB1066, Senator Stinner; relates to appropriations; it appropriates federal funds to Department of Health and Human Services and University of Nebraska. LB1067, Senator Stinner; relates to appropriations; it appropriates funds to the University of Nebraska. LB1068, Senator Stinner; bill for an act relating to Behavioral Health Workforce Act; it amends Sections 71-829, -830; it provides for additional residences and training experiences for certain behavioral health providers in rural and undes-- underserved areas. LB1069, Senator Williams; relates to the Rural Workhouse [SIC] Housing Investment Act; changes provisions relating to workforce housing grant program, annual funds certification and annual audit. LB1070 is by Senator Williams; it's a bill for an act relating to appropriations; it appropriates funds to Department of Economic Development. LB1071, Senator Williams; relates to appropriations; it appropriates funds to the Department of Economic Development. LB1072, Senator McDonnell; relates to appropriations; it appropriates federal funds to the Department of Economic Development. LB1073, Senator Wayne; a bill for an act relating to state government; it states legislative findings; it creates the Department of Housing and Urban Development; provides duties; provides for a director and staff; creates a Housing Advisory Commission; provides for annual report; transfers, duties, functions, responsibilities, and jurisdiction. LB1074, Senator Bostelman; relating to irrigation districts; it creates a fund; it creates a grant program; provides powers and duties to Department of Natural Resources. (LB1075). LB1076, Senator Stinner; relating to appropriations; appropriates federal funds to Department of Health and Human Services. LB1077, Ben-- Senator Ben Hansen; relating to government; it provides restrictions, requirements for governmental entities, public postsecondary education, and public schools conducting mandatory staff

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 18, 2022

or student training or education involving certain concepts related to race and sex. LB1078 is Senator Ben Hansen; relating to schools; states findings; defines terms; and prohibits possession of personal electronic devices. LB1079, Senator Ben Hansen; relates to appropriations; states intent; appropriates funds to the Department of Revenue for distribution to residents. LB1080, Senator Sanders; bill for an act relating to homestead exemptions; changes provisions relating to veterans who qualify for exemption, application requirements, and penalties. LB1081, Senator Bostar; it's a bill for an act relating to water; states intent to appropriate federal funds; creates a program, a grant program for design, construction and implementation of water transport infrastructure. LB1082, Senator Gragert; it's a bill for an act relating to organ and tissue donation; provides powers and duties to the Games [SIC] and Parks Commission; requires the Game and Parks Commission to provide certain information relating to organ and tissue donation on applications for certain hunting and fishing permits. LB1083, signed by the Business and Labor Committee; it's bill for an act relating to claims against the state; it appropriates funds for the payment of certain claims. LB1084, Senator-- by the Business and Labor Committee; a bill for an act relating to claims against the state; disapproves certain claims. LB1085, Senator Pansing Brooks; it's a bill for an act relating to appropriations; it appropriates federal funds to the State Department of Education. In addition, Mr. President, hearing notices from the Government, Military and Veterans Affairs Committee signed by Senator Brewer; hearing notice from Appropriations, signed by Senator Stinner; Senator Lathrop, Judiciary Committee hearing notice; Urban Affairs, Senator Wayne, hearing notice; Agriculture, by Senator Halloran, hearing notice. Amendments to be printed: LB694 by Senator Blood and LB568 by Senator Pansing Brooks. Senator Williams would like to introduce LR275; that will be laid over. Senator Blood offers LR276 and LR277, both interim study resolutions. I have a motion to withdraw LB790 by Senator Wayne [SIC]. I also have a motion to reconsider the vote taken with respect to LB496 just a few minutes ago; Senator Wayne offers that. Mr. President, LR3-- or, excuse me, LB310 is reported to Select File with Enrollment and Review amendments attached. Referencing will meet upon adjournment, Referencing upon adjournment. Name adds: Senator Lowe to LB773; Hunt, LB864; Wayne to LB1026. And, Mr. President, Senator Erdman would move to adjourn the body until Wednesday, January 19, at 9:00 a.m.

FOLEY: Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned till tomorrow.