

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 14, 2023

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-fourth day of the One Hundred Eighth Legislature, First Session. Our chaplain today is Reverend Coral Parmenter, Purdum UCC Church, Thedford, Nebraska, a guest of Senator Jacobson. Please rise.

**REVEREND CORAL PARMENTER:** Senators, visitors, all the staff, will you come together with me in an attitude of reverence? Holy and divine, great spirit of love and hope and joy and peace, we begin this morning by coming before you in thanksgiving and in supplication. We praise you for the beauty of this place we call home. From the high plains to the Sandhills, to the fertile prairies, to the mighty rivers, we thank you. For the range of communities, large and small and for the diversity of life within them, we're grateful for those who are gathered here to do the hard work of enacting policies that will benefit that wide diversity. Holy one, grant them wisdom to discern the best course of action for our common good. Grant them courage to blend the best of all ideas and plans and to work together to ensure the continuation of our good life. Remind them that they are examples of the best of us and we hold them with high expectations. And we know that much may be accomplished by their working together. And we thank them and honor them for their work. And Holy one, we pray that you bless them with good health and vitality in all the days to come and perhaps, a dose of patience. Hear us and be merciful. Amen.

**KELLY:** I recognize Senator Geist for the Pledge of Allegiance.

**GEIST:** 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.

**KELLY:** Thank you. I call the order the forty-fourth day of the One Hundred Eighth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**ASSISTANT CLERK:** I have no corrections this morning.

**KELLY:** Are there any messages, reports or announcements?

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**ASSISTANT CLERK:** There are, Mr. President, your committee on General Affairs reports the LB257, LB544 to General File, as well as LB144, LB542, LB716, to General File with committee amendments attached. In addition to that your-- the Executive Board reports LR22CA is placed on General File. A series of priority bill designations: Senator Aguilar, LB81; Senator Clements, LB575; Executive Board, LB254, as well as LB552; Senator Vargas designates LB570 as his personal priority bill; Senator Day, LB84; Senator John Cavanaugh, LB184; Senator Briese, LB243. In addition to that, amendments to be printed to LB385 from Senator Linehan, to LB705 by Senator Murman, Senator Briese to LB684 and LB327. That's all I have at this time, Mr. President.

**KELLY:** Thank you, Mr. Clerk. I recognize Speaker Arch for a message.

**ARCH:** Thank you, Mr. President. Colleagues, I feel the need to respond to some of the comments made on the microphone over the past several days. I also want to share my perspective on the remaining days of the session and the work to be accomplished. Let me first reflect on our days of debate to this point. As Speaker, I listened to the minority and made every attempt to reach an agreement that would be fair to the body as a whole. While not successful in reaching an agreement, I responded with sensitivity to the scheduling of the agenda at the beginning of the session. Early rumor had me scheduling controversial issues one right after another and intimating that my motivation for two weeks of all day public hearings was to have all the controversial bills out on the floor so that I could schedule them early. That was never my strategy nor intention and I made that clear on the microphone, prior to scheduling. As I stated on this floor, I simply wanted to try to smooth out the work so that we had fewer evenings at the end of the session. Simple. That attempt has been unsuccessful. Knowing that some of the issues before us had the potential to be very divisive, I began floor debate by scheduling gubernatorial appointments. What should have taken perhaps an hour, notwithstanding two controversial confirmation appointments which did deserve debate, took days. There were those who requested that we move on to the-- debating bills. So I scheduled non-controversial worksheet order bills, passing over any bills which had dissenting votes. A few of those bills advanced to Select File before the demand that a good government bill be removed from the agenda, solely due to who the principal introducer happened to be, because that senator had introduced and prioritized a bill which a vocal minority strongly opposed. My scheduling of the early agenda was an attempt to find common ground to build on, which was rejected by a filibuster on every bill, appointment and even procedural motions. I then moved to two

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bills that I assumed would be filibustered to use the time more wisely. Since then, we have moved to committee priority bills, all good government bills, all have been filibustered. There has been a request that our body reaches some consensus on an agenda going forward. In our nonpartisan Unicameral, the Nebraska Legislature has no minority or majority caucus to determine the, quote, collective session agenda. Each senator, regardless of their seniority, has a right to introduce and prioritize any bill of their choosing. When those bills are debated by the body, quote, collective support, is determined by the floor votes a bill receives. That's our Nebraska process. A bill opposed by the majority but supported by the minority has the same option of 8 hours of floor debate as a bill opposed by the minority but supported by the majority. It is through debate of legislation that the members of the body have an opportunity to weigh in. That's how we do it in Nebraska. This year, I am being asked to stifle debate, but only for those bills the minority asks me to stifle. I am being asked to put my thumb on the scale and tell other senators that they should not introduce or prioritize bills. I'm committed to the preservation of this institution and I will not do that. It was referenced that refusing to do this was a lack of leadership. I totally disagree. Rather, it is leadership that preserves the institution. We all agree that we have sharp disagreements between senators on issues and priorities. We are a representative form of government and the sharp disagreements in society are reflected in this Chamber. We should not be surprised. But those disagreements should be respected, not suppressed. We will continue to have disagreement, but we will also have agreement. Right now, those bills where we would find agreement are not being allowed to come to the floor without a filibuster, with the express intent of slowing down the session, not debating the bill on its merits. This approach will prevent us from getting to many of our priority bills, but it will not dictate which bills those will be. We know that our constitutional mandate is to pass a budget. That's our first constitutional requirement to fulfill in this session. That is our constitutional requirement. But I believe that we all want more. There has been a request for a discussion of taxes. Those bills are not out of committee, so they're not ready to be scheduled. When those bills come out of committee, they will be scheduled. There's been a request for a discussion of the budget and the prioritizing of the excess cash in our reserve fund and excess cash in our general fund as a result of being above forecast. Those bills are not out of committee, so they are not ready to be scheduled. When those bills come out of committee by day 70, according to our rules, they will be scheduled. If this current strategy of filibustering every bill does not end, perhaps we

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all need to adjust to the expectation that this year, there will be fewer bills passed but potentially larger bills. I would also remind all members that this is a biennium and all the good bills that are not allowed to have debate this year will be available for debate in January of next year. That will certainly limit the number of bills heard on the floor next year, but it will allow this year's bills to be heard. At the present time, both sides of the difficult social issues have stated their positions with little room for compromise. I've had those discussions in private and that is my conclusion as of today. But I'm not giving up on the possibility of compromise. There will always be an opportunity to move forward if there are two willing parties. Now I want to share my plans for the remainder of the session. To maximize the number of priority bills we do debate and have an opportunity to pass, assuming that every bill will be filibustered, adding time for debate is the most appropriate option available to me, as Speaker. According to our calendar, the last day of committee hearings is March 24, which is day 50. The following week, beginning on March 28, day 51, we are scheduled to begin all-day debate. In my previous memo, I requested that senators also reserve evenings for debate beginning April 11, which is day 59, through the remaining days of the session. We need to better maximize our remaining days for debate. So I am announcing today that I intend to begin evening hours, two weeks earlier than originally announced. That means that beginning March 28, I would ask that you reserve your evenings for debate, in addition to all-day debate. Please reserve your schedule for evening debate, beginning March 28 through the end of the session. On Thursday of this week, I will provide a more detailed evening debate schedule. One last announcement. Just a reminder that before adjournment today, I need to have and, and the clerk needs to have your indication for your personal priority and committee priority bills. Thank you, Mr. President.

**KELLY:** Thank you, Speaker Arch. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR55. Senator Jacobson as a guest under the north balcony. That's Les Parmenter, from Thedford, Nebraska. Please stand and be recognized by your Nebraska Legislature. Mr. Clerk, for items.

**ASSISTANT CLERK:** Mr. President, the first item for consideration this morning is LB775, a bill introduced by Senator Lowe. It's a bill for an act relating to the Nebraska Racetrack Gaming Act to redefine terms; change powers and duties of the State Racing and Gaming Commission; and to repeal original section. The bill was introduced on January 18. It was referred to the General Affairs Committee, placed on General File with committee amendments attached. Discussion on the

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bill commenced on March 13. At that time, under consideration, was a motion, by Senator Machaela Cavanaugh, to bracket the bill until March 15.

**KELLY:** Senator Lowe, you're recognized for a refresh.

**LOWE:** Thank you, Lieutenant Governor. Good morning. If you tuned, tuned in last week, I was up speaking. And if you tuned in today, I'm still up speaking, but this time, finally, on another bill. Today, we're hearing LB775 that we started yesterday morning. This is a General Affairs Committee priority package. This package contains four bills: LB775, LB72, LB73, and LB232. LB775 is to redefine the term under the Nebraska Racetrack Gaming Act and change, and change and provide powers and duties to the State Racing and Gaming Commission. Since the voter initiative passed in November of 2020, we had two years with large substantive bills to set up necessary framework for the Commission to properly oversee the growth in horse racing and casino industries, here in our state. LB7-- or AM709 is the committee amendment that combines the following bills: AM72, a Ray Aguilar bill to redefine the term of gross proceeds for the purpose of Nebraska County and City Lottery Act; LB73, from Senator Aguilar, to change provisions relating to authorized uses for a County Visitors Improvement Fund; and finally, LB232, to change provisions relating to keno and provide for the sale of digital on-premise ticket sales. I encourage your green vote on the underlying AM709 and LB775. Thank you, Lieutenant Governor.

**KELLY:** Thank you, Senator Lowe. Senator Machaela Cavanaugh, you're recognized to close on the bracket motion.

**M. CAVANAUGH:** Oh. To close on the bracket motion? I thought I was doing a refresh on what was happening.

**KELLY:** You're recognized for a refresh.

**M. CAVANAUGH:** OK. Otherwise, I will be in the queue. Sorry. I, I guess I-- my-- it was my understanding that we were doing a refresh. I have a bracket motion to bracket this until March 15, which is tomorrow. So, at some point, I will probably be pulling this bracket motion and putting up another one.

**KELLY:** Senator Cavanaugh, I recognized you for a refresh on that.

**M. CAVANAUGH:** Yes, that was the refresh.

**KELLY:** OK.

**M. CAVANAUGH:** Now--

**KELLY:** Thank you. And now you're recognized to speak.

**M. CAVANAUGH:** Thank you. And I'm just going to get back in the queue, as well. Good morning, colleagues. Going to just continue doing what I'm doing. If people don't want to take responsibility for their role in the body and their positions of leadership, if they want to put it squarely on my shoulders, that's fine. I'm not going to stop doing what I'm doing. So, we will just pass fewer bills. And if, if nobody has any control over what's happening except for me, then I guess I'm just going to keep on talking. So that's fine. I've got plenty to say. So I have-- this is-- this-- a spectrum of disabilities within the developmental disability population. This is from LR283, from 2008. The phrase developmental disabilities is a legal term. It denotes a disability that occurred during the first 22 years of life, the majority of which occurred-- occur around birth or sooner. It is, in practice, a phrase most often used to describe the intellectually impaired, whose disabilities range from the very mild to profound. The phrase, however, is broad enough to include those who are health impaired. A common example of health impaired are those individuals with significant orthopedic limitations. Very often, this group of health impaired individuals has no intellectual limitation, but rather, face physical limitations, which carry with them mobility and communication challenges. Frequently, those who fall within the phrase developmentally disabled carry a dual diagnosis. The dual diagnosis often involves cognitive impairments, coupled with behavioral issue-- health issues and/or other health issues which limit an individual's ability to ambulate, see, hear or speak. So this is a, a report from-- here. It's about the waiting list, which, moving away from the term waiting list and to the register, because there's those on the waiting list that-- on the list, that-- it's not quite a waiting list. It's a little bit different than a waiting list. OK. The majority of those with intellectual disabilities falls in the moderate range. This group is functional. These individuals generally, generally stay in the school system for 21 years and with proper care and assistance can transition into an outside setting. At the mild end of the spectrum are those with mild deficits. With education and socialization, they become very functional. This is the area in which care providers have experienced the greatest success. Just as individuals with intellectual impairments fit on a broad spectrum, so to, do those with health and behavioral disabilities. Health impairments can range from mild problems, at one end of the spectrum, to those who are medically fragile, including those who take nutrition through a G-tube and breathe with the benefit of a tracheotomy. Similarly, their behaviors

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fall on a wide spectrum. At the, at the mild end are those behaviors which, with simple strategies, can be corrected and modified. By contrast, there are, at the other end of the spectrum, those whose behavior presents a significant risk or harm to the individual or to those around them.

**KELLY:** One minute.

**M. CAVANAUGH:** And I seem to have gotten this out of order somehow, so I will have to come back to this report because the pages are out of order. And if I continued reading that, it would make not very much sense. OK. So June 2, 2017, DHHS delivered BSDC report to the Legislature. The Department-- the Nebraska Department of Health and Human Services, today, submitted a report to the Nebraska Legislature with recommendations for the future of the Beatrice State Developmental Center, BSDC. The report, the long-term viability of state operated facilities for persons with intellectual and developmental disabilities was required by LB895 in 2016, and required DHHS's Division of Developmental Disabilities to develop a plan for future BSDC and Bridge programs in Hastings. This report is the culmination--

**KELLY:** That's your time, Senator. And you're next in the queue. And you have this 5 minute and then your close.

**M. CAVANAUGH:** --thank you. This report is the culmination of considerable research and significant stakeholder input, said Courtney Miller, director of DHHS Division of Developmental Disabilities. Our goal is to provide an integrated service array to address service needs with the developmental disability system. The report outlines 10 possible options for the future of BSDC. It was announced in March that the Bridge-- Bridge's program would end this month and its six residents would transition to other community-based placements. BSDC's current census is 109 patients. DHHS's recommendations are to keep BSDC open and offer additional services, such as acute crisis stabilization as a temporary admission to BSDC, respite services at BSDC, funded through the Medicaid waiver, and crisis intervention support and con-- consultative assessment services, funded as a Medicaid waiver service. Miller said the department's recommendation includes a 36-month ongoing evaluation of services and a commitment to the stabilization of the developmental disability system, as community capacity expands. Next is the report, a letter, dated June 1, from director Courtney Miller. Dear Mr. O'Donnell, guided by the director of the Division of Developmental Disabilities, staff have performed an in-depth analysis of the Beatrice State Development Center, BSDC and

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Bridge, in response to LB895. Please note, Bridge's individuals will have been transitioned from Bridge's, by June of 2017, due to the program's closure. The report, Long-Term Viability of State-Operated Facilities for Persons with Intellectual and Developmental Disabilities, provides information on nationwide trends, facility census trends, long-term structural needs, cost efficiency of services provided, role of the state-- of state-operated services in the continuum of care, preferences of individuals, their families and community capacity to serve individuals that currently reside at the Beatrice State Developmental Center. Persons with developmental disabilities thrive in community-integrated, person-centered living environments. LB895 has given the DHHS Division of Developmental Disabilities the opportunity to provide recommendations regarding the future of the Beatrice State Developmental Center. Report recommendations are focused on a graduated rebalancing of state resources by building community capacity, while continuing to improve the quality of care for those individuals who continue to reside at the Beatrice State Developmental Center. The recommendations of the report take into account a graduated transition that provides positive health, safety and personal outcomes for each individual served at the Beatrice State Developmental Center. Respectfully, Courtney Miller. And the report-- I'm missing the first couple of pages. The 2016-17 vocational information is first. And I'm not-- it's a chart. I'm not going to go through and read that. BSDC staff are committed to finding volunteer opportunities through socialization, community connections and interests [SIC] requests. There are numerous volunteer activities that are essent-- are seasonal and on occasion, once or twice a year. Some examples: ringing bells for Salvation Army at Christmas, refurbishing Memorial Day crosses from the cemetery for individuals who had resided at the BSDC, making decorations for BSDC--

**KELLY:** One minute.

**M. CAVANAUGH:** --Fun Day, making decorations Homestead Parade, cleaning toys after the fair for the Gage County Fair Board. Be a-- Beer Creek [SIC] community Events. Beer Creek Gifts [SIC] may also do additional events as they arise. However, there are typical functions we attend in a year. The number of individuals working at any given time varies from event to event, depending on the number of days, location, weather, etcetera. Many supplies are donated to Deer Creek-- to-- I'm sorry, Deer Creek-- it's Bear Creek. Bear Creek. These supplies are refurbished and-- or used in different ways for-- and for many different projects. There's the mall, month of December-- Frost Frolic Craft Show, Homestead Days craft show, mall winter craft show, mall spring craft show. 2016--

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**KELLY:** That's your time, Senator. Thank you. Senator-- for what purpose do you rise, Senator Erdman?

**ERDMAN:** Divide the question.

**KELLY:** Would you-- Senator Erdman and Senator Machaela Cavanaugh and Senator Lowe, could you approach? Erdman, you do not need to. It's the ruling of the Chair that the motion is-- or that the bill is divisible. Mr. Clerk, for the clarification.

**ASSISTANT CLERK:** Mr. President, the request for the division of the committee amendments would essentially divide out LB232 and then, consideration separately of the balance of the committee amendment.

**KELLY:** OK. Senator Lowe, you're recognized to open on the committee amendments. I understand you want to do the larger part of those first.

**LOWE:** That is correct. So we will be discussing LB775, LB72 and LB73. Later, after we come to a vote, we'll be discussing LB232, is the way I understand it. So, LB775 is a bill brought at the request of the Racing and Gaming Commission. Since the voter initiative passed, in November of 2020, we have had two years with large substantive bills to set up necessary framework for the commission to properly oversee the growth of some of the horse racing and casino industry, here in the state. LB775 has some tweaks to these laws that were expected, as these specific issues didn't come up until late last year. First, we're updating the statutory definition of licensed racetrack enclosure. Currently, the definition is premise at which the licensed, live horse racing is conducted. This clearly is insufficient and the new definition is far more inclusive. It states: a licensed horse track enclosure means all real property licensed and utilized for the conduct of a race meeting, including racetrack and any grandstand, concession stand, office, barn, barn area, employee housing facility, parking lot and additional area designated by the commission. Second, we are adding new language to allow the Racing and Gaming Commission to make recommendation on changes or additions to the statute, in, in the same way the Liquor Control Commission is allowed to make recommend-- recommendations to us. Third, we are creating an adjudication subcommittee of the commission and giving them the authority to investigate and respond to violations of Racetrack Gaming Act. This subcommittee will function in a similar manner to the board of stewards that exists in the statute currently, which responds to violations of the laws and regulations of the horse racing. LB775 had three proponents and no opponents at the hearing. It was voted out of

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committee on an 8-0 vote. LB72, the next bill contained in this new amendment, is-- which was introduced by Senator Aguilar. He is not here with us today, so I will go ahead and open on this bill. On LB72-- would amend the County and City Lottery Act. This is the act that governs the game of keno. This bill proposes to allow admission costs to any location offering the game of keno to be exempted from the gross proceeds of the game. The definition, found in 9-606, reads: gross proceeds shall mean the total aggregate receipts received from the conduct of any lottery conducted by any county, city or village, without reduction for prizes, discounts, taxes or expenses and shall include receipts from the admission costs, any consideration necessary for participation and the value of any free game-- tickets, games or plays used. LB72 proposes to add the language prohibiting gross proceeds from including any admission costs collected at any location where the lottery is also available to the public, free of any admission charge. LB72 is identical to LB764 that Senator Aguilar brought, in 2022, that was voted out of committee-- voted out of the General Affairs Committee, but did not make it on to the agenda, due to time constraints. LB72 was voted out of the committee, this year, on an 8-0 vote. Right now, Fonner Park does not offer the game of keno in its clubhouse because they would have to turn over the raised-- revenue raised from admission charges into the clubhouse, as part of the gross proceeds of the keno played there. They do offer keno in other areas of the grandstand where they do not charge admission for cost of entry. LB73 is another bill brought by Senator Aguilar. This bill proposes to allow funds from a County Visitors Promotion Fund to be used to improve facility, which the parimutuel wagering is conducted, if such facility serves as the site of the State Fair, board district or county agricultural fairs. Fonner Park is also home to many events, including the Hall County Fair, the State Fair, the Heartland Events Center, Grand Island Livestock Complex [SIC], the national agriculture exhibition events and Fonner Park campus. This bill was voted out of committee on an 8-0 vote. Thank you, Lieutenant Governor.

**KELLY:** Senator Erdman, you're recognized to speak.

**ERDMAN:** Thank you, Lieutenant Governor. Good morning. First, before I begin, I'd like to just thank Speaker Arch for his comments this morning. I appreciate that. Moving to the reason for the division motion, there are many questions I have about LB232. One of those being-- a friend of mine, talked to a, a person that has a keno operation and they-- it said, there's too many unanswered questions. Let the casinos get-- like, get going and reevaluate this in a couple of years. And so, what I'm trying to figure out, with LB232, what

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problem are we trying to solve here? And I was wondering if Senator John Cavanaugh would yield to a question. I don't see Senator Cavanaugh, so I'll, I'll just [INAUDIBLE].

**KELLY:** Senator John Cavanaugh, will you yield?

**J. CAVANAUGH:** Yes.

**ERDMAN:** Senator Cavanaugh, thank you. As, as you know, I did speak to you about what I was going to do before I did it. I thought it was appropriate that you understand this. So briefly, explain to us what problem were you trying to solve with this bill?

**J. CAVANAUGH:** Are you talking about the LB232 bill, that's--

**ERDMAN:** Yes, sir. Yes, sir.

**J. CAVANAUGH:** --the division that we're not talking about right now?

**ERDMAN:** Yep.

**J. CAVANAUGH:** Sure. So LB232 is a bill that would allow for people to buy a keno ticket on their phone, when they're in an establishment that is already licensed to operate and sell--

**ERDMAN:** OK.

**J. CAVANAUGH:** --keno tickets.

**ERDMAN:** I understand that. So why is that an issue?

**J. CAVANAUGH:** Well, in-- I mean, there's a lot of different reasons, but one of them is just efficiency. So bars and restaurants that sell keno tickets, they have to take people off of the floor, either being a waiter or a waitress or a bartender, to sell the keno ticket. So if they have an option to do it through a mobile platform, that would save those bars, restaurants, some money and some efficiencies.

**ERDMAN:** OK. So I have, have several questions about the account that's going to be set up, if you, if you could-- I don't know if you need to have a copy of the amendment there.

**J. CAVANAUGH:** I can try. I don't have it in front of me, but--

**ERDMAN:** But let me ask you this. It is what it says. A lottery operator may allow participants to create an account to be used for lottery play. Such accounts may only be funded with cash, a debit card

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or a debit card, the cash balance or the payment, the payment of an application or a transfer from the deposit account to a financial institution. So does one have to have the permission from a lottery operator to set up such an account?

**J. CAVANAUGH:** Well, you'd have to have-- the lottery operator would have to establish a-- essentially, an app that you could use.

**ERDMAN:** Can you say that again? There's a lot of noise. Can I have a gavel, please? Can you repeat that, Senator?

**J. CAVANAUGH:** So the-- what you just described there is essentially an app that the lottery operator say, Big Red Keno, would create and then their, their customers could use that app.

**ERDMAN:** OK. So, so then it goes on to say that or transfer from the deposit account, any financial, any financial institution. A lottery operator may also allow the participant to deposit money in that account. So does the, the lottery operator have to give the person permission to put money in that account?

**J. CAVANAUGH:** Does the lottery operator have to give permission to-- I'm sorry.

**ERDMAN:** Yeah. It says the lottery operator may also, may also allow a participant to deposit prize money into the account. They have to have permission from the lottery operator to do that?

**J. CAVANAUGH:** Well, so you're talking about winnings.

**KELLY:** One minute.

**ERDMAN:** Yes.

**J. CAVANAUGH:** So, yeah, the lottery operator could basically refund money into their account when they win a round of keno.

**ERDMAN:** So it says they may allow. So I don't understand exactly why the lottery operator would have to be involved in my account if I have an account set up to, to do lottery trade-- trading.

**J. CAVANAUGH:** They don't have to be. You don't have to, you don't have to have a game. You don't have to have the app. You don't have to participate.

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**ERDMAN:** OK. So if I set up an account with a financial institution, do I have to have a separate account for each location that I play keno?

**J. CAVANAUGH:** Well, that would be up to each location if they want to-- if they're part of a say, if they're all Big Red Keno, I think every Big Red Keno location could have the Big Red Keno app, but Ralston Keno may have a different app.

**ERDMAN:** So then, if I attended a place that was part of Big Red Keno, all of those would use the same, the same account?

**J. CAVANAUGH:** I think they would. Yes.

**ERDMAN:** But do we know that for sure?

**J. CAVANAUGH:** Well, I don't think that they would be-- I don't think any institution would be required to participate in this program. And so, they could choose whether or not they're going to participate.

**KELLY:** That's your time, Senator.

**ERDMAN:** Thank you.

**KELLY:** Mr. Clerk, for a motion.

**ASSISTANT CLERK:** Senator Cavanaugh, do I understand correctly that you are withdrawing your bracket motion to March 15 and offering instead, the motion to recommit--

**M. CAVANAUGH:** Yes.

**ASSISTANT CLERK:** --LB775?

**M. CAVANAUGH:** That is correct. Thank you.

**KELLY:** Then, Senator Cavanaugh, you are recognized to open on the recommit.

**M. CAVANAUGH:** Thank you, Mr. President. OK. So the Clerk's Office is currently working on dividing the question. And I have a motion to recommit to committee. And then, there will be a bracket motion coming after that. So until then, I am just going to share some things. First, I want to share, it is March 14. I talked about this yesterday. Happy Pi Day. It's not like actual pie, but we should all celebrate by eating pie. You could have pizza pie if you don't care for the sweet pie. But yes. Happy Pi Day, 314. And then, you know, of course, it goes on and on and on, beyond that. So I am going to just continue

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sharing testimony that was sent to me from individuals for LB574. This is from a doctor. I share this story of one of my patients who has recently come under my care. All statements that I have personal knowledge of, I-- since I assumed her care are faithfully, faithfully recounted here. Names have been changed for obvious reasons. This is what these two bills are doing to a Nebraska family. And this is LB574 and LB575. These are the choices being forced upon a loving mother and her two children who, Nebraska would be lucky and should be proud to have-- continue to call our great state home. I will continue to share more stories as I receive patient consent, consent to do so. Please give me your commitment that you will read them-- well, here's my commitment-- so that you can appreciate the consequences of your choices as legislators, elected to faithfully represent all of your constituents. You have had a great and profound civic trust placed upon you in seeking and being awarded your sacred role. For those who have opposed LB574 and LB575, you have the, you have the thanks of families like this. OPS, please read this story with pride at how this family has been supported and forward to Superintendent Logan, who I understand speaks Spanish fluently, with the following message. I'm not going to read this. It's in Spanish and I will butcher it, even though I studied Spanish for a long time. So I'm going to skip that part. I apologize for those who have voted to advance, please understand very clearly that you, personally, are the reason this family is already gaming out how they may leave Nebraska and never come back, shaking the dust off their sandals as they go. Nebraska. Honestly, it's not for everyone. It's supposed to be an ironic joke, not a cruel reality imposed by our government against the popular will. Please think of this family and many others like them, including those of your own fellow senators. And do not let your hearts remain, remain hardened. Regardless of how you proceed with great power in your hands, both history and your constituents are waiting to judge your legacy. For those who do not know us, I am Sarah [PHONETIC]. I have two children, a 17-year-old son, Eric [PHONETIC], and a 14-year-old daughter, Lacey [PHONETIC]. My son Eric is seven-- is a typical 17-year-old who loves all things sports. He plays basketball, football and swims daily at our neighborhood city pool during the summer months. He works two part-time jobs outside of school and sports. My daughter, Lacey, was given the name Luke [PHONETIC] at birth. And for the first two years of her, her life, I loved her as my son. At the age of two, Luke started expressing a desire for all things pink and showed more interest in playing with dolls than trucks. The first few months, I thought it was nothing more than the fact that he was going to my sister's during the day and she had two daughters Luke played with. After a few months, my sister started

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sending me pictures during the day of Luke playing dress up in girl clothing, and it was clear Luke was very happy in that environment. At three years old, Luke started attending preschool at our church. When I would talk with teachers at parent-teacher conferences, they would tell me the dress up corner was Luke's favorite place to be, wearing dresses and high heels. I then started offering dress up clothing at home I picked up at Goodwill and they quickly became a daily staple for Luke to wear at home. At this point, I was pretty sure Luke was going to be gay when he grew up. I was very supportive of the gay community. I had stayed away from church for 15 years previously, largely over the LGBTQ issue. When I found a welcoming church in Omaha, I decided to go back so my children had that experience. At the same time, I began scouring-- scouring stores for pink boy clothes. I found polos, shorts, even dress shirts, but it did not take long to realize there was much more to this than wearing pink. When we would talk-- walk into Target, Luke's eyes would light up at racks of tutus and sparkles upfront. When I would show Luke the pink swim trunks I had searched hours for online, Luke would shrug and say, OK. During this time, I started talking with a friend who was gay. I was looking for validation from a gay man that this was all good. I was raising a gay son. And look, I am completely on board with it. My friend was extremely supportive, but continued to tell me to keep listening to Luke, that his journey might not be that simple. He would bring childhood pictures of himself wearing a dress to show Luke and Luke which shine with envy. Between the ages of three and four, Luke asked me one night why God made a mistake and made him a boy. He went on to ask if he took a knife and cut off his penis, if that would make him a girl. I had no idea what we were dealing with in that moment, but without skipping a beat, I affirmed immediately that God does not make mistakes and however Luke felt, God intended it and it was OK. From that moment forward, my eyes were truly open. My friend connected us with the community resources. We found a counselor who, although she did not have patients this young, she had counseled gender non-conforming youth. It was during this time that Luke became potty trained. I-- a prize I had offered Luke was to go to Target and pick out big boy underpants. I will never forget the day we went to Target. I was pushing him in the cart and we went to the boys section. I started pointing out superhero underpants and asked what he wanted. He wasn't saying anything. When I stopped and turned and looked around, he looked sad. I asked what was wrong and he said he was hoping he could have princess underpants. I knew at that very moment, standing in Target, I had a choice. I could crush my child's anticipation of successful potty training or I can make him the happiest child possible and let him select the underpants he wanted. It was not a

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hard decision. I took him from the shopping cart and said, lead the way. He ran through the clothing section and I found him staring dreamily-- dreamy-eyed at Cinderella underpants. From that moment forward, I knew I was going to listen to my child, truly listen. We proceeded to pick out just about every pair of princess underpants that day. My child was the happiest I had ever seen him. At four years old, when we were on our second year at preschool, he-- we had started fully shopping for clothes in the girls aisle and allowing Luke to wear clothing outside of the house. The teachers and staff fully encouraged Luke. And I made sure I was there every day for drop off and pick up, to shield Luke from the looks received from other parents. When it was time for Luke to start kindergarten, we contacted the school, prior to start and met with both Luke's teachers and school administrators. We are in an OPS school and I can honestly say, we are blessed by this school. From the first meeting, the school was supportive. They arranged meetings with the teachers and the counselor. We developed strategies for teachers to use if students questioned Luke's gender. Because it was a one-stall bathroom the class used, the bathroom was a non-issue. I recall two days before school started, Luke was walking around the house with his pink backpack we had purchased. I was working and stopped to ask if he was sure he wanted to use that backpack. I asked him if he wanted to rehearse what he would say if kids made fun of him. Luke walked up to me, put his hand on my knee and said, mom, it's OK to be scared. I'm going to be brave. I can be brave for both of us. As I held back tears and hugged him, I knew this child had more bravery than I could imagine. Throughout our kindergarten year, Luke continued--

**KELLY:** One minute.

**M. CAVANAUGH:** --thank you. Luke continued to grow his hair out, wear dresses to school and use the boy bathroom. He received some questions from time to time from students, but raised more eyebrows and frowns came from the parents. Luke still chose to go back every day dressed as a girl. He brought a whole new definition to the word brave for our family. I'm going to stop there, because if I keep reading, I'm probably going to be a hot mess, so I will yield the remainder of my time.

**KELLY:** Mr. Clerk for a priority motion.

**ASSISTANT CLERK:** Thank you, Mr. President. Senator Machaela Cavanaugh would move to bracket the bill until May 16.

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**KELLY:** Senator Machaela Cavanaugh, you're recognized to open on the bracket motion.

**M. CAVANAUGH:** Thank you. Thank you, Mr. President. OK. So I've got another 10 minutes on this. I think somebody is in the queue. It's kind of hard to tell from here, but I think somebody else is in the queue. And then, well, I'll get in the queue. I'm going to take a pause from Luke's story because it was getting difficult to read how brave this little kid is, which it shouldn't be. I-- it's difficult to read because it's just a really-- that's a really amazing kid, a really amazing kid. And I hate to think of grownups being the ones that are inflicting pain on a child in school. I am-- thank you. Just getting a glass of water. I am going to shift topics here and go back to an oldie but a goodie, St. Francis. So when I was filibustering a couple of years ago, I-- oh. This actually isn't the right one, so I'm going to have to get a different document. When I was filibustering a couple of years ago, to-- well, I was trying to create a special investigative oversight committee into St. Francis Ministries, which was our contract into child welf-- for the privatization of child welfare. And it turned out to be a fraudulent contract. St. Francis Ministries has like, 20 indictments from the FBI. Maybe not them directly, I think their former CEO is mostly targeted in those indictments. Nebraska was defrauded. We were named in some of this, with the FBI. So anyways, I tried to and did create a special investigative oversight committee. And then, the Exec Board refused to put me on the committee. And in order to force the Speaker and the Exec Board chair's hands, I filibustered the budget. And while I was filibustering the budget, I was reading depositions from the lawsuit around St. Francis Ministries, and I didn't get through them all the way before we reached an agreement. The agreement was to create a joint committee between HHS and the LR29 Committee. LR29 was the resolution that created the investigation. So then, we had a joint committee that did an investigation. The investigation remains incomplete. The committee discontinued its work before actually getting any answers into how this happened. But here we are. So we did end the privatization of child welfare last year. It has transitioned back to DHHS. It is turbulent, to say the least. There hasn't been a great deal of oversight from the Legislature into this transition. And fortunately, we do have a Inspector General of child welfare, so they provide us with a report and information, but we really haven't been engaged in it. And it's something that I'm very passionate about and would like to get back to being engaged in, but, you know, so many fires all at once. So yeah, that's St. Francis Ministries. So I'm going to have to ask my staff to get me a different-- this is a

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different one, but this is a affidavit of Matt Wallen, which I can start reading. But what I was planning to read was the actual-- the deposition of Matt Wallen, but this is the affidavit of Matt Wallen, so I'll start with this. Matt Wallen was the director of Children and Families Department at DHHS during this transition. He left right after the contract with St. Francis Ministries was signed, but he was with the department during the RFP process. I, Matt Wallen, being first duly sworn upon oath, hereby depose and state as follows: this affidavit has been based on my personal knowledge and review of relevant documents. This affidavit is submitted in opposition to the Motion for Temporary Injunction. At all relevant times, I have been the Director of the Nebraska Department of Health and Human Services Division of Children and Family Services. Among other things, the division of CFS administers child welfare programs and services for the state of Nebraska. On July 3, 2019, the state of Nebraska and St. Francis Ministries, or St. Francis, executed a service contract award. The state of Nebraska selected St. Francis for the contract after, after the completion of the request for proposal evaluation process. Under the contract, St. Francis provides-- sorry-- case management and child protection services for abused and neglected children in Douglas and Sarpy Counties. Proposals for the contract were submitted by PromiseShip and St. Francis. Of the two bidders, St. Francis scored the highest overall points and won the contract. That's something we'll dig into later. Numerous subject matter experts were involved in the objective scoring process. St. Francis' has competitive scores in each of the categories, not just cost, led to its successful bid. So St. Francis' competitive scores in each of the categories, not just costs. Something we really should have digged into, as the investigative committee, what he meant by that. What were the other things that they com-- competitively scored? Because they actually were behind significantly, except for when they scored the cost. So if you had taken the cost, which was the fraudulent part of the bid-- well, that wasn't the fraudulent-- that was one of the fraudulent parts of the bid. If you took that out of the equation, they would have had no chance at getting it. So-- but we didn't ask those questions. We didn't dig in. PromiseShip had been providing these services under a previous contract, which expires on December 31, 2019, which, by the way, when PromiseShip entered into a lawsuit, the department sped up the transition, which caused problems, because speeding up a transition of child welfare of that magnitude is never a good idea. The contract with PromiseShip was an extension of a prior contract with PromiseShip. The newly executed contract with St. Francis is currently in effect and runs through June 30, 2024. So again, we entered into a contract with St. Francis, but then, because

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they had so severely underbid and they were about to-- they were not financially solvent, they held us hostage. We had to sign an emergency new contract in February of 2020. 2020-- nope, that was February of 2021. We had to sign an emergency contract to give them \$10 million or they were going to leave, like, like, literally, they were going to leave. They were going to shut their doors. They were going to shutter-- our child welfare contract, through 2024, was just going to disappear overnight if we didn't pay them \$10 million. They were holding us hostage.

**KELLY:** One minute.

**M. CAVANAUGH:** And we paid it because, obviously, we had to. What else could we possibly do, except for risk even further damage to the welfare of children, possibly losing children who were placed places, because their documentation was so horrific that we didn't know where all the kids were. And if they disappeared overnight, we would have literally lost kids. So the state had to pay \$10 million, which, by the way, we have never pursued recouping after the termination of the contract. But bygones, right. It's all in the past, so it doesn't matter anymore. At least that's what some of my colleagues say to me whenever I bring this up. This. I'm pretty sure the kids would beg to differ. But I think you said I have one minute left, so I will yield the remainder of my time and wait for my next time in the queue. Thank you.

**KELLY:** Thank you, Senator. Senators Wayne and Vargas have some guests in the north balcony. They are members from Habitat for Humanity Nebraska Affiliates, Nebraska Appleseed, Nebraska Civic Engagement Table, Collective Impact Lincoln, Front Porch. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. First of all, Senator Geist would announce an executive session for the Transportation and Telecommunications Committee, at 10:30, under the north balcony. In addition to that, priority bill designations: Senator Geist, LB165; Senator Ballard, LB732; Retirement Systems Committee, LB198 and LB103; Revenue Committee, LB727 and LB754; Appropriations, LB597, as well as LB598. Senator Walz designates LB516. Senator Wayne announces the Judiciary Committee has chosen LB341, as well as LB50. Senator Wayne has selected LB792 as his personal priority bill. Senator McDonnell, LB617, as a personal priority bill. Transportation and Telecommunications, LB683 and LB412. Senator Bostelman announces that LB425 is a Natural Resources Committee priority bill. Senator Wishart, LB709, as a personal priority bill. In addition, two new A bills, LB45A, by Senator Dorn. It's a bill for an act relating to

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appropriations; to appropriate funds to carry out the provisions of LB45; to fund-- provide to fund transfers; and declare an emergency. LB276, by Senator Wishart. It's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of LB276 for Session 2023; and to declare an emergency. That's all I have at this time.

**KELLY:** Thank you, Mr. Clerk. Senator Halloran, you're recognized to speak.

**HALLORAN:** Thank you, Mr. President. And good morning, colleagues. I hate to break the-- bring the conversation back to what we're dealing with on the floor today and interrupt Senator Machaela Cavanaugh's titillating conversation, about a four-year-old dictating to her adult parents what type of underwear they wear. But back to the bill at hand, I'd like to ask Senator John Cavanaugh to yield to a question, please.

**KELLY:** Senator John Cavanaugh, will you yield?

**J. CAVANAUGH:** Yes.

**HALLORAN:** Thank you, Senator Cavanaugh. We visited off mike a little bit about this, but I thought it was worth bringing to the floor and asking you on the mike. So this app that we're talking about, is that a readily available app or is that something that the, the keno operator would have to develop or provide?

**J. CAVANAUGH:** So, yeah. It doesn't-- there's not currently an app that exists, so the keno operators would have to develop one. And then, they'd have to submit it to the department and the department would have to approve it, if it-- or I, I guess, look at it and determine if it meets all of the obligations of the statute, being geofencing, age verification and, and make sure that it actually complies with this statute and the objectives, before it gets approved. And then, the keno operator could offer it-- offer that app for use at keno-approved facilities.

**HALLORAN:** OK. So do, do we have any idea what the cost is for the keno operators to develop an app to do all that?

**J. CAVANAUGH:** I don't know the cost of that, but I would imagine if it's their businesses and if it doesn't-- they don't stand to make money by creating the app and then promulgating it, putting it out there, I don't think they'll do it.

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**HALLORAN:** OK. So it may be just something that we're talking about, that may not be practical for them to do?

**J. CAVANAUGH:** And, and again, they don't have to do it. This is a voluntary program. This would just allow a keno operator to pursue this action. They don't-- they're not going to be required, under the statute, to offer this. And actually, no city is going to be, be required to offer-- allow it in their city. So the city of Omaha would have to first approve that the keno facilities in Omaha would be allowed to do it. And then the keno operator in Omaha, which is Big Red Keno, would then have to decide to make the app. And then each of the establishments within Big Red Keno could themselves choose whether they want to participate in the app or remain under the current system of just paper and crayon.

**HALLORAN:** OK. So this solves the problem of-- I think it was asked before, what problem does this solve?

**J. CAVANAUGH:** Labor shortages is one, efficiencies, cost, overhead, I think, are all issues that it helps solve for these businesses that, you know, operating at a margin. And labor is one of the bigger costs.

**HALLORAN:** Well, I have a little concern about the security of apps on phones. I think we all have a number of apps on our phones that are quite-- make our phones quite vulnerable to be hacked, but even the specific apps can be hacked. Is there a concern on your part that someone would be able to hack into one of these apps and play keno for that person that has the app and has put money and funds in the app?

**J. CAVANAUGH:** I don't have a specific concern about that. I mean, there's-- I think you're right that there's always concern about any technology. There are a lot of gambling apps out there now, you know, across the country. We just don't have any in Nebraska. And so, there certainly is-- the technology exists in other places. It just hasn't been implemented here and there's no specific app that's been approved by the state of Nebraska. But there's certainly other states that are doing similar things that have addressed these security concerns. And so, we have the benefit of that learning, from other people who are doing it.

**KELLY:** One minute.

**J. CAVANAUGH:** And so, we can learn from their mistakes and learn from their experience and have a, a, you know, a more robust app than other people who implemented one earlier.

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**HALLORAN:** OK. I appreciate it, Senator Cavanaugh. I would yield my-- I'm not going to, but I could yield my time back to Senator Machaela Cavanaugh, but I yield it back to the Chair.

**KELLY:** Thank you, Senators. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. I'm not sure why someone would say they could yield their time to me, but they won't. It's an unnecessary, rude comment. You don't need to yield-- you can just yield your time back to the Chair. You don't have to be rude about it. I was just doing some math over here. I don't know how late we're going to go on the all-day debate, but I'm figuring that we, including all the bills that are currently on Select, that we, we might pass 55 bills this year. And based on the comments made this morning by the Speaker, I am going to do this because, apparently, there's no interest in this body or in the leadership in coming to some sort of agreement on what we want this Legislature to look like. So the only thing I can do is stop bad things from happening by slowing things down, which seems to be a difficult concept for some people to grasp. But that is what I am doing. I am intentionally slowing things down so that fewer bad bills get passed. And for any of the people in the press that keep asking me, what about good bills? What about good bills? Look at what's on worksheet order. There's like, nothing, nothing that helps people. All of those bills are stuck in committee. All of those bills are waiting to have committee hearings. So I'm good, I'm good on us not passing anything, except for the budget. And even that is-- so, 55 bills. I don't know how many of those are budget bills. Usually it's around three, I think. Fifty-five bills. So start lobbying the Speaker now on the scheduling friends, because as much as he is saying that he doesn't have power, he does have the power over the schedule. So if you want your bill to be one of those 55, I would get it on the schedule now. Because what I heard this morning is that there's no willingness to work on this. There's no willingness to have conversations on this. Every conversation that was happening was not in good faith, at all. And so now, I just need to continue doing what I'm doing, because apparently there is not a willingness to do anything other than this. So I will continue on this path and I will no longer ask if people want to come together, because what I heard this morning is no. No, we do not. The Speaker is comfortable with passing 55 bills. Hopefully, the body is comfortable with passing 55 bills. That is where we are at. And I already have my motions drafted, so we're good for today. And I do need to figure out how many amendments we have on this bill, because they did divide the question. I suppose I could take the full amount of time on this first amendment

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and then, we don't get to any of the other amendments and then it just snaps back together. And so dividing the question--

**ARCH:** One minute.

**M. CAVANAUGH:** --becomes just, kind of, irrelevant, if we stay on the board with what we have on the board. OK. So I have one minute. I could yield my time to somebody and I could name that person and then say that I'm not going to yield my time to them for some weird reason. But instead I'm just in the queue next. And so I think I will just be in the queue next. Thank you.

**ARCH:** Senator Cavanaugh, you are recognized to speak and this is your third opportunity.

**M. CAVANAUGH:** Thank you. OK. So I was going to pull up to see what we have here, pending on the board. OK. So we have this AM856. And I don't know how many other amendments will be coming after this. If there are other amendments coming, if, maybe, there's a list that I could get, that would be helpful. OK. So PromiseShip had been providing these services under a previous contract, which expires on December 31, 2019. The contract with PromiseShip was an extension of a prior contract with PromiseShip. The newly executed contract with St. Francis is currently in effect and runs through June 30, 2024. St. Francis is a Kansas-based Child and Family Services agency, currently serving over 31 people with welfare services, including family preservation, adoption, foster care, residential programs, independent living and behavioral health, in Arkansas, Kansas, Mississippi, Nebraska, Oklahoma, Texas, El Salvador and Honduras. He said the [INAUDIBLE] part in the affidavit. They knew. Matt Wallen knew that they were doing business in El Salvador and Honduras. Fun fact: the CEO of St. Francis Ministries was bribing government officials in El Salvador and Honduras for his wife's superfood company. They were buying Visa cards, with St. Francis money, to bribe officials in El Salvador and Honduras. And apparently, the state knew they were doing business there. Awesome. Awesome. In its proposal, St. Francis provided a plan for the provision of case management and child protection services, which considered the changing child welfare landscape. So they provided a provision, a provision of case management and child protection services. The changing child welfare landscape, that is code for we have, in statute, caseworker to child ratios of one caseworker to 17 children. They had a triangle scheme, where they would count staff and kids, so their ratios seemed, sort of, maybe, in compliance with state law, when in reality, they weren't at all. And the case ratios were like 1 to 30. So that was that. In

its proposal, St. Francis considered the passage of the Family First Preservation-- Prevention Services Act, a federal law passed in February, 2018. The FFPSA allows the DHHS to claim federal funding for a broader range of services than previously allowed. DHHS elected to start claiming the federal funds available through the FFPSA, effective October 1, 2019. These funds will increase the number of children served in in-home placement rather than out-of-home placements. St. Francis further proposed providing family-centered treatment and intensive family preservation services in its bid. These services fall under the FFPSA and could receive federal reimbursement. They could, they could, if you were doing what you were supposed to do. When we had St. Francis, our FFPSA--

**ARCH:** One minute.

**M. CAVANAUGH:** --reimbursements plummeted, because they weren't in compliance with the federal regulations to receive those federal funds, that were supposedly the reason that they could do the contract for so much less money. In its proposal, St. Francis addressed the alternative response services families in Douglas and Sarpy counties already received from DHHS. Alternative response services provide a different way to respond to allegations of abuse and neglect, which allow the children to stay in homes. The AR program was a pilot of DHHS, which, based on results, DHHS plans to continue as a permanent program. DHHS expects the AR program to reduce the number of cases handled by the vendor in the affected area, as well as the cases counted in the case ratio. There you go. The case-- the transition of case management--

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

**M. CAVANAUGH:** All right.

**ARCH:** Senator Cavanaugh, you are recognized to close on your bracket motion.

**M. CAVANAUGH:** Thank you. The transition of case management and child protective services from PromiseShip to St. Francis for the effective area is underway. This transition includes a six-month plan, with clearly established benchmarks for delivery of St. Francis services in order to ensure a smooth transition, with no disruption of services or supports for children and families. They ended up not doing a six-month transition because they wanted to get this over with quicker, so that the lawsuit would go away. So they didn't take into account the safety and stability of children at any point. Adequate

implementation time is necessary to ensure a safe and orderly transition of case management and child protection services for the affected area, from PromiseShip to St. Francis. Thank you, Matt Wallen, for putting in your affidavit that adequate implementation time is necessary to ensure a safe and orderly transition of case management and child protective services, none of which we did. No, we sure didn't. We sure didn't. DHHS was like, nope, we're going to put that in an affidavit, in a public legal document and then we're going to not do that. As part of the transition, St. Francis has begun hiring employees, preparing offices, updating data systems, working with community stakeholders and developing a comprehensive provider network. As part of the transition, DHHS has developed a transition team that is planning, scheduling, reporting and monitoring schedules related to the transition process, developing internal and external communications with DHHS and other state agencies, the Legislature, the judiciary, service providers, constituents and stakeholders, analyzing budgetary needs across all phases of the transition, developing ongoing fiscal considerations and operating budgets, monitoring fiscal operations, assessing insurance needs and fiscal capacity to meet the contract requirements, assessing the ability to transfer equipment, real estate, leases and IT resources from promise ship to St. Francis, reviewing and inventorying existing services and vendor contracts, doing a gap analysis and identifying service needs and managing procurement to meet those needs and developing and executing new contracts with service providers, coordinating and overseeing the operational transition of case specific activities to support continuity of service and care to families and children, identifying staff and case-related training needs and determining technical assistance needs, developing and implementing comprehensive quality management activities, procedures requesting case specific actions designed to ensure the fidelity and completeness of case activities-- there's a lot to dig in on that, a lot-- and developing a team of experienced, high-skilled case managers, supervisors, administrators and operational support from other service areas that will be prepared to temporarily relocate to the affected area on short notice, in order to assist with caseload management, should the caseload of PromiseShip begin to increase or if critical staff leave PromiseShip. The transition plan includes a readiness review of St. Francis, to be conducted by the state of Nebraska in November, 2019. A readiness review team is developing protocols to administer this review. The team is developing a readiness review tool to assess the ability of St. Francis to begin taking on cases and duties identified in the service contract, by January 1, 2020. The readiness review team

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will provide technical assistance to address any identified deficiencies as part of the review. The transition plan must be--

**ARCH:** One minute.

**M. CAVANAUGH:** --completed by January, 2020, in order to ensure proper continuity of service for children and families in the affected area. If a temporary injunction were granted and resulting in cease-- cessation of readiness activities, employee hiring, systems training, stakeholders and provider education, policy education and reviews could result in the interruption of case management and child protective services for abused and neglected kids-- children in Douglas and Sarpy Counties. Thank you. I will withdraw my bracket motion.

**ARCH:** The motion is withdrawn. Mr. Clerk, for an announcement.

**ASSISTANT CLERK:** Reminder, Senator Geist will be holding an executive session of the Transportation Telecommunications Committee, at 10:30, under the north balcony. Mr. President, back to LB775. Next motion for consideration is Senator Cavanaugh's motion to recommit the bill to General Affairs.

**ARCH:** Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you. Just noting, looking up at the balcony, Nebraska does need affordable housing. OK. So if a temporary injunction-- is that where it was-- if a temporary injunction were granted, the state of Nebraska would not have a vendor preparing to provide these services, effective January, 2020. I think one could argue that we didn't have a vendor prepared to offer these services, effective January, 2020. The state of Nebraska would therefore be required to enter into an emergency contract, in order to prevent any disruptive-- disruption or stoppage of services to the affected area. In the event a preliminary injunction were issued, the state of Nebraska may enter into an emergency contract with St. Francis, in order to ensure continuity of services. D-- the DHHS would be prevented from amending the previous contract with PromiseShip to extend its duration. That previous contract with PromiseShip was itself an extended contract. No further extensions of the original contract with PromiseShip are permitted, but an emergency contract would be permitted. My light is still on and I don't think I'm next in the queue. I was going to get in the queue, but-- there we go. St. Francis assured the state of Nebraska it will manage and carry case loads in compliance with Nebraska Revision Statute 68-1207. St.

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Francis identified a total of 116 bachelor level staff, whose primary responsibility is case management based upon the population served. However, child welfare-case management services are always in flux, depending on the amount of child placements and whether the placements are in-home or out-of-home. Thus, the precise number of cases may differ-- be different today than it will be in January, 2020. Through negotiation and finalization of the awards, St. Francis has assured the state of Nebraska it will meet the intent of the statute without additional cost. The contract clearly lays out how St. Francis plans to achieve the ratios prescribed by law. Now, this is, this is fascinating. They acknowledge that the cost that the bid was for an increased case management ratio. And the state went back to them and said, no, you have to do 1 to 17 and you have to do it for the cost that you bid. And we need you to agree that that's-- was your intention. And so, then they had St. Francis come back and say, we will do the state statute case management ratios for the cost that we bid because they wanted the contract. Because they needed the money to maintain the scam that the very Reverend Father Bobby Smith was running in El Salvador and Honduras and scalping Cubs tickets and propping up his buddy's business, y market industries. So we knew that their bid was for larger case ratios. We went back to them and we said, no, we're still moving forward with this contract for the amount that you said and you're just going to lie and say that you can do it for that amount with this number of this amount money. So the case ratio is the thing that's really important about this, is that the bid-- financial bid was 40 percent less than PromiseShip. And that's like, whoa, how can you do this for 40 percent less? Interestingly, the caseworker line item in their budget, like how much they needed to pay the people that were going to do--

**ARCH:** One minute.

**M. CAVANAUGH:** --the casework, that was 93 percent less. How do you do child welfare paying 93 percent less for employees, when the whole thing is contingent upon having employees? That doesn't work. That never worked. It doesn't matter how much anyone lied, that math never worked. And no one ever cared. And this body never got answers as to why that was acceptable. Who decided that was acceptable? Who decided that we were going to disregard the facts and take that bid and endanger children? This body didn't care. We never finished our investigation. Thank you.

**ARCH:** Time, Senator. Senator McDonnell would like to welcome 43 4th grade students from St. Thomas More School, in Omaha. They are located in the south Balcony. Students, please rise and be welcomed by your

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Nebraska Legislature. Senator John Cavanaugh, you are recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Well, I just thought I would take an opportunity, since we're taking time, just to kind of talk about the General Affairs bill, in general and talk about the amendment. Well, it was LB323, and I guess I don't know what amendment were on right now. It's AM856, which is everything else. And so, but since we're talking about it, I may as well talk about it. So with the bill, LB323, as it is amended, is as a result of a compromise that took into consideration the testimony and criticisms of the bill by folks that are-- have historically opposed expanded gambling in the state. And one of their suggestions was putting a daily dollar limit on the amount. And I think they even suggested \$500 and we settled on \$200, as the compromise in the amendment, which makes it so that somebody, if they're on one of these apps, if they-- then they can't wager and-- more than \$200 in a day. And so that's a pretty good, I think, constraint on that. And so what would happen, if we pass this bill, is that a company, say, Ralston Keno, that is a keno operator in the city of Ralston, in Douglas County, decides that they would like to implement mobile platform ticket sales. They would develop an app or maybe purchase an app, and then they would have to submit that app to the state department. And then the department would have to review that and make sure it meets all of the requirements for age verification, geofencing and, and of course, those dollar restrictions that I just talked about. And so once that's approved, then they could go and offer that in their facilities in the city of Ralston, provided that the city of Ralston also agrees to allow them to do that. So you have to-- first, the state has to approve it, then the city has to approve it and then the company has to then offer it to their establishments. And then the establishments can decide whether they want to implement this system. So there's several layers of oversight. There is, of course, the voluntariness of the businesses, if it makes business sense to them to offer this at their establishment. And of course, there's the option for it at the level of the operator, being Ralston Keno or say, Big Red Keno, wants to even go down this path. So this is just one option that would be available to these businesses to find those efficiencies where they can. And of course, you know, the, the-- it has to be approved by the state to make sure that it meets with all those requirements. And so, one of the reasons that this originally came up, that I-- I guess I brought this bill originally, because I sit on the General Affairs Committee and heard testimony in my first session, from the city of Ralston about their concerns, about their-- how much they use keno revenue for public good in their city

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and, and how much concern they had about being, you know, something along the lines of less than a mile away from the Horsemen's Park Casino that's going to open on Q Street, I think it is, in Omaha. And so, that was-- this was-- originally, came up and they said, what is, what is it that they're interested in that's going to help them weather the storm and this was one of their suggestions. And so, I brought this as an amendment to that bill. And we actually got to Final Reading on that before we took it out in a compromise and then brought it as a standalone bill, again, last year. And this year, we brought it as a bill and, and have worked with-- to address the concerns of everybody involved to make sure--

**ARCH:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President-- make sure that this will actually help these businesses if they choose to implement it, but also make sure that it meets the regulatory obligation of being implemented in a way that's not going to have, you know, people being able-- run away expenditures, but also making sure that it is in compliance with the law and making sure that there aren't children that are able to play it and things like that. And so-- I think we've struck a nice balance with this-- with LB323 as amended, which is, again, not this amendment, but it will come up later. And I think all of the cities that rely on these funds have come and testified in favor of this bill and are very much in support of this. So I would say make sure you talk with your local communities about it before we finish on this. So thank you, Mr. President.

**ARCH:** Senator Conrad, you are recognized to speak.

**CONRAD:** Thank you, Mr. President. And good morning, colleagues. Initially, I just wanted to rise because I appreciated the debate that Senator Erdman is injecting into this General Affairs bill. And overall, I plan to support the package as is. I think these issues have worked their way through the Legislature before and I think they're deserving of resolution. I appreciate and understand Senator Erdman's perspective in dividing the question and some policy opposition that he has to certain components of the package emanating from General Affairs. But I think it's another good example of how there are a variety of opportunities available to every member to engage in substantive debate for the measures that are indeed before us and regardless of how other members choose to utilize their time on the mike. So when I was looking at the, the measure that Senator Erdman had concerns with and had a chance to review the record and talk with committee members about it, it seems to be kind of a

modernization of the approach that our body has been committed to for some time, in terms of how we facilitate keno and what that means for entertainment options for our citizens and the benefits, in terms of revenues and resources, that are available to our communities. It also sparked to mind, I have a, a much, much smaller cleanup-- technical cleanup bill before the General Affairs Committee, that deals with updating some technical aspects of our law, as it relates to new technology for the playing of bingo. This was an issue that was not on my radar screen, but, thankfully, a constituent brought forward this idea that would really help their business and other bingo businesses across the state to provide that, that kind of updated technology for playing bingo, that provides a source of entertainment for a lot of our citizens and has revenue benefits to the state, as well. So that will hopefully be coming out of General Affairs this year or next. It's, in some ways, I think, a, a lesser version of the technical updates and aspects related to Senator Cavanaugh's bill, which is part of the package, which I do support, in general. So I also wanted to take some time this morning to kind of provide an assessment about where we might be with the Speaker's announcement and as we chart our course together for the remainder of the session. But I think I'm getting pretty close on time and don't want to truncate those remarks, so I'll go ahead and punch in again. Thank you, Mr. President.

**KELLY:** Thank you, Senator Conrad. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Oh, thank you, Mr. President. So I just wanted to get back and talk a little bit about some of the positive things that, at least-- this is from Big Red Keno's community betterment impact, from 2021, that they have-- so Big Red Keno Omaha, as a lottery operator, has paid \$177 million to the city of Omaha and the, and the interlocal communities, including Bennington, Douglas County, Eagle and Valley. In 2021, keno funds supported the following projects in city of Omaha: two-- basically \$2.5 million for the downtown baseball park, \$2.3 million for Henry Doorly Zoo, \$780,000 for the Humane Society, \$661,000 for Workforce Solutions, \$476,000 for police cruisers, \$186,000 for Building Bright Futures truancy program, \$175,000 for Target Omaha Chamber of Commerce study, \$120,000 for Cleanup Omaha, \$65,000 for a protective custody with Catholic Charities, \$10,000 for U-turn. And then, it looks like, in Norfolk, \$312,000 for YMCA, 700-- \$177,000 for Skyview Park, \$56,000 for Johnson Park improvements, \$45,000 for riverfront improvements, which, in the General Affairs Committee, last night, we just heard a great bill. The-- Senator Dover's bill, that would allow for a change in the entertainment district statute that cities like Norfolk are interested in, because

the current, you know, statute we passed, I think they said, in 2012, basically, is only used by Omaha and Lincoln and-- because it requires street closing and enclosures, so smaller cities are looking for an option that wouldn't require them to close off their street in their main business district and allow for folks to go between different establishments that opt in to this program and they'd have to have-- there was a lot of, you know, requirements on top of it. It sounded like a good bill to me, but this made me think of this, because one of the reasons is downtown Norfolk, which I think is Norfolk Avenue, is a, a cool street with a lot of, you know-- I, I really appreciate the tree canopy there, but there's a lot of cool old buildings and restaurants and bars and things. But they are interested in creating a, a district. But I thought of it, because this talks about \$45,000 for riverfront improvement, which, one of the things they're talking about in Norfolk, to do that, they want to have this entertainment district that might include the riverfront Riverwalk, which they equated to something like in San Antonio, has a Riverwalk, as like a place-making destination for folks in the city of Norfolk or for people to come as tourists, as I did, go to Norfolk just to check it out and see what the town is like. So this type of money gets reinvested in communities in all these positive ways. But then also, that, you know, reinvestment then drives expanded tourism and opportunities and more interest in the community. So that's, you know, I guess, tying things together from other things we do here. \$43,000 for trails, \$11,000 for parks, all-- this is all in the city of Norfolk. I think I had another one here. City of Lincoln, they have \$2.1 million for parks, \$1.1 million for libraries, \$217,000 for human services. I thought I had another one, but I guess that might be all that I have on here, right now. But so, that's just a couple of examples of Omaha, Douglas County, Norfolk, Lincoln, Lancaster County and what this money currently supports. And like I said, originally, I got into this because of the concern about the decrease in the, in the revenue that was being generated and to help this industry survive in a changing climate, with a lot more other entertainment opportunities. And so, again--

**KELLY:** One minute.

**J. CAVANAUGH:** --thank you, Mr. President. Again, this sets up a pretty robust regulatory structure that will ensure that the games are secure and can't be abused, but also puts a dollar limit on it. But really, it's about efficiencies for these restaurants and bars for, you know, being able to offer this opportunity for people to play while they're there, without taking away precious resources of employee time from serving food and drinks to others. Thank you, Mr. President.

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**KELLY:** Thank you, Senator. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President, again. Good morning, colleagues. In looking at my agenda for what I have on my to do list today, I am very excited to join together with housing justice advocates across the state that are visiting their Legislature today, to talk about the various and sundry, important, meaningful options and opportunities before this Legislature, brought forth by senators across the state and across the political spectrum, to address our housing needs in Nebraska. And of course, those are directly related to human dignity and ensuring that we have safe, affordable housing for our citizenry across the state. And then also, of course, our attendant to our economic development and our workforce challenges. As we hear from stakeholders across the state and across the political spectrum about how important it is to increase our affordable housing options, which also come with really good jobs for our citizens. These are really important bills that I'm glad the advocates are here to shine a bright light on. I'm glad to see so many senators engage on these issues, including designating some of the housing measures as a priority. And I'm going to definitely make sure to keep that collaborative approach in regards to our housing policy, really in my mind, as we chart the remainder of our session and the remainder of our time together today. I just also wanted to respond briefly to the Speaker's announcement this morning and I have-- will continue to be a constructive partner to the Speaker and my colleagues, including Senator Cavanaugh, to try and forge a path forward that addresses her very serious and meaningful concerns that she's giving voice to. For those members, including myself, who are concerned about the bills that are divisive and harmful and infringe upon our citizenry's human rights and that put our state in a very negative light and recognizing the fact that other members feel very strongly about those divisive social issues and, and otherwise. I don't think that our conversation should ever stop. I think our conversation should continue. And perhaps when we're facing the most challenging issues, both in terms of strategy and substance, we need to figure out a way to stay in relationship with each other and to continue to talk, even when feelings, perhaps, are hardening or the issues become more challenging. But the only way that we're going to be able to negotiate a path forward for the remainder of our session is through continued communication and leadership. And that can't be from one side. It has to be a good faith effort, where leadership brings together people who are at an impasse for a variety of different reasons, to forge a path forward. That, that can't be a one sided solution to a two sided problem. So knowing that, we're going to need to figure out a way to set the agenda, to set our time

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together, to structure the debate, to structure the strategy and the substance. And we're going to have to stay in dialogue. Even if we momentarily meet an impasse, we're going to have to continue talking and we're going to have to try and find construct-- constructive--

**KELLY:** One minute.

**CONRAD:** --strategies. Thank you, Mr. President. I'm committed to being a part of that constructive dialogue, even if we hit a barrier in the short term. But we have to each be willing to give a little. We have to each be willing to get a little. We have to each be willing to take a step back and figure out what is most meaningful to us and our constituents, as we chart our remaining time together for the last half of the session. I know that there are frustrations all across the political spectrum, but we have the ability and the power and the skills within this body to navigate those challenges. But it will require a good faith effort at compromise and consensus. And I continue to be a part of those constructive discussions and will at each and every day that we're in session together. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Mr. Clerk, for some items.

**ASSISTANT CLERK:** Mr. President, the Natural Resources Committee will be holding an executive session under the north balcony at 11:00.

**KELLY:** Thank you, Mr. Clerk. Senator Hunt, you recognized to speak.

**HUNT:** Thank you, Mr. President. Good morning, colleagues, and good morning Nebraskans. I am-- I, also, am still hopeful for, for a resolution to the conflicts that we're having here in the body, many of which are interpersonal, based in policy. But a lot of it is also coming from stubbornness. And, you know, I think that anyone could look at what Senator Machaela Cavanaugh is doing and-- which I fully support and, and will support as much as I'm able to and say that's what the stubbornness is. But all along this entire process, we have been willing to negotiate. We have been willing to find an offramp to this tactic and we've been willing to find a resolution so that we can get back on track as a Legislature and continue the work that Nebraska needs us to do. You know, that has to come from both sides. We need chips on the negotiating table. We need to know what's what. You know, Speaker Arch is willing to give and that hasn't been, you know, brought to us, that hasn't ever been part of the conversation. And so, you know, I disagree with what Speaker Arch said this morning, that we've reached an impasse, that there's that he doesn't see a path

forward, things like this. I don't remember verbatim what he said, but that was the, the mood and the tenor of his response to what I said yesterday. Yesterday, I, I had the last word on the record, so to speak, before we adjourned, around 12:15. And I said that I thought that the scheduling, the way that expectations of this body, whether it's from our deeply inexperienced cohort of committee chairmen or from, you know, a lot of the very inexperienced leadership that we have in this body, that none of this has been shaped or mentored or massaged or managed in any way that I think we would come to expect in a Legislature. Typically, you would see some gatekeeping, you would see some management of time, you would see some management of what topics that were actually going to be taking up. Previous speakers would bring, you know, the radical far right authoritarian wing of his party aside and say, look, we're going to do one or two of your crazy things. We cannot do every crazy thing. We have to maintain some order. We have to be serious. We're not going to do all of this crazy stuff. And that hasn't happened this year. Every crazy thing is not only out of committee, but has a priority. I'm talking about Senator Kathleen Kauth's, Kathleen Kauth's hateful, bigoted, wrong headed, anti-child, anti-family, anti-medicine, anti-science bills introduced by Kathleen Kauth. She rolls in here into the Legislature and that's the first thing she drops. That's the priority for her district? It's inflammatory. And we said, if you don't start none, there won't be none. And here we are. Threatening things like late nights, short lunches, early mornings. That doesn't work on me because I'm not more tired or more frustrated than I am willing to defend children in Nebraska. The time that we have to do this work is short. We got 60 days or 90 days, but we also have four years or eight years. In the pie chart of my life, I hope--

**KELLY:** One minute.

**HUNT:** --thank you, Mr. President. I hope I have a long, robust life, as I hope all of us do. Eight years in the pie chart of my life is not much time, and I will not look back on my life and my time here in this Legislature with the platform that I have and say that I wasted it or I wasn't worthy of the gift or the privilege of this space, because I didn't stand up for Nebraska children. And to the question, what about the good bills? You're going to stop all the good bills. The good bills are still in committee. The good bills haven't had committee hearings yet. I have bills that weren't even scheduled for a hearing until last week. How is that good management? All of this rests at the feet of the Speaker, who has driven the tone and tenor of this entire Legislature. And it is up to him to get the session back on track. Thank you, Mr. President.

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**KELLY:** That's your time, Senator. Senator Mach-- Senator Slama, you're recognized to speak.

**SLAMA:** Thank you, Mr. President. And good morning, colleagues. I've been sitting back watching, after Speaker Arch's, I think, really fantastic speech, summing up where we are in session and what the consequences of that will be. But I just wanted to go a little bit more in depth on why we are where we are and how one person or a couple of people have been able to bring this session and all of the wonderful bills that we should be considering to a screeching halt, because they don't think we should be protecting girls sports and they also think that we should be mutilating kids with surgeries before they turn 19. So the structure of the Nebraska Legislature is very unique. It's nonpartisan. The speakership itself, not the Speaker, the speakership structure is the weakest out of any in the country. The Speaker has at least control over the session. With the Nebraska Legislature, there is no partisan organization. Debate rules are very lax in Iowa. They have set times for votes on bills, as in you can choose to talk, you can choose not to talk, but come hell or high water, we're taking a vote at this time. Partisan structure would also keep these long filibusters in check, because at the end of the day, nobody is here with a goal of passing or blocking one or two bills. We are here to serve our constituents in passing a budget, standing strong for our districts, supporting great bills that have bipartisan support like affordable housing. I'm grateful our Habitat for Humanity friends are here today because Senator Cavanaugh is blocking consideration of all affordable housing bills, whether you say they're urban affordable housing or rural affordable housing, from coming up, as a result of [RECORDER MALFUNCTION]. It's a disservice to her district, it's a disservice to the state. Anybody who's helping her with this filibuster is doing a disservice to the state, because we have actual good governance bills that are being blocked by this. In Banking, for example, we have bills that we need to pass to stay in compliance with federal regulations. Like, these are bills that have to pass. So if we're going to get up and say, oh, gosh, we're only going to pass 50 bills this year. OK. So the budget takes up six of those, because there are six different budget bills and there's no world in which we can just get through the non-controversial good governance bills with these tactics. And it's thanks to the nonpartisan structure. And people say, why on earth would you criticize the institution like that? And it's because the institution is failing the people of Nebraska right now. It's not any one senator, it's not any one political group. It is the structure of the institution itself, that allows one person to go rogue, any one person

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at any point in session could do this and just decide that the session's over and take 8 hours on every bill and that would be within the rules. It doesn't mean it's the right thing to do. But at the end of the day, we are saying that because a small group of people, maybe one, two, three, maybe four, depending on the day, don't want to debate difficult bills. And I don't know if LB574 and LB575 have 33 votes. We don't know because we haven't debated them. But the point of your job, whether you agree with it or not, is that we have those hard discussions. And that instead of holding the Legislature hostage so you don't have to have those hard discussions, you actually debate and you work with your colleagues and you point out shortfalls or benefits of bills that you see. You don't just go, well, I didn't get what I want. I'm probably not going to get what I want, so I'm just going to shut down session. And I'm not going to stand here while my colleagues personally attack Senator Kauth, who is standing up for what she believes in, unapologetically. And she's not bowing down. She's not going to set the precedent of withdrawing bills--

**KELLY:** One minute.

**SLAMA:** --just because they're hard to discuss or they might make you uncomfortable. Have that debate on the floor. Don't hold the session hostage. And as for the attacks against Speaker Arch, he is doing a fantastic job of working within the institution and working with the rules as best he can. He is doing a fantastic job and I appreciate him and I don't appreciate the personal attacks. When it comes to leadership, if you can't get 25 votes to get into a position of leadership, that's on you. If you don't like the leadership, you should run. And if you don't get 25 votes, that's your sign. So I would just like to get us back to the focus of what this filibuster is all about. We are keeping Nebraskans from having a functioning branch of state Legislature, from passing good bills, all because a tiny group of senators are scared that two bills they really don't like might have a chance of coming up to the floor for debate. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. I completely disagree with how Senator Slama has characterized what's happening here. And Senator Slama and I have a historic rivalry in this body. We came in in the same class, in 2019. We were compared to each other, I think unfairly, early on. As she reminds me, often, she's like, more than ten years younger than me. And so, it's, it's funny to me that, like, we're conflated together so often, but we are on very, very opposite sides of the

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political spectrum. And I think that she and I let that control artificially or sort of take over any kind of personal relationship we could have had. And honestly, in the last several months, we've made nice with each other. Too many people shock-- Senator Slama and I have been getting along really well. We talked throughout the time that she was studying for the bar exam. And when she took the bar, you know, I wished her luck. And that's genuine. And I think that she is a great leader who has a lot to be proud of and has a bright future in conservative politics or any kind of leadership that she chooses, because she's a genuinely talented woman. And why do I lead up with all of this? I guess this is what was on top of my mind, when I stood up to respond to what she was saying. Because I know that sometimes, people watch from the outside at what we're doing in the Legislature. And they see it as kind of a soap opera, with characters and personalities and storylines. And I don't want anybody to read that into my comments. But I don't see this process as the institution failing Nebraskans. I see this only as leadership failing Nebraskans. We have the best system of governance in the entire country, in Nebraska. Every state senator in Nebraska has equal power. We don't have any overt party influence on this Legislature. We don't get rewarded for fundraising, like they do in many other Legislatures. We don't get leadership positions based on, you know, how much our party boss likes us or something like that. Ostensibly, I mean, sometimes these things can be a factor. And I think now more than ever that people, like Senator Pete Ricketts, has flexed his own personal wealth so deeply into Nebraska politics, in a way that may be irreversible. I really hope not. But it's not the institution that has failed Nebraskans. All of this isn't happening because of some inherent flaw in the institution. It's happening because of a failure of individual leadership of people. You know, I have no apologies and no regrets about anything I've said about Senator Kauth. It is messy, irresponsible, hateful and bigoted to come in here and bring bills like that. And she knows it. She's proud of it. She loves it. She's reveling in the attention. And that's something that we see from, from lots of different senators, throughout time. Senator Groene used to do a similar thing. He-- Senator Groene used to come in and be deliberately provocative, sit back and self-satisfied and be proud of himself for throwing bombs into the Legislature. And that's the same thing Senator Kauth is doing. It's backbencher behavior.

**KELLY:** One minute.

**HUNT:** It's backbencher behavior. It's unserious. I'll say so. I don't care. It is what it is. I take huge issue with the way people have conflated personal opinion or a personal political view with rights

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issues, in this body. Senator Ben Hansen, when he talked about how they voted the abortion ban out of committee, he talked about how Senator Day and Senator Cavanaugh had different views. They have different opinions. When we're talking about LGBTQ youth healthcare, you guys are talking about different views and opinions. But that's not what this is. This isn't an opinion. It's a human rights issue. And that, to me, to say that all of these things are debatable, is taking it too far. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Machaela Cavanaugh, you're recognized to speak. This is your third opportunity and then you'll have the close on the recommit motion.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Hunt and Senator Slama for your comments. It's nice to have a conversation about what's going on here. Yeah. I mean, I am being stubborn. I'm not trying to hide that from anyone. And I am trying to get my way. It's kind of our job, for everyone in here, is to advocate and try and get what you want accomplished. I'm using the tools available to me to try and get what I want accomplished. And it's unfortunate that the session is going in such a way that, apparently, we can't negotiate. I thought we were negotiating. Before the speech this morning, I thought that we were actively in negotiations for the future of the session. I had entered into good faith conversations with the Speaker about the session. And I committed to not discussing the details of those and so, I'm not going to. But it was my understanding that that's what we were doing. The Speaker said something different this morning to all of us, so I am now recalculating my approach. In previous years, when Senator Chambers would be filibustering, there would be negotiations, there would be compromises made, there would be a resolution. I have seen very little of that, of attempting that, this year. And apparently even the attempts that have been made were not in good faith, as I find out publicly, this morning. So that's disappointing. That's frustrating. And then, talking about like, what's on worksheet order, other speakers, Speaker Shearer and Speaker Hilgers are the only other speakers I worked with and they would schedule things. They would have things on the agenda, they would have Democrats' bills on the agenda, because then Democrats would want whoever was filibustering to stop and they would be a real pain in the butt. And they'd come over to me all the time and they'd be like, I've got this, this, this. My thing is on there. Can't you see my thing is on there? Won't you stop? Won't you stop? Can't we just get to my thing? But we can't do that. I-- Democrats are not begging me to stop, because what are they going to beg me for? There's nothing on the agenda that Democrats want. And there is nothing stopping the Speaker from

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scheduling LB626 and LB574. They could have-- we could have finished debate on one of them already. When we did the bill we did yesterday-- finished yesterday, that could have been one of those bills. We could have gone the 8 hours on one of those bills already. So I'm not stopping the scheduling of those bills. The Speaker is not scheduling those bills. The Speaker is prolonging this by not scheduling those bills, because they don't have the votes. That's why they're not being scheduled, not because of anything I'm doing. I don't-- I'm not afraid of the floor debate. I'm not afraid to talk about them. I'm-- clearly, I'm talking about them all the time. They don't have the votes. That's why they're not being scheduled. Schedule them, have the debate. They'll fail on cloture. Let's all move forward. And now, LB626 will be scheduled, I'm sure, because we will have our colleague returning.

**KELLY:** One minute.

**M. CAVANAUGH:** We moved his seat back there. We'll have our colleague returning at some point. I'm sure we will make sure, whether it's medically OK for him or not, we will make sure that he is here for the cloture vote. And so, LB626 is probably going to be scheduled, sooner rather than later. LB574 doesn't have the votes. It just doesn't. And LB574 is personal. I can't think of another bill that attacks people, like, a specific population of people. And you shouldn't need to have a personal connection with someone in the trans community to care about that, but many of us do. And you are attacking and targeting.

**KELLY:** That's your time, Senator. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. We're really put in a tough position when we have nothing to lose. I am still hopeful for, for a resolution. I'm still willing to speak with Speaker Arch and have meetings with him, as we have been doing and to see what pieces there are on the board that we can move. But that hasn't been the conversation. And the more and more I feel like I have nothing to lose, the fewer things are on the negotiating table. Right. I would encourage the Speaker to talk with former state senators. I know that he's spoken with former speakers. I would encourage him to talk to former state senators who were here for a long time, who were term limited and get some advice, honestly, about how to move forward with a schedule, how to balance the competing interests and constituencies that he is in the position of managing, here in the Legislature. Because I do think that we're in a really unique space with this Legislature. We've got a, a new staff, we have a new Clerk. We have an extremely inexperienced cohort here, of lots and lots of new freshmen

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who are fresh off the campaign trail, where they were really owning the libs for most of the time. And you come in here into this body and find out it's not about owning the libs. Seems like Machaela Cavanaugh is owning most of you right now, but it doesn't have to be that way. Like, nobody wants this, literally. She doesn't want to do this. I don't want to do this. But we need to come to a serious resolution about how we're going to move forward with some of these bills. I know it's been mentioned that, maybe, the, the hateful, bigoted, anti-trans bill, introduced by Senator Kathleen Kauth, that maybe that would only be scheduled for 2 hours and then it wouldn't come back. That has-- you know, other speakers have done that in the past. I don't like that option because I want to, to kill that bill. I don't want anybody to come back in the future and reintroduce a bigoted bill like Senator Kathleen Kauth did and say, oh, well, it, it failed in 2023, but that was just because we ran out of time. That's not the narrative that I want us to have. We need to kill that bill, so that we set a precedent, that when you mess with people's civil rights in this body, it's going to mess up everybody's day. It's going to mess up the entire session. And if you want to bring a bill like that, whether it's an abortion ban or a bill perpetuating bigotry like Senator Kathleen Kauth has introduced several times, maybe an adult needs to step up. Maybe the Speaker needs to take some responsibility for that scheduling and say, look, we're going to do one bigoted thing. We're going to do one hateful, awful thing. We cannot do all the hateful things that you guys want to do, but let's pick one. You know, I have ideas about how we can move forward and they have not been taken seriously. And that's fine. You know, we, we can all start where we start and come to the middle somehow, in a negotiation. But, you know, it really takes two. Both sides have to be willing to do that. I have some thoughts about the General Affairs bill, actually, but I'll probably speak about that next. But speaking about--

**KELLY:** One minute.

**HUNT:** --these bills to impact trans youth-- thank you, Mr. President. I think that more than anything, there's a lot of ignorance in this body about what healthcare for gender nonconforming people really is. I mean, to hear Senator Slama, I heard her characterizing it as, you know, giving surgeries to people under 19 or she said something else that I forgot. But all of this way that we characterize this healthcare is really not accurate. It has nothing to do with how it's actually done in the real world. And it just shows that this, this opposition is really based in ignorance. It's not based in any kind of reality. And I would like to speak more about that, too. Thank you, Mr. President.

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**KELLY:** Thank you, Senator Hunt, but that was your third time on this recommit. Senator Moser, you're recognized to speak.

**MOSER:** Good morning, colleagues. Good morning, Nebraska. The current Legislature is different in some ways than other years. In some of the sessions that I've been part of, there was a, kind of, center of the party Republican element that would support some things that, that the current Legislature doesn't appear to be willing to support. And so, I think we need to operate with the people that we have to operate with. Everybody has 40,000 constituents and whoever gets the most votes winds up representing our district here. And we bring with us the ideas and hopes and, and worries of our constituents and what we've learned in, in running for office. And I don't think that there's any benefit in going back and trying to extrapolate previous Legislatures' treatment of minority bills and comparing it to now, because this is now and that was then. And I don't-- I think the new group of senators is more conservative than in previous Legislatures and we're going to have to just deal with that. I'm conservative, too. It doesn't-- that doesn't alarm me, but it does alarm some. Back to the mobile keno bill, I think that we've had a quantum leap forward in gambling availability for Nebraska citizens. The, the vote of the people said that they wanted casinos. I think we should honor that and make sure those casinos get started and succeed as well as they can. I don't think making keno more automatic or more convenient is a good idea. I think it's already doing very well. From my discussions with people who off-- offer keno in their establishments, they're, they're doing very well. And I, I just don't think we need to allow apps to make it quicker or faster, more convenient and in the end, more expensive for our constituents. Thank you.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to close on the recommit motion.

**M. CAVANAUGH:** Thank you, Mr. President. Yeah, I think I'll just call the house and roll call vote. Thanks.

**KELLY:** Thank you, Senator. There's been a request for a-- place the house under call. The question is shall the house go under call. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 16 ayes, 4 nays to go under call, Mr. President.

**KELLY:** The house is under call. Senators, please record your presence. Those on unexcused senators outside the Chamber, please return to the

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Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Raybould, Wishart, Vargas, DeBoer, Dover, Bostar, Briese, Wayne, Riepe, please return to the Chamber. The house is under call. Senator Briese, please return to the Chamber. The house is under call. All senators are present. The question is the motion to recommit to committee. All those in favor--roll call vote requested. Mr. Clerk.

**ASSISTANT CLERK:** Senator Albrecht voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Blood voting no. Senator Bostar voting no. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer voting no. Senator Briese voting no. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh not voting. Senator Clements voting no. Senator Conrad voting no. Senator Day voting no. Senator DeBoer voting no. Senator DeKay voting no. Senator Dorn voting no. Senator Dover voting no. Senator Dungan voting no. Senator Erdman voting no. Senator Fredrickson voting no. Senator Geist voting no. Senator Halloran voting no. Senator Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting no. Senator Ibach voting no. Senator Jacobson voting no. Senator Kauth voting no. Senator Linehan voting no. Senator Lippincott voting no. Senator Lowe voting no. Senator McDonnell voting no. Senator McKinney voting no. Senator Moser voting no. Senator Murman voting no. Senator Raybould voting no. Senator Riepe voting no. Senator Sanders voting no. Senator Slama voting no. Senator Vargas voting no. Senator von Gillern voting no. Senator Walz voting no. Senator Wayne voting no. Senator Wishart voting no. Vote is 0 ayes, 47 nays, Mr. President.

**KELLY:** The motion to recommit fails. Mr. Clerk, for motions. Raise the call.

**ASSISTANT CLERK:** Mr. President, first of all, an announcement that the Health and Human Services Committee will meet in executive session at 11:30 under the south balcony. Series of items, a notice of committee hearing from the Education Committee, as well as the Urban Affairs Committee. Series of priority bill designations: State Tribal Relations Committee has chosen LB474; Senator Riepe has chosen LB586; Senator Arch-- no, excuse me, the Business and Labor Committee has chosen LB267, as well as LB191; Senator Raybould has chosen LB327 as her personal priority bill; Senator Brandt has selected LB61; Senator Bostar, LB63; Senator Machaela Cavanaugh, LB348; Senator Fredrickson, LB256; Senator Hunt, LB307; Senator Jacobson, LB644; Senator DeBoer announces that the Planning Committee has selected LB157. In addition to that, new A bill, LB140A, by Senator Brandt. It's a bill for an act

relating to appropriations; to appropriate funds to carry out the provisions of LB140. And finally, Senator Vargas, amendment to be printed to LB404; and Senator Blood has an amendment to LB5. Mr. President, returning now to LB775, Senator Machaela Cavanaugh would move to reconsider the vote on motion 72.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open on the motion to reconsider.

**M. CAVANAUGH:** Thank you, Mr. President, colleagues. So I thought about-- well, I could put another bracket motion up. I could put an IPP motion up, but we'll just stick on this for a little bit longer. So when you're present not voting, you can make a motion to reconsider the vote. So that's where we're at. Colleagues, if you haven't yet, although the, the Clerk just read a bunch, you got, I think, 30 minutes to get your priority bills in, so use your 30 minutes accordingly. OK. I am going to move on to the deposition of Matt Wallen. And try-- I'm going to try and skip forward. Actually, you know what, I'll finish reading the affidavit first and then I'll go to the deposition. So we might not get to that today. Oh. And I'll get in the queue. If a temporary injunction were granted to -- we already did that. OK. St. Francis assured the state of Nebraska it will manage and carry case loads and compliance. OK. Can you-- can you-- thank you. It will manage and carry case loads and compliance. St. Francis identified a total of 116 bachelor's level staff, whose primary responsibility is case management, based upon the population served. However, child welfare case management services are always in flux, depending on the amount of child placements and whether the placements are in-home or out-of-home. Thus, the precise number of cases may be different today than it will be on January 1, 2020. Through negotiation and finalization of the award, St. Francis has assured the state of Nebraska it will meet the intent of the statute without additional costs. The contract clearly lays out how St. Francis plans to achieve the ratios prescribed by law. I'm going to push back on that. It absolutely does not lay out how they were going to achieve the ratios prescribed by law. Specifically, DHHS clarified, with St. Francis, the following individuals will provide case management services: a, eight therapists providing case management for family-centered treatment, eight therapists providing general case management, eight skill builder-- builders providing case management services for intensive family prevention services, 30 kinship workers providing case management services as part of the kinship homes, 62 case managers providing out-of-home case management. These individuals meet the requirements for case managers. How-- moreover, in-home placements are counted differently than out-of-home placements. Under

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Nebraska Revised Statute 68-1207, a single family constituent-- constituents-- constitutes one case-- sorry-- rather than each child in out-of-home placements constituting individual cases. DHHS expects the amount of cases, as defined in that statute, to decline with the passage of the and implementation of the Family First, F-- FFPSA. Because St. Francis provided a proposal with a differing case management approach based on a different model, DAS and DHHS sought clarification of the bid requirements set forth in St. Francis's proposal, as part of final negotiations of the sub award terms. Final negotiations of many terms was contemplated in the original RFP. Throughout these negotiations, however, St. Francis never changed or added to its proposal or increased its costs. St. Francis simply clarified in its response to DHHS, that there would be sufficient workers providing case management services to meet the requirements of the statute. So something-- it's true, but it's not true. Yes, they did clarify, in a response to DHHS, that they would have the case ratios for the original cost of the bid. However, they were told that they needed to state that, that they could not ask for more money. They did ask for more money. Well, they didn't ask for more money. They said that they would need more money to do that. And the department said, no, you don't and we need you to say that you don't. So good thing we stopped looking into that. Wouldn't want to know why we did that, why we endangered the lives of children. The agreement the state of Nebraska has reached with St. Francis represents the result of a full and fair evaluation of all proposals to deliver child welfare services in Douglas and Sarpy counties. The agreement will deliver improved outcomes for children and families we serve-- did not turn out to be true. DHHS will hold St. Francis to the requirements set forth in the contract. Also did not turn out to be true. That is the end of the deposition. So in addition to them, clearly, in writing, directing St. Francis to tell them what they wanted to hear, in order to move forward with the contract, they also, clearly, in writing, directed the individuals that were tasked with scoring the contracts, during the RFP process, they told them not to look into the feasibility of the claims being made in the proposal. The scorers of the contract were told, when they asked, hey, they say they can do X, Y and Z. Should we verify that? No, you should score based on the information that they have given you. If they say that they can do X, Y and Z, then they can do X, Y and Z. So that's clearly a full and fair evaluation of all of the proposals. OK. So that's Mr. Wallen's deposition. And that was in-- let's see if there's a date on this. That is dated July 22, 2019. I think that Mr. Wallen left a week or two later. I think he left at the start of August, in 2019. So then his deposition is dated-- that doesn't have a date on it. Well, I'll

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get to the date at some point. I had previously read a significant amount of the deposition, two years ago, but I will-- so I'm trying to kind of pick up, not reiterating it. Page 28, 29. OK. OK. This is where he talks about that he's left. So if you have a copy of the deposition, I'm starting on page 26. Do you have any understanding of the quality of the services provided by St. Francis in other states? Answer: I would say I was aware that they provided services in other states. Question: have you reviewed any articles, documents, reports, etcetera, prior to the procurement that related to St. Francis Case Management Services? Answer: no. Question: Mr. Wallen, have you seen media reports that you're leaving the agency? I've seen media reports that you're leaving the agency next week. Are those accurate? Answer: yes. And when will you-- when will your last day be with the division? Answer: September 8. Well, there we go. He left in September. Question: where will you be going? Answer: United Way of the Midlands, here in Omaha. Question: what position? Answer: senior vice president for community impact and analysis-- analytics. Question: I'm curious, Mr. Wallen. If you could describe how that opportunity came to your attention and when. Answer: it came to my attention--

**KELLY:** One minute.

**M. CAVANAUGH:** --at some point during the summer, I would say the July time frame. Question: how did you learn about the opportunity? Answer: I saw the posting online. Question: so this was a situation in which you saw a posting and responded to the posting for the position. Is that correct? Answer: that's correct. Question: and do you recall whether that was before or after the decision by DAS to deny PromiseShip's protest? Answer: after. Question: do you recall when you accepted the position? Answer: August 1. Question: has a replacement as division director been named to fill your position? Answer: no. Question: anyone on an interim basis? Answer: I believe Danette Smith will be taking over most of my responsibilities on an interim basis. Question: is there a point person that will be responsible for the transition, if there is to be a transition of services from PromiseShip--

**KELLY:** That's your time, Senator. Senator Kauth has some guests in the north balcony, members of the Nebraska Mac-- Nebraska Manufacturing Alliance. Please stand and be recognized by your Nebraska Legislature. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. I've got one more grievance and then I would like to talk about the substance of the bill. And I'm sure there will be no more grievances because I don't really, typically, have

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any. So the way our committees have been run this year, starting from the Committee on Committees process, which we got into in depth, like how wild that was and really abnormal that went down and the inexperienced chairs that we have, who are struggling to hire staff. We have committee counsels that are writing memos that aren't worth the paper they're printed on. I saw a couple committee memos that were just the one-liner of the bill. Typically, for a memo, you know, a, a committee counsel will write a whole thing about, maybe, the legislative history and the impact and likely testifiers and what the bill does. It's an objective thing. It's not you know, it never usually has a slant to it. It's just saying literally what the bill will do. And we've had committee legal counsel, this year, who just write the one-line summary of the bill and that's the whole memo. Ridiculous. Ridiculous. And people in the Clerk's Office, you know, we talked to them about this and they were aware and they said, you know, maybe, after we get done with hearings, we'll do a training for all of the committee staff and committee chairs. And friends, I think it's too late. I think that after all the hearings are done, which are taking forever, which, bills aren't even getting scheduled for hearings, to have a training for our deeply inexperienced committee staff, including the chairs, is probably too late. But what I've noticed today, as-- and yesterday, as the Clerk was reading across the different bills that have been prioritized, committees are prioritizing bills without any kind of consensus or conversation from the rest of the committee members. I want the press to hear that. Committee chairs are selecting committee priorities without any consultation, let alone consensus or debate, from the rest of the committee. And I'm concerned about, perhaps, a burgeoning trend of committee chairs using committee priorities as additional personal priorities. You know what I mean? If I were a committee chair of Business and Labor, apparently now, one thing I could do is select two committee priorities, as the chairman. And I could pick whatever those are going to be without ever talking to the rest of my committee about it. And so, what this process does is it basically brings bills out to the floor that might not necessarily be suitable as a committee priority. Because what they really are, are the personal priority of the chair, who makes these decisions unilaterally. And that is what I'm talking about when I talk about a failure of leadership. And that is what rests at the feet of Speaker Arch. The lack of training for committee counsel, clerks, chairs, the way bills haven't been scheduled, that apparently-- I mean, I'm going to assume good intention. I'm just going to assume ignorance. I'm not going to assume ill will, but that committee chairs are so ignorant, that they're

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using committee priorities as their personal priorities, without any consensus or--

**KELLY:** One minute.

**HUNT:** --consent from the rest of their committee. I have a problem with that. I think all of us should have a problem with that. We try to make our committees balanced, politically and ideologically, not necessarily by party, because there are moderates on both sides typically, not this year. We got quite a few moderate Democrats, I guess. But, but when committees are balanced and one party doesn't control every committee, that's sort of a check against having committee chairs run roughshod over the process, by just selecting whatever priority bills they want to come out. But that doesn't seem to be what's happening this year. You know, everybody's just getting their way. They're getting their way. They're going to get all their bills heard. They're going to get all their favorite bills brought to the floor.

**KELLY:** That's your time, Senator.

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

**KELLY:** Senator Frederickson announces some guests in the north balcony, teachers from the Omaha area and NSEA, Please stand and be recognized by your Nebraska Legislature. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Oh, thank you, Mr. President. So I just wanted to talk a little bit more about the revenue that's generated by keno. And so, I have a breakdown by county. And so this is the actual revenue. So it's not the dollars, necessarily, that go to each of those communities, but I just thought it'd be illustrative for folks. So Douglas County, which is where Omaha is, in the year, 2022, had a total revenue of \$141 million. So that's Omaha and Ralston and other communities, as well. Valley would be in there. So-- and then, I'll just kind of go down the list for you: Adams County, \$2.7 million, Antelope, \$2.1 million, Boone, \$462,000, Box Butte, \$165,000, Brown, \$323,000, Buffalo, \$10.5 million, Burt, \$429,000, Butler, \$220,000. Cass, \$4.6 million, Cedar, \$47,000, Chase, \$245,000, Cherry, \$11,000, Cheyenne, \$773,000, Clay, \$789,000, Colfax, \$617,000. I guess you probably get the picture at this point. I could keep reading the numbers. Let's see. I'll just do Lancaster, So we have a little-- another-- Lancaster, \$61 million. So this is a substantial amount of money-- Sarpy County, \$48 million. So this is a substantial amount of revenue

in these communities. And like I said, this goes to a lot of community betterment projects that I talked about earlier. In Norfolk, I talked about the riverfront redevelopment and a lot of the parks. In a lot of these communities, it does go to things like parks, fire trucks, Omaha uses them for police cruisers. And ultimately, this bill that's not the amendment we're debating right now, but it's the one we've been talking about most of the time on this overall conversation, is what these operators and communities are asking for, to make sure that, as we expand casino style gambling in the state of Nebraska, that we continue to-- that they're able to compete and offer a more modern product that folks are asking for and, and interested in participating in. So, I think, with that, I would-- this is property tax reduction is what I'm told. Really, it is. This is-- goes into these communities that fund their-- a lot of their services through property taxes and they use-- they would use these funds. And so, if these, if these funds start coming up short, they're going to have to replace that somehow. And so, this is really important to those communities, to make sure they have another source of income, aside from depend, depend-- depending entirely upon property taxes. So with that, Mr. President, I would yield the remainder of my time. Thank you.

**KELLY:** Thank you, Senator. Senator Riepe has guests in the north balcony, fourth graders from Wildewood Elementary in Ralston. Please stand and be recognized by your Nebraska Legislature. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. OK. Back to the deposition. Question: is there a point person that will be responsible for the transition, if there is to be a transition of services from PromiseShip to St. Francis? Answer: That's Ross Manhart. Question: and what is Mr. Manhart's title, if you know? Answer: Ross is an administrator. Question: what-- within the division? Answer: within the Division of Children and Family Services. Question: do you know what his involvement was in the RFP process? Answer: yes. Ross was involved in the RFP process. Ross helped with the drafting of the RFP. Question: do you know if Mr. Manhart participated in the evaluation of the proposals? Answer: Ross did not score the evaluations. Ross was the point person between the Department of Health-- of Administrative Services, DHHS procurement and the evaluators. Question: now, you mentioned a DHHS procurement. Is that a division within DHHS? Answer: there is a procurement function within DHHS that's part of the central operations. And there is a division director over DHHS's procurement and-- oh, sorry. Question: is there a division director over DHHS's procurement unit? Answer: it's not a director. It's-- I don't know if he's an administrator. I don't know exactly what the level that person

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is at, but there is a lead procurement person for the department. Question: who is that? Answer: Greg Walkin. Question: is he an attorney, if you know? Answer: Yes, he is. Question: so Mr. Manhart acted as the liaison for-- liaison or point person between DHHS procurement, DAS and then the evaluators, with respect to RFP 5995 Z1. Is that correct? Answer: can you restate that? Mr. Kinney, Can you reread, can you reread the back? The, the requested portion of the transcript was read back by the court reporter. Mr. Wallen: I want to be clear that Ross's, Ross's involvement was really the program side of things. So Ross's interaction would have been with DHHS procurement, Greg Wilkin [SIC] and Greg Wilkin [SIC] has the primary point of contact between DAS and DHHS. Is that clear? So if-- so, it's DAS, Greg Wilkin-- Walken [SIC]-- Greg Walkin with Ross Manhart. That was all by Mr. Kin-- by Mr. Kinney now. Question: OK. So you're saying that. Answer: Ross did not have a lot of, if any, direct contact I'm aware of, with DAS. The communications Ross would have had, would have been with Greg Walkin and Greg Walkin speaks with DAS. Answer-- Question: I understand. Would Mr. Manhart have had any contact with the evaluators for this RFP? Answer: if they had questions about it, they likely would have contacted Ross. Question: OK. We've used the word procurement this morning. And by that, I refer to the process with-- by which the agency seeks to obtain contracts from private vendors. Do you understand that term? Is that the accurate-- accurate, in your view? Answer: it seems accurate. Question: and so many-- so my question is-- to you is your background in procurement within the state of Nebraska, have you been-- I believe you testified that you had some involvement as chief of staff in some procurement. Is that accurate? Answer: yes. Question: and as chief of staff, would it be-- would your involvement have been primarily, primarily as an advisory role or informational role in procurements? Answer: likely advisory and informational. Question: you didn't decide any procurements while you were chief of staff. Is that correct? Answer: that's correct. Question: and didn't you-- and you didn't manage any procurements as chief of staff, did you? Answer: I did not.

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you. Question: would you-- could you estimate how many procurements you were-- had any involvement with, as chief of staff? Answer: once they were referenced-- I'm going to stop there, for now and get back in the queue. So, we never, as part of the investigation, we never questioned Mr. Wallen, Mr. Manhart or Mr. Walken. Never. They were never questioned as part of the LR29 investigation. Again, why the investigation is-- remains incomplete in my mind and probably in the mind of a lot of other people, who feel

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that there are no answers to what happened beyond our procurement process is a mess, which everybody knew that our procurement process was a mess. But clearly, there were people involved making decisions and we don't know if they were directed to make those decisions, who was directing them or what their motivations were, if they had any motivations beyond it, maybe they were just in contract.

**KELLY:** That's your time, Senator. Right. Senator-- OK. Senator Machaela Cavanaugh, this is your third time. You're recognized to speak.

**M. CAVANAUGH:** Thank you. So we don't know if they were directed to do-- take the actions that they took or if they were doing them out of incompetence, because we never asked them. We never interviewed them. We never brought them in. We did bring people in. We subpoenaed people. We swore them in. We asked them questions, but we never asked the people that were doing the work if anybody above them was directing them to do things the way that they did them. That is a key, essential missing piece in the investigation. And the LR committee decided that that was satisfactory. So we went through the process, we spent the money, we got outside legal counsel and we didn't do the investigation. We just did a couple of public hearings and wrote a report. And we had time. We had an additional year in which the investigation could have continued beyond when we did that report, but we did not do it. I asked the committee that we continue with the investigation. There was no interest in continuing the investigation. We had done the absolute bare minimum that we could, and everybody wanted to just move forward and pretend like none of it happened. And we don't have to hold anybody accountable. We don't have to hold anybody accountable for what happened to these kids, to what happened to this workforce. We can just move on through. We certainly wouldn't want to look and see if any of this was at the direction of the Governor, now Senator. Never got that answer, never got that clarified. So for me, if Pete Ricketts wasn't the one directing all of this activity, wasn't directing this contract, wasn't directing them making this shift, if he wasn't, that is an unanswered question. It remains unanswered and it should be answered. We should know, no, of course, absolutely, categorically, he was not involved. But we don't know that because we stopped. We stopped without questioning the people that were intimately involved, that were named in documents and depositions. We stopped. I don't know why we stopped. But I will continue on with this deposition. Question: and that's the foster care? Answer: that's the case management services. Question: yeah. OK. Answer: and I don't know if there was. I don't know the timing of it, but I know we also procured, for employment for services. And again,

that would have been advisory and informational. And I don't know the exact time of that, but I know that was another procurement that I was involved in. I believe that started with my predecessor. So I would have been in that chief of staff capacity at that time. Question: did you have any involvement in the procurement for managed care services? I think it's been referred to as Heritage Health. Answer: no. Question: were you aware of that procurement? Answer: I was aware of it. Question: and is Heritage Health-- is that a reference to Nebraska's Medicaid managed care program? Answer: yes. Question: were you aware that there was-- there were protests filed in the Heritage Health procurement? Answer: yes. Question: were you aware of what the outcome of those protests were? Answer: yes. Question: what's your recollection? Answer: that there was a notice of intent to award and there was, say, a reevaluation and then, that there was also the result of that was making--

**KELLY:** One minute.

**M. CAVANAUGH:** --an award that was not similar to the original notice of intent to award. Question: could you repeat that? The award was not similar? Answer: it was not the same as the original notice of intent to award. And again, that was a number of years ago in a different capacity. So that's my recollection of it. So is it your recollection, though, that as a result of the protest process, a different vendor was selected? Is that accurate? Answer: yes. So-- question: so let me try to say that a better way. Is it your recollection that in Heritage Health, the initial award notice provided the award to three vendors? Answer: yes. Question: and that-- as a result of that protest-- pro-- protest process, one of the original winning vendors was ultimately not selected. Is that correct? Answer: that's correct. I think I'm about out of time, so I will just wait till my next.

**KELLY:** Thank you, Senator. You're recognized to close, Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you. OK. Question: do you have an understanding of what the basis was for the protests that led to one of the original winning bidders ultimately being replaced by one that was not an original winning bidder? Answer: I don't recall. Question: do you recall what, what the CEO's role was in the final decision in Heritage Health? Mr. Cox: I object to the form of the question, because I don't know what you mean by final decision. Mr. Kinny: You can, you can answer. Question: you can answer. Answer: I'm not sure. You're asking-- can you repeat the question? Question: sure. I think you just testified that, in Heritage Health, there was an award notice that

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identified three winning bid-- bidders, correct? Answer: yes. And after that, the award notice, there was a protest, correct? Answer: yes. As a result-- question: as a result of that protest, one of the three winning bidders dropped out or was removed, correct? Answer: I testified that there was a notice of intent to award the three winning bidders. There was a protest and that the final award or the contracts were signed with three winning bidders. But the three winning bidders that were assigned the contract with, were not the same three winning bidders that were identified in the notice of the intent to award. One of the three did not make it through the protest or did not ultimately end up winning a contract. That was my recollection. OK. I'm going to stop there and I will yield the remainder of my time. Call of the house. Roll call vote.

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

**ASSISTANT CLERK:** 11 ayes, 10 nays to go under call, Mr. President.

**KELLY:** The house is under call. Senators, Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Wishart, Slama, Dover, McDonnell, Riepe and Geist and von Gillern, please return to the Chamber and record your presence. All unexcused members are now present. The question is the motion to reconsider. There's been a request for a roll call vote. Mr. Clerk.

**ASSISTANT CLERK:** Senator Aguilar. Senator Albrecht voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard 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 not voting. Senator Clements voting no. Senator Conrad voting no. Senator Day. Senator DeBoer. Senator DeKay voting no. Senator Dorn voting no. Senator Dover voting no. Senator Dungan voting no. Senator Erdman voting no. Senator Fredrickson voting no. Senator Geist voting no. Senator Halloran voting no. Senator Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting no. Senator Ibach voting no. Senator Jacobson voting no. Senator Kauth. Senator Linehan voting no. Senator Lippincott voting no. Senator Lowe voting no. Senator McDonnell voting no. Senator McKinney voting no. Senator Moser voting no. Senator Murman voting no. Senator Raybould voting no. Senator Riepe voting no.

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Senator Sanders voting no. Senator Slama voting no. Senator Vargas voting no. Senator von Gillern voting no. Senator Walz voting no. Senator Wayne voting yes. Senator Wishart voting no. Vote is 1 aye, 42 nays, Mr. President.

**KELLY:** The motion fails. The-- I lift the call-- raise the call. Senator Conrad announces some guests with her today under the north balcony, her mother and father, Dan and Stephanie Nantkes, and her son, Will, and her daughter, Caroline Conrad. Please stand and be recognized by the Nebraska Legislature. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Priority bill designations: Senator Ben Hansen has designated LB91 as his personal priority bill, and the Health and Human Services Committee, LB227. In addition to that, committee reports: Health and Human Services reports LB35, LB605 to General File, as well as five-- LB451, LB772, and LB792, with committee amendments attached. New A bill, LB52A, Senator Lippincott. It's a bill for an act relating to appropriations; to appropriate funds to aid in carrying out the provisions of the legislative bill; and to declare an emergency. Motion from Senator Cavanaugh to bracket LB77-- LB775 until May 17. That will be placed in the Journal. Name adds: Senator von Gillern to LB254, Senator Fredrickson to LB256. And finally, a priority motion, Senator von Gillern would move to adjourn until Wednesday, March 15, 2023, at 9:00 a.m.

**KELLY:** The question is shall the Legislature adjourn for the day? All those in favor say aye; all those opposed, nay. We are adjourned.