

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

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

DeBOER: Holiest of holy ones, today, I thank you for each of these 48 colleagues. I ask that you help me and all of them to see each, each one in your image. Thank you for our disagreements, which help us see other sides we hadn't seen before and help us grow and lift up the voices of those we haven't heard. I, I thank you for stirring in each of these ones hearts, the desire to serve. Thank you also for the support systems and families of each colleague and for their service in listening to us, forgiving our distractedness, and being our helpmates when the job gets all consuming. Keep us ever grateful for them and as we reflect on our faults during this Lenten season, thank you for the gift freely given of your grace, grace that we could not earn and did not deserve because your son bought this grace by emptying himself and in weakness and disgrace, gave the biggest gift of all. Stir in us the desire to follow his example and more fully give grace to others and teach us also to give ourselves the grace which you have already shown us, remembering that we too are made in your image. Grant each member who serves here the peace which passes all understanding. In the name of the one who is, who was, and always will be. Amen.

HILGERS: Thank you, Senator DeBoer. Senator Arch, you're recognized for the pledge.

ARCH: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

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

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

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

CLERK: I have no corrections.

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

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Floor Debate March 9, 2021

CLERK: There are, Mr. President, a series of things. Enrollment and Review reports LB4, LB21, LB23, LB25, LB44, LB77, LB149, LB159, LB174, LB248, LB253, LB302, LB363, LB373, and LB532 all reported correctly engrossed. In addition, Enrollment and Review reports LB509, LB510, LB337, LB35, LB93, LB94 to Select File, some of which have Enrollment and Review amendments. Health and Human Services Committee, Chaired by Senator Arch, reports the following bills to General File: LB19, LB108, LB121, LB306, LB570, and LB592 to General File with amendments. Those all signed by Senator Arch as Chair. A series of confirmation reports from the Health and Human Services Committee. Priority bill designations: Senator Aguilar, LB371; Senator Hilgers-- I'm sorry-- Senator Hunt, LB260; Senator Bostelman, committee priority, LB507; Senator Walz, LB542; and Senator Flood, LB649. Finally, Mr. President, new resolution, LR55 by Senator McKinney. That resolution will be laid over at this time. That's all that I had, Mr. President.

HILGERS: Thank you, Mr. Clerk. Senator Machaela Cavanaugh would like to recognize Dr. Joe Miller of Omaha, who is serving as our family physician of the day. Dr. Miller is seated under the north balcony. Please rise and be recognized by your Nebraska Legislature. Turn to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, LB14, introduced by Senator Blood. It's a bill for an act relating to audiology and speech-language pathology; it adopts the Audiology and Speech-Language Pathology Interstate Compact; it harmonizes provisions. Introduced on January 7, referred to the Health and Human Services Committee. The bill was advanced to General File. There are committee amendments pending.

HILGERS: Thank you, Mr. Clerk. Senator Blood, you're recognized to open on LB14.

BLOOD: Thank you, Mr. President, and thank you for the early-bird division. Fellow senators, friends all, this morning I bring you LB14, otherwise known as the Audiology and Speech-Language Pathology Compact. When it comes to licensure, navigating the various state licensing requirements, regulations, rules, and fee structure can be very challenging, especially to our military spouses who move approximately every two years from base to base. Unlike universal reciprocity that only allows for someone to enter our state and get to work, interstate compacts allow for these same military spouses to move from state to state and practice across state lines unencumbered. These compacts create reciprocal professional licensing practices between states and ensures the quality and safety of services and, most importantly, safeguards each state's sovereignty. There are over 40 states and territories who have adopted at least one of the nine

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Floor Debate March 9, 2021

available occupation-- occupational licensure compacts and there are more to come because of their high level of success. It is something each individual industry has enthusiastically supported and helped to create. However, I'd also like to point out that this is not an interstate compact versus universal reciprocity issue. States have both because they serve different purposes and I'd encourage you to come and talk to me if you have questions about those differences and the benefits. Nebraska reaps the benefits as a member of interstate compacts. Over the last five years, I've brought several of these kinds of compacts before you and the body has consistently supported this type of legislation. Now I'm hoping to have another compact move forward here in Nebraska for audiologists and speech-language pathologists. In our state, we have nearly 200 licensed audiologists and about 1,285 licensed speech-language pathologists. An audiologist is someone who diagnoses and treats the patient's hearing and balance problems using advanced technology and procedures. Speech-language pathologists, sometimes called speech therapists, assess, diagnose, treat, and help to prevent communication and swallowing disorders in children and adults. The purpose of the Audiology and Speech-Language Pathology Compact is to increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member states' licenses to enhance the state's ability to protect the public's health and safety. It encourages op-- cooperation of member states. It supports spouses of relocating active-duty military personnel. It enhances the exchange of licensure, investigative and disciplinary information between member states. It allows a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards and allows for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services. It's important to know that each state participating in the compact will not cede any regulatory autonomy. Nebraska will continue to regulate the actual practice of audiology and speech-language pathology and maintain their individual scopes of practice. Additionally, the requirements that must be met by states to join the compact are very clear and state that the professional must hold a home state license in a compact state, participate in FBI fingerprint-based criminal background check, and meet licensure requirements noted in the compact. This has been a standard in all of our compacts. The compact clearly addresses the obligations of the home state, obligations of the member states, how adverse actions are resolved, and compact funding and governance. The compact is an optional tool for those who choose to partake in the benefits of the compact. It is not a mandate nor requirement. In a nutshell, this compact creates a mechanism that allows the legal, ethical, and

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Floor Debate March 9, 2021

regulated practice of interstate practice by granting qualified audiologists and speech-language pathologists the privilege to practice in other compact member states, allows for telehealth to be practiced in member states, allows for increased access to underserved communities, and gives our military personnel and spouses a means to maintain their profession when relocating. I will note that this bill is also on the yearly policy priority list we receive from the Department of Defense Military Community and Family Policy Office to help our state continue on the path to becoming a leader in military-friendly policy. While this compact is not yet active, many states are rushing to put it into effect. There are currently six states that have enacted this particular compact. They are Wyoming, Utah, Oklahoma, Louisiana, North Carolina, and West Virginia. When ten total states adopt it, the compact will officially go live. With Washington, Oregon, Colorado, New Mexico, Kansas, Minnesota, Iowa, Wisconsin, Indiana, Kentucky, Georgia, Maryland, and New Hampshire all considering similar bills to LB14, it's certainly a possibility this will be enacted by the end of our year. So there's two final, quick points I want to make on this bill. The first is that I'm sure you'll agree that the state is going to be in a bit of a budget crunch in the biennium and likely a few years beyond. Let me assure you that joining this compact is not a costly endeavor. If you look at something like my physical therapist compact, the fiscal note was approximately \$2,000 every two years. That is absolutely a small price to pay for legislation that allows workers to hit the ground running when they move to Nebraska or to generate additional revenue by utilizing the skills in other states in person or via telemedicine and it allows professionals to keep their client base thanks to telemedicine. There's no downside to these compacts and one of the many reasons the Department of Defense has so heavily invested funds in their creation. There are more to come in the future and I've sat in on many of those meetings, so I'm excited to carry those as well. With that, I'll close by saying licensure is constitutionally a state power. Let's work together and move this voluntary, expedited, expedited pathway forward and facilitate multistate practice here in our state, along with what will soon be a total of ten states to implement the compact. I would ask for your green vote on LB14 and a green vote on the amendment that is mostly just harmonizing language, as well as an immunity clause that we've worked out with our trial attorneys here in Nebraska that was absolutely agreed upon by those involved with the compact and CSG and does not in any way put us in conflict with the compact should any concerns arise. Thank you and I urge your green vote today to move the amendment and the underlying bill, LB14, on to Select.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

HILGERS: Thank you for your opening, Senator Blood. As the Clerk noted, there are committee amendments. Senator Arch, as Chair of the Health and Human Services Committee, you're recognized to open on the amendments.

ARCH: Thank you. Good morning, colleagues. AM1 amends Senator Blood's LB14, which is the Audiology and Speech-Language Pathology Interstate Compact. All language in the committee amendment was either provided by or reviewed and approved by the Council of State Governments, which helps states shepherd compacts through the legislative process. On page 11, Article III of the compact, AM1 would require the Audiology and Speech-Language Pathology Interstate Compact Commission to approve the educational institution where an audiologist obtains supervised clinical practicum experience as opposed to the licensing board. On page 17, Article VII of the compact, the amendment would also clarify language stating that a member state may take adverse actions on the license in that state based on the findings of another compact state if the state follows its own procedures for doing so. On page 13, Article F of the compact, the amendment incorporates language from the Nebraska Association of Trial Attorneys, which was approved by the Council for State Governments. It states that regarding qualified immunity, actors on behalf of the commission would have no greater liability than a state employee would have under the same circumstances. The amendment would also clean up other language in the bill. Both the amendment and underlying bill were voted out of committee unanimously, 7-0. With that, I urge you-- your, your green vote on AM1 and the underlying bill, LB14. Thank you, Mr. President.

HILGERS: Thank you, Senator Arch. Debate is now open on AM1. Senator Murman, you're recognized.

MURMAN: I rise today in support of LB14 and AM1. LB14 adds Nebraska to the list of states which have joined the Audiology and Speech-Language Pathology Interstate Compact. Like measures to, to promote licensing and credential reciprocity, compacts are a tool to increase the state's healthcare workforce. I think we all recognize that Nebraska has a shortage of healthcare professionals and compacts in general and LB14 specifically are tools for addressing the shortage. I also have my own bill, LB390 at the request of the Governor, to increase the healthcare workforce in Nebraska through professional license reciprocity, which is a different tool than compacts for increasing the healthcare workforce. There is no conflict between reciprocity measures and compacts, which is why I appreciate Senator Blood cosigning LB390 and am speaking on behalf of LB14 now. My supporting LB14, the measure-- by supporting LB14, the measure will be enacting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

yet another tool for Nebraska to recruit additional healthcare professionals to our state. I know this is important in all of Nebraska, but especially in rural districts such as District 38. I encourage my colleagues to pass LB14 and AM1. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Murman. Senator Geist, you're recognized.

GEIST: Yes, thank you, Mr. Speaker, and I wonder if Senator Blood would yield to a question?

HILGERS: Senator Blood, would you yield?

BLOOD: I will.

GEIST: As I was reading through the bill, I just noticed something that just struck me and I wondered if you would explain it. It's on page 27 and it's Section J and it talks about the public hearing process and I wondered if you would explain that, please.

BLOOD: I will as soon as I bring up my bill here. And what is your concern about it, Senator Geist, and what page again, please?

GEIST: It's page 27 and it's Section J. It's line 17 through 19 and I-- it's not necessarily a concern. I think it's just different from a typical public hearing process, so I just wanted an explanation.

BLOOD: What I can tell you is that the language is consistent with all of the interstate compacts that we have passed. There's been nothing that's been changed from the previous compacts that you have voted for in the, in the past. I will-- I wish I had known this before the bill came to the floor. That would have helped.

GEIST: Yes and I'm sorry I just came up with this this morning, so I would have let you know. Typically, I do, but--

BLOOD: So your concern is that it's not typical, Senator?

GEIST: No, that's not my concern, I just wanted, I, I just wanted an explanation of that process and what it says, "If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing." And I'm not sure that I'm even opposed to that. I just wanted to understand the why.

BLOOD: Because that is standard with all the compacts. That's why you have the committee who is responsible for the participants within the compact that are from multiple states. It is standard practice for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

this type of licensure and this type of process. I'd be happy to talk to you about this between now and Select as well. But again, rest assured that this is something that has been agreed upon by every state that participates in the interstate compact. There is approximately a year and a half of planning that goes along with participants from states all over, lawyers from all over, and then DHHS groups from all over the United States.

GEIST: And that's fine, I-- Senator Blood, I'm not, I'm not, I'm not trying to put you on the spot and I'm also not questioning whether or not-- this is not a matter of whether I'm for the bill or against it because I am-- I'm not opposed to your bill. I was just curious about this public hearing process because it didn't stick out to me on the other compacts that we have passed and so I was just curious on why there was a difference from what I had read from a typical public hearing process and that was the basis of my question, so thank you very much.

BLOOD: You're welcome.

GEIST: Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Blood and Senator Geist. Senator Groene, you are recognized.

GROENE: Thank you, Mr. President. I'm in support of LB14, but my problem is I don't think it goes far enough. One thing since I've been here that always concerned me about occupational protectionism, I don't understand why we just can't pass a law that says if you are licensed in the practice of audiology and speech-language pathology in the United States, that you can practice in the state of Nebraska. It's reciprocal. We do all these little carve-outs and this is improvement to a carve-out of the protection of certain practices by their participants. But why can't we just-- I guess, Senator Blood, I know you've been doing this for the military for a long time because of their transient lifestyles and their spouses, but if you'd ask-- answer a question, Senator Blood?

HILGERS: Senator Blood, would you yield?

BLOOD: I will.

GROENE: Did you look at just-- because you've been doing this quite a while, looking at these laws and occupations, have you looked at just simple law that says we will reciprocate with any state in the Union on licenses?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

BLOOD: That's a really good question and the reason the DOD likes interstate compacts is that unlike reciprocity-- reciprocity allows us to come into a state and work, but when you are moving every two years, you need that licensure to be portable. So we can't force the other 49 states to, to agree to accept another person's license, but if they belong to the interstate compact, then every time a person moves to that state that belongs to the compact, they don't need to get a new license and it allows them to not only practice as soon as they get to the state, but it also allows them--

GROENE: All right, thank you. That does, that does make sense that it opens doors in other states when one of our citizens moves there or practices over there, but it still doesn't fix-- what-- Senator Blood, another question. If a military personnel is licensed in a state not in a compact and they move to the state of Nebraska and their spouse is one of these experts-- practices this-- can they practice in the state of Nebraska or do they have to come from a state that was in the compact?

BLOOD: Well, should Senator Murman's bill get passed, then it would allow them to practice here in Nebraska when they come.

GROENE: So this is in-- coincides with Senator Murman's bill. They work together?

BLOOD: Right, they work together. It complements our military families.

GROENE: Thank you, that's-- thank you. You answered my questions. I will support it, appreciate it.

HILGERS: Thank you, Senator Blood and Senator Groene. Seeing no one else in the queue, Senator Arch, you're recognized to close on, close on AM1. Senator Arch waives closing. The question before the body is the adoption of AM1. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

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

HILGERS: Committee, committee amendments are adopted. Continuing debate on LB14. Seeing no one in the queue, Senator Blood, you're recognized to close on LB14.

BLOOD: Thank you, Mr. Speaker. Just a rebrief-- a brief revisit to Senator Geist's concern. Again, I want to assure people that the language is no different than any interstate compact. It was agreed

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

upon by all participants. It may be puzzling when you start picking apart sentence by sentence, but I assure you there is nothing unique or concerning about that particular part of the bill and if anybody would like to speak to me between General and Select, I would be happy to address that. With that, I ask for your green vote on LB14. Let's continue to move Nebraska forward as a military-friendly state.

HILGERS: Thank you, Senator Blood. The question before the body is the advancement of LB14 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

CLERK: 43 ayes, 0 nays on the advancement of LB14.

HILGERS: LB14 is advanced. Colleagues, Senator Brewer is not here today and so we're going to pass over LB387 and turn to LB400. Mr. Clerk, next item.

CLERK: Mr. President, LB400, a bill by Senator Arch. It's a bill for an act relating to telehealth; it redefines a term; it changes requirements for insurers and telehealth consult-- consultations under the medical assistance program. Introduced on January 14 of this year, referred to the Health and Human Services Committee. The bill was advanced to General File. There are committee amendments pending.

HILGERS: Thank you, Mr. Clerk. Senator Arch, you're recognized to open on LB400.

ARCH: Thank you, Mr. President. Good morning, colleagues. LB400 is my priority bill for this session. It would change provisions with respect to telehealth with the intent of increasing access to healthcare services through telehealth. A public hearing on the bill was held on February 5 in front of the Health and Human Services Committee, was advanced unanimously with a committee amendment. There is no fiscal impact. LB400 is the result of a comprehensive interim, interim study I introduced last session that examined the role of telehealth during the COVID-19 pandemic. My primary objective with the study was to identify the practices and regulations that have been adjusted during the public health emergency in order to effectively meet healthcare needs. The study involved input from a wide variety of stakeholders, including the insurance industry, managed care organizations, hospitals, health centers, physicians, behavioral health providers, speech-language therapists, occupational therapists, pharmacists, AARP, CAFCON, and the Department of Health and Human Services. LB400 does three things. First, the bill would amend the Telehealth Act, which dictates telehealth parameters for the Medicaid

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

program. Currently, the act requires a patient to provide written consent prior to a healthcare consultation. LB400 would allow for a patient to have the option to give verbal consent in lieu of the written consent during the telehealth consultation. If verbal consent is given, a signed statement from the patient must be collected within ten days. The bill would allow the patient to sign the consent statement via electronic signature as well. LB400 would also eliminate a requirement that insurers demonstrate compliance with the signed written consent requirement and that was waived as well during the COVID pandemic. Both these sections of law have been waived during the pandemic and these requirements have been identified as unnecessary barriers. Second, LB400 prohibits commercial insurers from excluding coverage solely because of services delivered through telehealth, including services originating from any location where the patient is located. The originating site requirement-- originating site, by the way, is where the patient is located-- was one of the top areas of interest identified by stakeholders in the interim study. The Telehealth Act already allows for the delivery of telehealth services regardless of the patient's location or originating site, so the Telehealth Act deals with Medicaid. Currently, most insurance providers do not take originating site into consideration. However, there was a time in the past when a patient had to go to a clinic or like place in order to access reimbursable telehealth services. In order to ensure we don't go backwards, it's necessary to put the originating site language directly into statute. And third, the definition of telehealth in the Nebraska Telehealth Act and in provisions of statute gov-- covering commercial insurers is amended to include audio-only services for the delivery of behavioral health services only. Limited broadband, limited access to technology has led medicated-- Medicaid and commercial insurers to temporarily reimburse for some services delivered through audio-only means or the telephone during this pandemic. This, too, was one of the top areas of interest for those involved in the study. The audio-only allowance is limited to behavioral health, as mental health providers have, have really been the ones that have relied on telehealth for delivery of care. At the onset of the pandemic, telehealth utilization skyrocketed with some Nebraska health plans seeing increases between 2,000 and 7,000 percent. Nearly half of those outpatient telehealth visits were for behavioral health services. While most health services are now transitioning back to in-person care, behavioral health telehealth visits remain high. FAIR Health, which tracks telehealth data, reports that mental health conditions accounted for 57.35 percent of all telehealth claims in the Midwest region for the month of December 2020. Additionally, studies show most behavioral health services can be delivered effectively through audio-only means. The Department of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

Health and Human Services did have concerns that the term behavioral health in the green copy of LB400 was too broad, as it related to audio only. So we worked on an amendment which is committee amendment AM200. If it is OK with the President, I will go ahead and open on the committee amendment.

HILGERS: There are committee amendments and, Senator Arch, you are welcome to open on those amendments.

ARCH: Thank you. AM200, as I just stated in my opening, the term behavioral health in Section 1 of the green copy could be problematic, as there are some behavioral health services for which the use of audio only would not be appropriate and there could be implications with respect to federal reimbursement. AM200 would amend language to state that telehealth also includes audio-only services for the delivery of individual behavioral health services for an established patient when appropriate or crisis management and intervention for an established patient as allowed by federal law. This pretty much mirrors what is allow-- what is being allowed by DHHS and CMS during the pandemic. Audio only is allowed when appropriate for individual services, so audio only would not be appropriate for group therapy and its usage is only permissible with established patients. That is LB400 with AM200. Since the onset of the pandemic, the federal government has adopted over 130 different temporary changes with respect to telehealth services. However, relatively few adjustments were made with respect to Nebraska's telehealth regulations. Since the Nebraska Telehealth Act was first enacted, changes made by the Legislature over the years put our state in a great position to quickly shift to delivering telehealth services. The three pieces addressed in LB400, postponing and modernizing written consent, defining the originating site to be any location where the patient is located, and allowing audio only for behavioral health services when appropriate, will put us in an even better position if another crisis should keep people from receiving in-person care. Telehealth is not going to completely replace healthcare as we traditionally know it, but it is here to stay as a part of our healthcare system and it does provide greater access to vital services. I encourage you to vote yes on AM200 and yes on LB400.

HILGERS: Thank you, Senator Arch. Debate is now open on AM200. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you. Good morning, Nebraska. Good morning, colleagues. Senator Arch, would you yield to a question?

HILGERS: Senator Arch, would you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

ARCH: Could I please have a gavel? Thank you.

BOSTELMAN: Will you yield?

ARCH: I will.

BOSTELMAN: Thank you. Sorry I didn't come up and ask you this before, but as I was listening to your comments and introduction of your amendment to the bill, it seems like Nebraska-- what we're doing now is since we don't have good broadband access across the state, we're, we're now-- have an amendment. We're putting something in the statute to make the second choice, the third-choice opportunity. Is that, is that what I'm hearing? What we're-- what you're looking at right now, what this bill is looking at is providing to those who cannot have adequate broadband in rural Nebraska, that this is, is, is another way that they can do it, but, however, it's not ideal and in some cases, it's not appropriate?

ARCH: I would not use the last term. I would say it's, it, it is, it is permissible to use audio only. So in those areas where you do not have broadband, in particular, since we changed the originating site to be in the home, previously, again, I was saying that there were some commercial insurance programs that required the patient to travel to a clinic or a hospital where there was that broadband, but by changing the originating site to allowing this and not requiring the patient to go to another site, but can do it in the home, then we felt as though audio only was necessary for certain behavioral health services. So for instance, we know that it's for established patient and we know that it is for the individual. We didn't put CPT codes into the bill specifically, but it is for individuals, established patients, where the provider believes that audio only for behavioral health services would be appropriate. Not a second level of care, but it would be appropriate to provide audio only for, for behavioral health services. We didn't include all behavioral services because it was felt as though there were certain ones. Laying a phone on the middle of a table when you're doing group therapy trying to understand who's talking, probably not appropriate, but for others, we felt it was appropriate. And both Medicaid, commercial insurance, we all got together and said, yeah, that would, that would, that would be OK.

BOSTELMAN: Yeah. Thank you, Senator Arch. I'm not opposed to your amendment or opposed to your bill. I'm just pointing out once again, the lack of connectivity, the lack of response from our providers across the state to provide adequate broadband to people in their homes. So this once again highlights that need that we have and we continually, continually listen to providers who refuse to do that and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

I just want to make that point to everybody to, to understand we need to make some changes. Some differences need to be made. Telehealth, what we're talking about, telemedicine we're talking about, is critical, critical that happens. I was in Brainard last night, village of Brainard, 300, 400 people, they don't have adequate broadband. They don't have-- they can't get it in. The company-- Windstream is the company that provides it to them. They're in bankruptcy, so this is a problem we have in the state and I just-- I, I thank you for bringing the amendment. It is needed because we do need to provide these services statewide, but really to get to the bottom of it, to give, to give proper, adequate, needed services to our-- to the families, to the patients, and to our children, we really need to get that broadband out there. So I do support your AM200 and LB400 and, Senator Arch, if there's anything else you'd like to add, I'll, I'll yield the rest of my time to you. Thank you.

HILGERS: Senator Arch, 1:15. Senator Arch waives the opportunity. Thank you, Senator Arch and Senator Bostelman. Senator Kolterman, you're recognized.

KOLTERMAN: Good morning, colleagues. Thank you, Mr. Speaker. I rise in support of LB400 and AM200. I'd like to thank Senator Arch for bringing this bill. As you know, over the last few years, we've been working diligently to advance telehealth, whether it's actual audio or video, and I agree with Senator Bostelman. We need to expand our broadband, but at the same time, telehealth is a way that we can deliver healthcare services across this state to everyone and I'm, and I'm sure that as we develop our broadband, it will become even more pertinent. So thank you for bringing the bill. I appreciate it and I would, I would hope that we can get a strong vote in the positive for LB400 and AM200. Thank you.

HILGERS: Thank you, Senator Kolterman. Seeing no one else in the queue, Senator Arch, you're recognized to close on AM200.

ARCH: Thank you and I'll use this as a close for the, for the entire bill. It was a, it was a great process that we, that we engaged in with our interim study and, and we, we had many, many stakeholders involved. There were other things on the list that some of the stakeholders would have liked to have seen in the bill. We felt as though, first of all, the state of Nebraska is quite a ways, quite a ways ahead of other states. We're receiving calls that, that indicate we're the envy of some other states that have been very restrictive and very regulatory on their telehealth services. So that being said, we know that we have a shortage of providers and, in particular, we have shortage of providers in behavioral health. We have struggled

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

with how to exactly provide these mental health services and behavioral health services in these, in these underserved areas. Telehealth, without a doubt, is one of those opportunities that we have, so we just wanted to make sure that it was open, we allowed it, and the safety of the patient was kept in mind, but we did not want to get in the way. And so with that, I would encourage your, your support of both AM200 and LB400.

HILGERS: Thank you, Senator Arch. The question before the body is the adoption of AM200. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

CLERK: 46 ayes, 0 nays on adoption of committee amendments.

HILGERS: Committee, committee amendments are adopted. Continuing debate on LB400. Seeing no one in the queue, Senator Arch-- Senator Arch waives closing. The question before the body is the advancement of LB400 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

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

HILGERS: LB400 is advanced. Next item.

CLERK: LB389 was a bill originally introduced by Senator Sanders at the request of the Governor. It's a bill for an act relating to teachers; requires the issuance of certificates and permits to military spouses; it harmonizes provisions. Introduced on January 14, referred to the Education Committee, advanced to General File. At this time, I have no amendments to the bill, Mr. President.

HILGERS: Thank you, Mr. Clerk. Senator Sanders, you're recognized to open on LB389.

SANDERS: Thank you, Mr. President. Good morning, colleagues. Today I am introducing my personal priority, LB389, to better recognize the credentials of teachers that are military spouses. LB389 does three things. First, it updates teacher-- Nebraska teacher certification reciprocity for military spouses. Second, it grants a preliminary permit upon application after payment of the application fee and completion of a background check. Finally, LB389 requires the State Board of Education to make rules to expedite the processing of these applications. I have introduced this bill at the request of the Governor and I would like to thank him, his staff, and our cosponsors-- Senator Blood, Senator Brewer, and Senator Gragert-- for their help on this bill. The bill was heard in the Education

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

Committee. It was passed unanimously on an 8-0 vote. There was no opposition and it has no fiscal note or amendment and the bill was supported by the Bellevue, Millard, and Papillion La Vista Public Schools. Teacher certification is, is designed to be long term. However, military spouses are only often in one place for, for only two or three years. In 2018, the Governor worked with the State Board of Education to revise Rule 21, allowing military spouses to receive a three-year teaching permit in Nebraska with a valid out-of-state license. This bill improves on those changes. The Department of Defense names military spouse teacher certification as a key issue for 2021 and Nebraska currently only meets one of the three goals in this category. This bill would meet the other two. Additionally, the bill would help schools find more and qualified teaching candidates. LB389 reestablishes specific criteria for military spouse license reciprocity. The applicant must be a military spouse that holds a valid certif-- certificate and has held such certificate for one year in another state. This matches the period of time other states have used. The applicant must be in good standing in, in that state without pending investigation or complaints. They must complete a background check and pay any applicable fees. LB389 also removes barriers such as human relations training requirements specific to Nebraska. In order to speed up the process, LB389 would grant a preliminary permit upon the payment of the application fee and comp-- completion of a successful background check. This allows the person to teach while the application is being processed. Finally, the bill requires the State Board of Education to promulgate rules to expedite the cert, cert, cert-- certification process for military spouses. The Department of Defense has found nearly 70 percent of married service members say their spouse's ability to maintain a career has a moderate to large impact on their decision to stay in the military. This bill is an important step forward to ensuring spouses that are teachers to have the ability to do that quickly and with minimal burden as possible. I would ask for your green vote on LB389 so that we can advance it in Select File and continue to make our great state the friendliest for military families. Thank you, Mr. President.

HILGERS: Thank you, Senator Sanders, for your opening. Debate is now open on LB389. Senator Walz, you are recognized.

WALZ: Thank you, Mr. President. I just wanted to briefly stand up in support of Senator Sanders' bill and thank her for bringing this important piece of legislation. It is good for schools and it's good for military families. As we all know, we do have a shortage of teachers here in Nebraska and over the past year, we have seen even more of a decline of teachers and substitute teachers due to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

pandemic. Reciprocity will help us fill the needs of teachers for our schools and help us continue to provide the high quality of education that Nebraska enjoys and appreciates. So again, thank you, Senator Sanders. Great job and appreciate you bringing this bill. Thank you, Mr. President.

HILGERS: Thank you, Senator Walz. Seeing no one else in the queue. Senator Sanders, you're recognized to close.

SANDERS: Thank you, Senator Walz. Thank you, Mr. President. Again, I want to thank you for your consideration of this bill and I would like to ask you to give your green vote and thank you very much.

HILGERS: Thank you, Senator Sanders. Colleagues, the question before the body is the advancement of LB389 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

CLERK: 46 ayes, 0 nays on the advancement of LB389.

HILGERS: LB389 advances. Mr. Clerk for items.

CLERK: Thank you, Mr. President. Several things. Series of amendments: Senator Hunt, an amendment to LB250 and LB183; Senator Albrecht to LB113; Senator Linehan, LB181; Senator Ben Hansen, LB437; Senator Geist, LB500. In addition, your Committee on Education, Chaired by Senator Walz, reports LB527 to General File, LB322 and LB359 to General File with amendments. General Affairs, Chaired by Senator Briese, reports LB561 to General File with amendments. Senator Geist has selected LB408 as her priority bill for this session. New A bill: Senator Bostar introduces LB243A. It's a bill for an act to appropriate funds to implement LB243. And finally, Education and Health and Human Services offer confirmation reports. That's all that I had, Mr. President.

HILGERS: Thank you, Mr. Clerk. Next item on the agenda.

CLERK: Mr. President, LB274 was a bill originally introduced by Senator Lowe. It's a bill for an act relating to Nebraska Liquor Control Act; it provides for promotional farmers market special designated license; it provides for a fee; provides powers and duties. Introduced on January 12, referred to the General Affairs Committee, advanced to General File. I do have committee amendments pending, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

HILGERS: Thank you, Mr. Clerk. Senator Lowe, you're recognized to open on LB274.

LOWE: Thank you, Mr. President, and thank you, Senator Briese and members of the General Affairs Committee for making LB274 a committee priority bill. LB274 is another step in a multi-year effort to improve our special designated liquor license or SDLs. An SDL is a process that allows certain groups to sell and serve alcoholic beverages in special situations or in a way that is different than they normally are allowed. Examples of this are churches selling beer at a fish fry, craft breweries getting together for a beer festival, a bar wanting to celebrate St. Patrick's Day by expanding their sales into their parking lot, or a farm winery attending a local farmers market. This process is very beneficial for many groups in our state, but at times, can be burdensome and repetitive for small businesses and for the Liquor Control Commission too. One example of this process becoming burdensome and repetitive is for the farmers markets. A farm winery, craft brewery, or micro distillery can currently apply to have an SDL for a farmers market, but they must apply for each farmers market individually each time they want to attend. At the most extreme end of this, there are farm wineries who apply for over 100 SDLs for farmers markets each year. That's 100 documents they need to file, 100 documents that the Liquor Control Commission must process, and at least a handful of public hearings that must be attended and the outcome is always the same. The SDL is approved and there are almost never any issues at the farmers market. This is a waste of time for small businesses and for the Liquor, Liquor Control Commission. LB274 addresses this issue by allowing a farm winery, craft brewery, or micro distillery to apply for an annual promotional farmers market special designated license. This license is good for one year and costs \$15. An applicant can use this license to seek permission from the local governing body to attend a farmer-- to attend any farmers market in the state as long as they want for that year. The decision to allow an applicant to attend a farmers market must be made by the local governing body. That is the final decision. The local governing body is then required to notify the Liquor Control Commission of what entities are allowed to attend which farmers market in order to ensure that the law enforcement is notified. If we pass LB274, a farm winery, craft brewery, or micro distillery will only have to apply for one license from the state. That means hundreds, if not thousands of SDLs will no longer be necessary every year. This will help small businesses and the Liquor Control Commission, all while maintaining public safety. With that, I urge you to vote on LB274 and a yes vote for the committee amendment that Senator Briese will be discussing next. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

HILGERS: Thank you for your opening, Senator Lowe. As the Clerk mentioned, there are committee amendments. Senator Briese, as Chair of the General Affairs Committee, you're recognized to open on the committee amendments.

BRIESE: Thank, thank you, Mr. President. Good morning, colleagues. AM427 replaces the original bill and amends an amended LB72 and an amended LB578 into Senator Lowe's LB274. I first want to thank Senator Lowe for allowing us to use his bill as a vehicle for a committee priority and his work on LB274. I also want to thank Senator Geist for her work on LB72 and Senator Vargas for his work on LB578 and I want to thank the committee for their work in developing this package. Together, these bills, I believe, make a nice package that can help our small businesses recover from the impact of the pandemic and prosper going forward. I will briefly describe what has been added by AM427, but I'm certain Senators Geist and Vargas will want to more fully describe their bills. LB72 is a bill to allow the to-go sale of mixed drinks or cocktails, as is currently allowed by Executive Order 20-09. This bill is intended to help small businesses by making this policy change permanent in statute. LB all-- LB72 also had an amendment, AM14, which was incorporated into LB72 to include farm winery licenses to allow these folks to also sell the to-go items. There were no opponents to LB72 at the hearing and the committee voted to amend this bill into LB274 into the committee amendment with seven yes votes and one present not voting. LB578 creates a new category of alcoholic beverage in the Liquor Control Act, the ready-to-drink cocktail. It is defined as a beverage containing spirits in an original package, which contains no more than 12.5 percent alcohol. We currently tax ready-to-drink cocktails at \$3.75 a gallon, the same as a bottle of spirits or hard liquor, even though the ready-to-drink cocktails contain no more than 12.5 percent alcohol by volume. LB578 proposed to reduce the tax to 31 cents per gallon. It really was an effort, I believe, to help jump-start the manufacture of a product that currently doesn't take place in Nebraska. The committee replaced LB578 with AM314, which set the excise tax at 95 cents per gallon on these products. The committee noted that we tax wine at 95 cents and felt this was an appropriate reduction from the current \$3.75. There was no opposition to this bill, LB578, at the hearing and the committee voted 8-0 to amend LB578 amended by AM314 into LB374 [SIC--LB274]. Again, I want to thank Senators Lowe, Geist, and Vargas for their work on these bills along with the committee for its work. And I would urge your adoption of AM427. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Briese. Mr. Clerk, you have an amendment.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

CLERK: Mr. President, Senator Wishart would move to amend the committee amendments with AM475.

WILLIAMS: Senator Wishart, you're recognized to open on your amendment to the committee amendment.

WISHART: Thank you, Mr. President. Good morning, colleagues. I do want to say that I have spoken with Senator Lowe and Chairman Briese on this and I recognize that this is somewhat of an unfriendly amendment in terms of how the committee wanted to work these bills. So I do anticipate having a little bit of a discussion and then I, I will plan on pulling this amendment to work with my colleagues to see if there's something we can do moving forward. So I am here just to discuss and talk about AM475. It is in essence my bill, LB295, which seeks to codify in statute one of the emergency orders that Governor Ricketts declared for bars, restaurants, grocery, and convenience stores to make it easier for them to operate in a safe manner. The emergency order and this bill allows retail license holders to sell beer and other alcohol in its original package to adults 21 years of age or older in their motor vehicle. Many businesses utilized this emergency order to transform their customer experience. For example, I think many of you, when we were dealing with the pandemic-- I know myself-- would order our groceries from a grocery store and included in that would be a bottle of wine. And when we went to the grocery store, because of the Governor's emergency order, we were able to show our license to pay at the curbside and for our groceries to be put into our vehicle in a safe manner. While this is temporary in nature, in, in terms of the ability to do this, these changes have been part of Nebraska since last spring. The sky has not fallen and, in fact, many businesses recognize that consumer expectations have changed and curbside pickup and drive-through is not going away. And if this bill does not pass this year and the emergency orders by the Governor go away, then we end up with this inconvenient situation where customers who drive up to a grocery store would get their groceries but have to get out of their vehicle and go and purchase the alcohol separately. And in talking with grocery stores-- and I know that many of you may have read that Hy-Vee, for example, last week was in the paper announcing that drive-through and curbside pickup is going to be in their foreseeable future because this is what consumers demand. My original goal when introducing this bill was to extend in perpetuity, again, this emergency order and allow any licensed retailer to participate, but Senator, Senator Cavanaugh came to me with his amendment and the General Affairs Committee agreed with this and, and so I included it in AM475. He can talk a little more about this, but to summarize, if a retailer wants to sell to a person in a motor

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

vehicle through curbside pickup or drive-through, they will be required to obtain a motor vehicle endorsement on their retail license using either a drive-through window or curbside pickup. The application from the endorsement would cost \$50 and would be renewed annually at the time the original liquor license is issued. This allows for local communities and the Liquor Control Commission to hold establishments responsible for ensuring public safety. My bill and this compromise amendment, it was heard in General Affairs Committee on February 8 and advanced from committee was six yeases and two not voting. Again, this amendment just simply codifies the Governor's executive order and continues to allow what's already been happening without any issues. And colleagues, the reason I'm bringing this today is that it did not get incorporated into Senator Lowe's bill, which was a committee priority, and all of us recognize that it is hard to get all of our bills across the finish line in a short, short-- what seems like a very short session and, and so I do want to try and work and find a way to do this, but I recognize that it is Senators Lowe's wishes that his bill move forward without this on it at the time and so I do intend to, to pull it after a little discussion. Thank you.

WILLIAMS: Thank you, Senator Wishart. Discussion is now open. Senator Geist, you're recognized.

GEIST: Just for clarity, I wanted to make sure that I got my name in the queue to talk about my bill specifically, so I was going to do that, Senator Wishart, instead of talk about your bill if that's all right with you. And I just wanted to talk about LB72 and why I brought it and exactly what it does and why it does what it does. I brought this bill after having a roundtable with several of the restaurant owners in my district and they were-- we were kind of in the throes of shutdown and very limited DHMs and I asked what can we do to help? And this is kind-- what came out of that discussion and to varying degrees, restaurants and bars have depended upon this executive order that has allowed cocktails to go through the pandemic shutdown, through the DHMs and all of that, which has really severely hurt many restaurants and bars. And so what my bill does is it allows mixed drinks to go for Class C, Class I, and Class Y liquor license. The drinks to go do have to be purchased with food and something that we decided to do in respect for those who were concerned about drinking and driving and drinking too much after a meal, so we have it being a takeout item with food. Drinking and driving, what we did to satisfy that is similar or almost exactly like the wine to go statutes, which require a tamper-proof seal or tamper-proof tape so that if pulled over, a law enforcement officer can detect readily whether that package has been open and that seal broken. Also, we have within the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

statute where the drink has to be in the furthest compartment or in the trunk and the reason for that is that helps us maintain our highway funding, which is a huge consideration in all of these kinds of, of bills. So losing federal highway funding is of utmost importance to us as a state and as a city and as a county and all of the areas and municipalities that this will affect. So in the crafting of this bill, we have brought together 27 stakeholders around the state, received their input and crafted the language just exactly the way that it is so that it satisfies all of those concerns. So for that reason is why we weren't warm to amendments. It was a, a-- labor-intense labor of negotiation that spent-- we spent the entire interim crafting. And so I appreciate the General Affairs Committee and Senator Briese and Senator Lowe for adding this to this bill and I wanted to give you an overview of it so you understood it completely before we proceed in, in the voting. Thank you much-- very much.

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

VARGAS: Thank you very much, President, members of the Legislature. First off, I want to thank General Affairs Committee and I want to thank Chairman Briese and Senator Lowe for including LB578 within this bill. I just wanted to give a little bit of color here. LB578 will modify the Nebraska Liquor Control Act to include a new category of alcoholic beverages and will establish a tax on manufacturers and wholesalers of such beverages. The new proposed category defines ready-to-drink cocktails as a uniquely packaged spirited beverages containing 12.5 percent or less of alcohol by volume. This is meant to aid our local distilleries by positioning their products in a competitive market. Specifically, currently, Nebraska manufacturers and wholesalers of ready-to-drink cocktails are taxed at the same rate as producers and distributors of spirits at \$3.75 per gallon. Now typically ready-to-drink cocktails contain between 4 and 6 percent of alcohol by volume, whereas most half-gallon bottles of liquor contain 4 and 6 percent of alcohol by volume. The reason why this is important is we are, we're sort of overtaxing this specific product and it's making it cost prohibitive to then be able to enter into the market. And so this is going to make this as 95 cents per gallon, which is aimed to create a market for these ready-to-drink cocktails. And so I do want to thank the committee for including this in their priority, in this committee priority. This was a, a collaboration. I have a constituent that it-- a constituent business in my district, Brickway Brewery and Distillery, that makes ready-to-drink cocktails and is trying to make sure that this is something that can expand in the market and, and potentially grow and this makes that possible. So a, a big thank you to the committee for supporting small businesses like

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

Brickway Distillery and Brewery [SIC] and others that are going to enter the market because of this change. Thank you to, to Senator Lowe for adding this into the-- this, this-- also this bill and I appreciate everybody's support on the underlying package and appreciate your support for my bill within this package. Thank you very much.

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

LOWE: Thank you, Mr. President, and thank you, Senator Wishart, for this discussion on LB295. It's, it's very good. We need to continue to support small businesses and businesses and Senator Wishart's LB295 does just that. We have had several-- a couple of discussions now on, on why I'd prefer not to having it in, in my bill, basically not to clutter the bill up, but there are also con-- some concerns I have with the way that it would be implemented. LB72, which was added into the bill, Senator Geist's bill, is a very good bill. We're doing that now. That's for the sale of premade cocktails and that has helped businesses out during this COVID problem that we have. LB578, Senator Vargas' bill, is a step forward and reduces taxes. That's a good bill. We need good pro-life-- pro-business bills going forward and I appreciate the senators wanting to add on to my bill. The farm winery bill, microbrewery, and micro distillery bill, LB274, was not brought to me. It was one that we've had discussions with, with the Liquor Control Commission through a hearing I had a couple of years ago and it brought forth this problem of having to do multiple or hundreds of applications for an SDL. It's a simple process. I've done it many times. I was in the bar business for many years. Most of the time, you get put onto a consent calendar, which means you don't even have to testify. It just moves right through. And we're talking about good business people who are wanting to promote their Nebraska products in Nebraska to Nebraskans at a very, very casual setting. This is a good process. So Senator Wishart, thank you very much for bringing AM275 [SIC--AM475] for discussion and I will work with you on that to make that a good bill. And Senator Briese, committees-- members of the General Affairs Committee, thank you for AM2-- AM427, which is added on to my LB274. Please vote yes on LB274 as it stands right now. Thank you very much.

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

J. CAVANAUGH: Thank you, Mr. Chairman. Thank you, Senator Wishart, for bringing this amendment and thank you, Senator Lowe, for bringing the original bill. So I have an, an amendment to follow up on Senator Wishart's and I brought the original amendment to the committee that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

is part of Senator Wishart's amendment and so I-- rising to speak about that in particular. So we had the committee hearing about Senator Wishart's bill and we had a good discussion there and one of the issues that was raised was that if we were to adopt the bill as it was, there would be an expansion of existing liquor licenses without really any local oversight. And so the amendment that I brought to the committee and that the committee adopted and that Senator Wishart integrated into her bill as amended would still allow for that expansion of sales of either drive-up or drive-through. However, it would, it would include the-- that additional provision that she spoke about that would require someone to affirmatively apply for that expanded license, which creates an endorsement. We have a process in-- existing in law that creates endorsements and I can talk about it a more-- a little bit more, I guess, when I bring my amendment, but what it is is where someone with an existing liquor license would apply for an expansion of their ability to sell. They would apply to the, the Liquor Commission and pay the \$50 and then they would-- that application would go through the local city or town or, or village and they would have opportunity for public comment and that's the part that I think is an important distinction. When, when we are expanding the sale of liquor or alcohol to allow the local communities to have their comment, that doesn't mean that the, the license or the, the permit or the endorsement is not going to be granted. It allows the members of the community to say, wait a minute, this is not what we signed on for initially. And I would credit and point out that Senator Lowe's bill, the initial bill, does still preserve that opportunity for local comment. It streamlines the process at the state level, but still specifically allows the local communities, the local cities to have their objection or, or their comments be heard about whether or not that expansion is going to happen. And so that's-- that was my intention with Senator Wishart's bill, is to preserve and protect that local control and that local comment and allow people to be heard, which I think is an important aspect of issuing liquor licenses. I would point out that the amendment that we wrote in, in conjunction with the Liquor Control Commission was as little interference in the process as possible. We created a, a fee of \$50, which the current endorsement fee that we found comparable was a \$300 endorsement fee, so it's substantially less of a cost and that the process does not require a hearing, as Senator Lowe kind of, I think, alluded to, that the Liquor Control Commission could issue list-- licenses. If there's no objections and there's no negative recommendation from the local entity, they can issue these endorsements without a hearing if they so choose. And so we made those two changes initially to ensure that this does not become a, a burdensome hurdle to people actually pursuing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

this expansion if we were to adopt it. Thank you, Mr. Chair. I yield back the rest of my time.

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

ERDMAN: Thank you, Mr. President. Good morning. I was wondering if Senator Wishart would yield to a few questions.

WILLIAMS: Senator Wishart, would you yield?

WISHART: Yes, I will.

ERDMAN: Thank you, Senator Wishart. Senator Wishart, I have a couple of questions this morning. I was listening to your, your opening on your bill and, and your amendment and you said that if you drive through the grocery store and ordered a bottle, a bottle of wine, that you had to get out and physically go in to buy the wine. So let me give you an example of my, of my, of my issue and then ask you the question. So I buy a bottle of wine with my groceries-- and at most of those grocery stores, they have a separate location where they load your groceries-- and I send my grandson down to pick up my groceries. And when he arrives at the grocery store and he's only 18 years old, what happens to that order when he drives in to pick that up?

WISHART: His-- if it contains alcohol, his license would be checked and he would not be allowed to pick it up.

ERDMAN: OK, so then the person who is loading the groceries will have the responsibility to check the age and the, the availability of that person to have the alcohol?

WISHART: Yes, just like they would if you were at the grocery store counter.

ERDMAN: OK, so let's, let's assume that the young person who is loading the groceries is 18 years old and not of age and they have to load that wine into your car. Are they eligible, under the current law, to do that?

WISHART: No, they're not.

ERDMAN: So then the grocery store would have to make sure they had someone 21 or older at the location to load that alcohol into your car?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

WISHART: Yes and they do that right now under the emergency order that the Governor declared.

ERDMAN: OK, so let's say I order groceries delivered to my house and my grandson is there and I tell him I have to run and do an errand, here's the money to pay for the groceries when they come, and there's a bottle of wine in the groceries. So then the person delivering it is 18 years old. They deliver the groceries. Does that person have to check that the person that receiving the groceries is of age?

WISHART: Yes, absolutely. This does nothing to change the requirement that no person can sell or give alcohol who isn't of age to do that or to a minor. This doesn't change any of those rules.

ERDMAN: OK, so then let's make the assumption that the person delivering the groceries is 18 years old. If there was alcohol in the delivery, they cannot deliver that. Is that correct?

WISHART: I can go back and check, but my understanding is that if you could not give those groceries to somebody in a grocery store because of your age, you wouldn't be able to do-- this law doesn't change any of those--

ERDMAN: OK.

WISHART: --requirements.

ERDMAN: So then every grocery store would have to make sure if they're going to do home deliveries, they would have to make sure the person delivering those groceries are of age?

WISHART: I would imagine so. I can, I can look because that's home deliveries and this is about curbside pickup and drive-through and so it doesn't-- this really doesn't entail home deliveries. This is more-- this is just curbside and drive-through because you're allowed through a motor vehicle.

ERDMAN: So your bill wouldn't allow home delivery?

WISHART: I'm not sure. It doesn't change-- it-- my bill doesn't address that, Senator.

ERDMAN: OK, it looks to me like-- thank you for your answers. I-- it looks to me like that this, this is going to create a whole issue for those people in the grocery business who are going to deliver those kind of alcoholic beverages into the car, that they're going to have a lot of things and a lot of hoops to jump through and make sure that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

those people put-- putting their groceries in are of age. I don't know that this is significant enough to pass a bill to do that, but those are my thoughts today. Thank you.

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

WISHART: OK, thank you, Mr. President. This will be my final, final comments. First of all, I did get an update from one of Senator Erdman's question. Person delivering groceries has to be 19 years of age or older because of the alcohol requirements. Again, since last spring when we-- when the pandemic hit us and a lot of businesses were forced to find a safe way to do business with their consumers-- and frankly, we had, in a lot of our communities, government shutdowns that forced them to do that even further, businesses transformed and what they did is they provided a drive-through experience and a curbside pickup experience for their customers. And under the emergency declaration from the Governor, this allowed for businesses to also sell alcohol following all of the rules that you still have to follow whether you're selling it in a store or to somebody in a motor vehicle. If we do nothing this year, we will be forcing businesses to go back to an older model when they have experienced a change in the way that customers expect to do business with them. So this is a pro-business bill. It is contemporary to the needs of Nebraskans. We've been operating in what this bill would do for over a year and the sky has not fallen and it makes sense that we work in a timely fashion as this Legislature to meet the needs of businesses in a post-COVID world. With that said, I did want to ask Senator Briese-- Chairman Briese a quick question.

WILLIAMS: Senator Briese, would you yield?

BRIESE: Yes, I would.

WISHART: So Chairman Briese, you and I connected yesterday and, and talked about the, the goal of the committee was to, to kick this bill out, but, but that it was separate because of Senator Lowe's request. But I just wanted to confirm for others to hear that you support this legislation and you advanced it out of committee.

BRIESE: Well, I, I voted to advance it out of the committee. I, I'm the Chair of General Affairs. As Chair, I have considerable influence in what comes out, but I don't dictate what comes out. And the committee made the decision, of course, not to put your bill into this package and I respect that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

WISHART: Thank you. Thank you, Chairman. Colleagues, my main reason for, for doing this-- and again, for those who are new, it is tradition that you do not amend a bill onto another colleague's bill when they don't want that amendment and I will respect that tradition. I have always respected that tradition, but I also wanted to acknowledge the fact that we work as a team here and there are some pieces of legislation that are very important and vital for our districts. And if they are legislation that's generally supported by the rest of the body, we should work as hard as possible to find vehicles for those to be carried across the finish line. I have been committed to doing that. I have always offered my bills to be vehicles for other senator's bills regardless of their political party. I did that last year with my priority bill and Senator Arch's bill, so I wanted to put that out there. I am going to work hard to try to find a way for this to cross the finish line. It is important for the grocery stores and businesses in my district that they're able to meet the contemporary consumer needs of their community. With that, I will withdraw this amendment. Thank you.

WILLIAMS: Thank you, Senator Wishart. The amendment is withdrawn. Returning to discussion on the committee amendment. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. I stand in support of LB274-- I'm on the General Affairs Committee-- as amended with AM427. It's a good bill. It encourages small distilleries to be able to market their wares through farmers markets and other areas and also Senator Geist's sealed, mixed drinks. To me, it was for social drinkers who were ordering a meal from a restaurant. And restaurant industry has been harmed with the COVID restrictions, so it was something that seemed reasonable. In fact, some of the restaurants around here, trying to get into them sometimes is hard to do, so you might want to get an order to go and have a drink with it so you can eat, but-- and then also the bill on Senator Vargas' on the tax, we debated that a lot in committee, but from \$3.75 to 95 cents seems reasonable. We are flush with money now and probably in a decade or five years, we'll be sitting-- whoever is sitting here will be trying to raise sin taxes to raise revenues because the economy isn't as great, as the federal government eventually can't pump money into it, but-- and it was a fairness issue. I wasn't concerned about the small manufacturer and the tax on the alcohol or the mixed drinks because the reality is if you were in Iowa and you sold the product for \$1.50 to a distributor, the distributor added the \$3.95. If you're in Nebraska and you manufactured it for \$1.50, the manufacturer added it for \$3.95. So at the end of the day, the cost on the shelf of that product was the same

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

no matter where it was manufactured, so that didn't hold any water, that argument, to me, but fairness did on the price of the taxation. But I did not support LB2-- LB295 in committee because quite frankly, folks, the liquor industry did not get harmed during COVID. It strived. Liquor stores-- we heard a lot about mom going through the Hy-Vee and getting a bottle of wine, but that's a small part of LB295. The big part was liquor stores, hard liquor across the state, a drive-through window. When a bar owner might of refused service to somebody at midnight because they drank too much, could jump in their car, go to the drive-in, and pick up a, a jug of whiskey. That is not a social drinker. It was not necessary. In hindsight, I wonder if the Governor would have thought that this was a necessary edict he gave in an emergency. You know, a lot of things were tried-- that don't mean they were right-- to address the situation. Liquor stores were not harmed. I don't think it was a good bill and I didn't support it in committee, but I'm glad Senator Wishart pulled it and I agree with her on some parts. But on this floor, you have a right to amend any bill you want. If it's what your constituents want and it's necessary and the majority of people in the state want something, you don't have to get the permission from the, from the person who has the bill. That's collegiality, but that isn't good government. Good government is doing what's right for the people in Nebraska. And there will be amendments you will see on this floor that the main introducer of that bill does not like, but I represent people and when they want something and they want a bill right--

WILLIAMS: One minute.

GROENE: --I will introduce amendments and I hope other folks will too. And then at the end of the day, we will see if those amendments are accepted or not. So thank you and I support LB274 as amended with AM427. Thank you.

WILLIAMS: Thank you, Senator Groene. Mr. Clerk, you have an amendment.

CLERK: Mr. President, Senator John Cavanaugh would move to amend the committee amendments with AM479.

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

J. CAVANAUGH: Thank you, Mr. Chairman, and thank you, colleagues. I rise to present AM479, which is an amendment to the committee amendment, but it specifically addresses just the portion of the committee amendment that is Senator Geist's bill, which was LB72. And as a bit of a background-- well, first off, Senator Geist did a really

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

nice job with this bill and as she pointed out, she did meet with a lot of the stakeholders and crafted this bill in a, in a very good way and my amendment adopts all of her language incorporated into it. My amendment adds one additional step, which is that it requires or creates an endorsement process by which a possess-- an institution that possesses a CI license or a farm winery license would have to go and make an affirmative step to be able to do off sale out of original packaging liquor. It still incorporates all of the safety measures that Senator Geist incorporated into her bill. It just makes it-- if, if we adopt Senator Geist's bill as is, that all of those CI and winery licenses will become more expansive than they were when they were originally issued. And so when we had the hearing on this, I asked that question, I believe, of Mr. Rupe from the Liquor Control Commission of how this would play out. And it came to my attention that, that this is how it would happen is that if you have a C license that you've gotten through the regular process and we adopt that-- this bill, that that C license now will have more ability to sell alcohol and liquor than they did when the license was adopted. And at least in, in my community, people take that responsibility seriously. People come to the city council and they comment on the extent of a liquor license and they com-- they point out how it's going to affect that community and then do extract certain concessions from establishments before issuing a liquor license. And that means that those people have negotiated it in good faith as to the extent of a liquor license that's being offered in their community. If we adopt the bill as is, that those people will have made concessions on a liquor license that is now larger than the one that they, they negotiated around. And so my amendment, all it does is say that if you want to have this off-site sale, you have to go through an affirmative process where you apply to the Liquor Control Commission, you pay \$50, and then that application gets sent to the local community, city, village, town and they have an opportunity for public comment and hearing and then they make a recommendation to the State Liquor Commission. And the Liquor Commission can issue that license or they can-- that endorsement or they can deny that endorsement. What the issue-- and I think Senator Groene kind of pointed out nicely-- is that we can, we can present everything as these are all going to be great, friendly businesses that are doing a good job in their community. And most of them are going to be, but if we make a blanket expansion without taking into consideration the, the potential for bad actors, that we're going to miss those. And so what this opp-- provides as an opportunity is for people in the community to comment, to object, and to be heard. It doesn't guarantee that the license is not going to be issued and we wrote this section to be as minimally intrusive as possible. The \$50 endorsement, as I think I said earlier,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

is much less than the current endorsement for other expanded licenses, which are \$300. I would point out that after having conversations with Senator Geist about this bill and a few other people, I did reach out to the same stakeholders that she talked with about this to get their concerns and gauge their interest in this bill with this amendment. And most of them obviously would like the bill as is with less oversight, but most of them did not have a problem with going through the process because they see the same issue that I'm pointing out, which is that they, they also would like protection from bad actors. People don't want to be lumped in with everyone else and it run the risk of all establishments being painted with that broad brush of doing things in the wrong way. I would point out that I also took into account some of the, the considerations that they raised in keeping that, that fee low, but there's also one section in here that I don't think I pointed out before, which would actually establish or continue the Governor's emergency order until July 1 of 2022 and from that point on is when you'd have to apply for that endorsement. What this does is give certainty-- it give-- to the people who are perhaps worried that the Governor's emergency order is going to end at any minute and then it creates a time frame by which everyone's going to have to, if they want to continue that service, is going to have to apply. So I, I would ask you to adopt this amendment. I think that it is minimally restrictive to the businesses, but it creates that safety that the local communities require and need and that the local members of that community are entitled to when we're talking about expanding liquor sales in their community and so-- how much time? I'm sorry, Mr. Chair.

WILLIAMS: You still have 4:30.

J. CAVANAUGH: Oh, I thought I only had five minutes to begin with. Well, then I could slow down talking. I-- this is my first time talking, so I was trying to I guess-- well, first time really talking we'll say. Well, in that case, I'm going to take a little bit more-- take this a little bit slowly. So as I said, I do think that Senator Geist wrote this bill very nicely. I think that she took into account those-- the concerns about the potential for loss of federal highway funds and that she, she created language in there that I think is one can be followed by those establishments and gives us some certainty. I think that the amendment does incorporate all of those, but what it, it does is allows a city and citizens in that, in that city to point out when they have a concern and what those concerns are and potentially would allow for some kind of modification to that license so that it does not become even bigger than it, it could under this amendment. Additionally, I, I would say that the, the, the section

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

that gives the, the certainty is important to make sure that everybody knows where they are today and where they're going to be on July 1 of 2022. It allows them-- establishments to have that lead time and figure out whether this works for them or whether they need this and I did point out earlier that I think that this local control is important. I think that Senator Lowe recognized that in his bill, where his, his specific expansion or I guess streamlining of the farmers market liquor license would still-- shall still have that local oversight ensuring that everyone has their say in what exactly is going on. I think that this is a, I guess, a broader question of when we take actions-- and I know a lot of people want to, to, to make sure that we preserve local control whenever possible, but also the government does not become too cumbersome, that we don't make laws that will restrict people's actions when unnecessary. I think that this amendment strikes that proper tone where we create a, a minimal fee, a minimal process, an opportunity for comment that does not prevent people from getting their license. And then after the endorsement is adopted or amended to the CI or winery license, that endorsement will renew every year along with that license in the same process. So after the initial application, it does not, it does not require any additional steps after that. So I think that this amendment accomplishes what Senator Geist's bill sets out to do, but it does it with a-- just a little bit more of a guardrail that provides protection to the cities, local communities, and to those individuals. I would point out-- I think it was pointed out to me that the--

WILLIAMS: One minute.

J. CAVANAUGH: --the committee statement said there was no opposition to this bill or to Senator Geist's bill. I did get a notification that Project Extra Mile had submitted a written testimony against both of these bills. I have had conversations with Project Extra Mile about the particulars of both of my amendments. They obviously-- I think they submitted a statement to everyone in support of both of these amendments. They would actually like further restrictions. I'm bringing this because I think it serves that purpose of giving aid to these businesses, allowing them to continue that expanded sale, but also allows for that local comment without being too difficult and too cumbersome. So I would appreciate your vote on this amendment and thank you.

WILLIAMS: Thank you, Senator John Cavanaugh, for your opening. Senator Hilgers, you're recognized for an announcement.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

HILGERS: Thank you, Mr. President. Good morning, colleagues. I don't rise to speak on this particular bill. I do want to give a, a brief announcement, a scheduling announcement for this week. As I mentioned last week, the deadlines for priority bill designations are-- were tomorrow. Requests for Speaker priorities was tomorrow at adjournment and for senator and committee priorities, those needed to have been chosen by Thursday at adjournment. I know everyone's working really hard to be able to get their Exec Sessions done, get everything-- get all the work done that they need to have done before Thursday, but given the first day of the week is Tuesday, we're a little squeezed. We're going to move that deadline for senator and committee priority designations from Thursday to Friday at adjournment, from Thursday to Friday. Tomorrow's request deadline for Speaker priorities does not change, so if you have a request, I still need that in by adjournment tomorrow. But for your, your individual priorities and for your committee priorities, that deadline is now Friday at adjournment. Now if you recall, Friday-- because Judiciary Committee is going to be in committee hearings all day, Friday was just a check-in day so we don't have a regularly scheduled or predicted adjournment time. I'll make that announcement on Thursday after we see how many priority bills we have and have a better feel for how much work is left to be done. So hopefully that extra day will be helpful for many of you as you get, get to the finish line on your designations and that's all I have. Thank you, Mr. President.

WILLIAMS: Thank you, Speaker Hilgers. Returning to debate. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. President. Would Senator John Cavanaugh yield to a question?

WILLIAMS: Senator John Cavanaugh, would you yield?

J. CAVANAUGH: Yes.

BOSTELMAN: Thank you, Senator Cavanaugh. I appreciate your amendment and what you brought. I just want some, for my own edification, understanding what your-- when a person in this situation is going to-- or a business is going to apply to-- for the application for the permit to provide or sell the, the products at a farmers market or at any facility, is that, is, is that-- is a process when they go to Liquor Control Commission to ask for this permit, is there public involvement with that or are we adding a step? Does, does the public have the opportunity to speak then? Is that announced to the public? So in other words, if community A-- if there's a farmers market and someone wants to do it in community A, what's the process now when you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

go through Liquor Control Commission with what we're doing with the bill? I mean, does that make sense?

J. CAVANAUGH: It does. OK-- well, I guess it's kind of a-- two points. The farmers market portion is Senator Lowe's bill and, and I'm not addressing-- seeking to change Senator Lowe's bill. I, I like Senator Lowe's bill and partly I like it because it does the same thing that my amendment seeks to do, which is-- my understanding of Senator Lowe's bill is that you would still apply to Liquor Control Commission and they would issue one blanket license for the whole state. But then when you want to go to a farmers market in say Omaha, you'd still have to get that specific farmers market permit from the city of Omaha, so there is that local comment afforded on that. On, on my-- specifically on my amendment to Senator Geist's bill, that when you go and get an original liquor license, you apply to the State Liquor Commission. They send that to the city. The city has a hearing, and Omaha is always the example I use because that's where I am from, but the city of Omaha City Council has a hearing where there's public-- an opportunity for public comment. They will send a recommendation to the State Liquor Commission and they can approve or deny that permit for that liquor license. And my understanding is that the Liquor Control Commission does not have to have a public hearing at the Liquor Control Commission, but they do it-- they will have a hearing, obviously, in certain circumstances. I think if they're going to issue it, they don't necessarily have to have a hearing, but if they're going to deny or they get a negative recommendation from a city, they will have a hearing about that. So I think that there's-- and there is an opportunity for public comment also with the Liquor Control Commission. What I'm seeking to do is ensure that when someone-- when there is this expansion in the sale of off-site liquor, that there would be that opportunity for public comment either at the city or at the state level, which both of those would be afforded under this amendment.

BOSTELMAN: OK. All right, that helps. Thank you, appreciate it. Would Senator Lowe yield to a question?

WILLIAMS: Senator Lowe, would you yield?

LOWE: Yes, I will.

BOSTELMAN: So Senator Lowe, we talked off the mike a little bit on this. I have questions on your portion when we talk about the farmers market specifically on page 7, lines 26-29. I've had the opportunity to be involved with farmers markets at, at, at different cities and different locations. So my question kind of goes around to that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

definition we have in here. It's-- if a town identifies it as a, as a farmers market, I know that there is a farmers market organization out there that establishes farmers-- like in the Haymarket and other places, they set those and they're identified as farmers markets. Does this allow a village or a town to say-- say Seward, Nebraska, for-- they have Village Square Farmers Market on, on certain day of the week.

WILLIAMS: One minute.

BOSTELMAN: Does it apply to them or does it apply to just those farmers markets that are identified by-- I think, I think it's Center for Rural Affairs or some have a farmers market portion to it.

LOWE: This would apply to any farmers market that is known, so it will apply to any farmers market. It-- you know, sometimes they're just gatherings in a parking lot. We have that in Kearney. It was in the Kmart parking lot when we had a Kmart and it is now moved over into the mall parking lot. They're known-- I'm, I'm sure there's some state regulation with the Department of Agriculture for them to be able to distribute their produce. Senator Blood may know more about this because she deals with farmers markets, but it-- this would allow them to just sell their wine or their--

WILLIAMS: Time, Senator. Thank you, Senator Bostelman, Senator John Cavanaugh, and Senator Lowe. Senator Geist, you're recognized.

GEIST: Oh, yes, thank you, Mr. President, and I just wanted to speak just briefly on the amendment and part of my objection to it. And I think at the, at the foundation is that the whole intention of bringing the bill was to help recoup the funding stream, the revenue stream that kind-- that was lost by these establishments because of the shutdown of the, of the government. And so this is government actually allowing these establishments to have a, a new or continuing revenue stream. I see this as an expansion of what our expectation is, another hoop that these establishments are going to have to jump through. And I'll also say that there's a number of hoops they jump through anyway. A public hearing is already part of their licensing process and to be clear, not every time they renew their license do they have to have a public hearing. However, if complaints have been lodged against an establishment, they do have to have a public hearing. I do think that, that requiring them-- I appreciate-- I'll say I do appreciate the lowered fee because in statute, the usual fee, I think, as Senator Cavanaugh stated, is \$300 and that's a nonstarter; \$50 is much more reasonable and the Liquor Control Commission will do whatever we ask them to do. So they are an agency that's a branch of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

the government and so they will, they will comply and do whatever we ask them to do. However, in, in hearing from some of the stakeholders that we've talked to, I'm not hearing a rave review of having this additional step being taken, so not a whole lot of agreement from the calls that we're getting in my office to having this additional step occur. And I wonder if this is something that's needed in the sense of if, if the Liquor Control Commission can already-- they already have the authority to shut down a, a place that is noncompliant or has too many-- if they have too many complaints, they're going to go for a public hearing for their-- in updating their liquor license anyway. So other than the fee, this amendment would not even need to take place if it is an establishment that neighbor, neighbors in the neighborhood are complaining about. So it's just another step and another cost to the restaurant or the bar where they would be heard in front of their constituents anyway if they were not complying or they were a nuisance in the neighborhood. So I feel like that public hearing step is already going to be addressed and then-- so what we're left with is a \$50 fee to do what they're already able to do right now. And so that is my objection to the amendment and I'm happy to take any questions about that or what the bill does specifically. So anyway, I, I, I just want to lodge again to vote no and AM479 and then to vote yes on LB274. Thank you, Mr. President.

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

BRIESE: Thank you, Mr. President, and good morning again, colleagues. I, I really want to thank Senator Geist for all of the work she did on this bill, putting this bill together and reaching out to stakeholders and ensuring that it was-- represents good legislation, but I also want to thank Senator Cavanaugh for his work on this, his thoughtful and well-intended approach to this. But, but it seems to me that this very issue can be addressed annually through the relicensing scheme. You know, first of all, the commission has authority to shut down noncompliant licenses and 53-135 provides for automatic renewal in most situations, but 53-135.01 requires the locals to publish a notice of automatic renewal for the local licensees. In the event that three folks object to that automatic renewal, then a hearing is to be held. And so, in my view, there is a process in place, maybe not as stringent as that proposed by Senator Cavanaugh, but a process nonetheless. But maybe more importantly, we as a committee hashed this over to a considerable degree and we discussed this and we as a committee decided against putting this amendment into Senator Geist's bill. And in doing so, we as a committee decided against making it part of our committee priority bill. And at this point, I-- I'm going to defer to the decision of the committee and again, I appreciate

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

Senator Cavanaugh's work on this and his intention here and his thoughtful, meaningful approach is always well appreciated, but I'm not going to support AM479. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Briese. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. I stand in support of AM479. Senator Cavanaugh made a good argument for this bill or this amendment in committee on, on all of the, the bills that related to the Governor's emergency declaration. But as far as I'm concerned, any time anybody says, well, we're already doing this and the Governor did it-- if that's the case, then let's all go home because-- let's just put the Governor in charge and any thing he says for an emergency, we just agree to. And I don't think the Governor wants us to do that because he had to make some quick decisions. Some of them were correct, some of them were wrong because we had no idea what-- so we start from square one again, as far as I'm concerned. When we do this, pass a bill, this is the legislative process and we start from square one. In all of these instances, Senator Lowe's farmers market, if you look on page 6 of his bill, of the bill, it says number (2)-- line 4: A promotional farmers market special designation license issued under this section shall not be used without approval of the local governing body pursuant to section 7 of this act. And Senator Wishart's bill, the committee added it to that on the drive-through liquor. Local control, now we talk about local control and then on the other hand, we say-- talk about freedom and free enterprise. There is a balance on issues such as alcohol when people can be harmed, so we balance it and we balance it with local control. We don't know-- I think it was-- Senator Lowe said or maybe Senator Cavanaugh said about the bad character, that's what all laws are passed for is the bad character, not the people who go about life and follow the rules. Some bar out there decides to have a liquor license and basically just sell mixed drinks right out the window because they also sell hamburgers or pizzas. That local community should be able to decide who gets an expanded liquor license. It-- that's what we do now. What Senator Lowe did was that winery didn't have to go back to the state every time, every time they wanted to go to another farmers market and advertise their wares with tastings or whatever, that the state would give them one license, but then each community that had a farmers market could decide yes or no. So I am going to support AM479. It's common sense. Committee supported it twice. They supported it in Senator Lowe's bill. They supported it in Senator Cavanaugh's-- I mean, Senator Wishart's bill. This is alcohol and it's being sold. We should have one standard, local control. There's nothing wrong with this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

amendment. It's a good amendment. Senator Lowe thought it was a good amendment. He put it in his bill. He didn't need an amendment. In Senator Wish-- Wishart's bill, we added it. Of course, the stakeholders don't want it to go through that. They don't want to have to go to their city and say, hey, I want to expand my liquor license and have a hearing, but they did when they got their original license. This is a huge expansion of how we peddle alcohol. I'm not against Senator Wishart's bill-- I mean Senator Geist's bill. I think it's a good bill.

WILLIAMS: One minute.

GROENE: It helps, it helps those restaurants with their retail sales. It helps certain individuals with a well-rounded meal, but the local community should have an input any time a liquor license is expanded, so I'm going to support AM479. At the end of the day, I'll support A-- LB274 either way, but AM479 is just good commonsense legislation and I appreciate Senator Cavanaugh bringing it.

WILLIAMS: Thank you, Senator Groene. Senator Pahls, you're recognized.

PAHLS: Thank you, Mr. President. I can remember when I was part of that local control. You cannot believe the number of people who want a liquor license that would come in front of us and we had to negotiate with some of them because they wanted to sell single cans. They wanted to sell what we call the airplane shots and it gave us the opportunity to negotiate with them and say, hey, if you want this, this is what we are requesting or requiring for our approval of that. And of course, the Liquor Commission makes the ultimate approval, but at least it gave us some ability to have some control over some of the establishments in our area. And I hope that whatever we do, we do not take away that control because you would be surprised at the number of-- I don't want to say bad actors, but they-- there are some who are very astute on how to get around certain issues. So having them come in front of the city council, I'm just speaking from my experience, was, was a positive. And most of them realized that if they'd be willing to listen to us, that they had a very good chance of proceeding with what they wanted. So again, anything with local control, I have no issue with. Thank you.

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

GEIST: Thank you, Mr. Speaker-- I mean, Mr. President, and I would ask if Senator Cavanaugh would yield to a few questions, please.

WILLIAMS: Senator John Cavanaugh, would you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

J. CAVANAUGH: Yes.

GEIST: We were just talking and I just want to say this is exactly how negotiations should go, that we can do this and, and be totally fine with each other, ask questions of each other, and we're still on a good footing. So anyway, I appreciate that about you, Senator Cavanaugh, and I wanted to ask-- OK, let's talk about the public hearing and, and what I had said about the process of public hearings is that you have to have a public hearing whenever-- and this is current, under current law, a public hearing takes place with the initial license. When the Liquor Control Commission grants a license to a new facility, a public hearing takes place. With this endorsement, would an additional public hearing take place other than that first public hearing?

J. CAVANAUGH: Thank you for the question, Senator Geist, and again, thank you for bringing this bill and putting it in the work you did originally on this. My understanding and the way this is intended to operate, obviously, sometimes things don't operate exactly as we intend, but the intention is that there would be an-- the application and an opportunity for a hearing on the initial application for the endorsement. After an endorsement is granted, then it would renew, along with the liquor license on that annual basis, and be part of that annual renewal every year. So there would not be an additional new hearing on the endorsement every year. It would just be whatever-- however the regular Class C or Class I or winery license would renew. This would renew with that license every year. And that is based off, as I think you pointed out, the Growler endorsement, their-- the current endorsements that get wrapped up and then renew annually on that basis. So it shouldn't add an additional hurdle going forward. It's just that very first hurdle at the beginning--

GEIST: OK and--

J. CAVANAUGH: --that allows for that [INAUDIBLE] hearing.

GEIST: --and with that very first hurdle, let's say we have an establishment now that's seven years old. They have currently been serving alcohol with their meals to go through the pandemic. So when this-- if this amendment took place, when they gave their \$50 and expanded their license after the state of emergency ended, do they then have to have a public hearing?

J. CAVANAUGH: I'm sorry. I had a little trouble hearing that. Could you restate that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

GEIST: OK.

J. CAVANAUGH: Sorry.

GEIST: Here, I'll push this up. OK, let's say we have an establishment that's seven years old. They have currently, through the pandemic, been serving alcohol drinks to go, cocktails to go. At the end of the pandemic, under your amendment, they would have to pay \$50 and have a public hearing. Is that correct?

J. CAVANAUGH: That is correct. Anyone who wants to continue with the cocktails to go after July 1 of 2022 would have to go through the, the endorsement process.

GEIST: And the endorsement process is a fee and a public hearing. So every restaurant and bar that wants to sell cocktails to go is going to have to have a public hearing.

J. CAVANAUGH: Yes--

GEIST: OK.

J. CAVANAUGH: --going for-- after July 1 of 2022.

GEIST: And so I would-- I am going to just ask if we could work on this between Select--

WILLIAMS: One minute.

GEIST: --I mean now and Select and fit in what you're trying to do and possibly have that public hearing be wrapped into the public hearings that they would have if the neighborhood objected or people wrote in an objection. Then they would have to have a public hearing, which is how that process takes place now, and the Liquor Control Commission would not be required to have a public hearing for every bar and restaurant that they have a liquor license with. Could we work on that between General and Select?

J. CAVANAUGH: I'm certainly happy to work going forward on this to make sure that we get the oversight and the local control that I'm looking for and I guess I don't know what form that, that takes--

GEIST: OK.

J. CAVANAUGH: --at this moment.

GEIST: Maybe we can talk off the mike a little bit more.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

J. CAVANAUGH: But I'm happy-- yes, I'm happy to talk off the mike to figure out where we can come together on it.

GEIST: OK, thank you. That's all, Mr., Mr. President. Thank you.

WILLIAMS: Time, Senators. Thank you, Senator Geist and Senator John Cavanaugh. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President, and thank you to everyone who has joined in on this conversation and who has listened in on these very important matters. AM479, we discussed in committee, on this bill and on Senator Wishart's LB295. It's an important matter that we have checks and balances in everything that we do that involve liquor because people can be pleased by liquor and they can have a good time with it or it could turn deadly at times, so we need to have checks and balances. AM479 expands government more than what we have now with this because as this added-on amendment onto LB72 does not include that and what we're doing right now, they don't have to do this process. And Senator Geist brought up a, a good point and Senator Cavanaugh said that we have to re-- when-- in 2022, we have to go forward and with this amendment, they have to go before the city councils or the community board. Can you imagine a town, a small community like Kearney that has up to 40 restaurants now that are serving cocktails to go, how long would that city council meeting last? It may last for days because they have to go before the city council with this. It's a \$50 tax when this is put in. We're increasing our tax on these establishments. And a community, metropolitan community the size of Omaha with hundreds of restaurants now that are serving cocktails to go, it will be a burden on that city council or on the board that they have to review this. It will be a true burden for that full year. And is it fair to allow one business to be allowed to sell these cocktails to go while we're waiting on another one who might be weeks down the way and yet they cannot serve theirs at this time? We need to work on this process. I appreciate Senator Cavanaugh for bringing this amendment, but this is a work in progress and I think we need to think of the way we implement it. Senator Geist thought of when community support runs out and they have complaints of a business that sells cocktails to go, that that's when it comes before the board. I think this is a work in progress. At this time, I'm not for AM479, but I am for AM427 into LB274. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Lowe. Seeing no one left in the queue. Senator John Cavanaugh, you're recognized to close on AM479.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

J. CAVANAUGH: Thank you, Mr. President, and thank you, colleagues, for this great discussion about the need for local control and, and how exactly we're crafting this legislation. Senator Geist and I had a nice conversation on the mike and then another nice conversation off the mike. We've agreed that we're going to continue to work on this to work the kinks out and to meet somewhere that's going to make-- solve both of our concerns. And so at this time, I'm going to pull AM479 and we're going to discuss and maybe bring an amendment on Select.

WILLIAMS: Thank you, Senator John Cavanaugh. The amendment is withdrawn. Mr. Clerk.

CLERK: Mr. President, Senator Hilkemann would move to amend with FA4.

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

HILKEMANN: Thank you, Mr. President. I rise-- I like a lot of things about this bill, but there are several things I think we need to address before we, we move this bill forward. My big, biggest kern-- concerns-- number one is, is that we are making permanent changes on how we sell alcohol and particularly, we are beginning the process of permanently changing the way we tax alcohol. And let's make no mistake about it, this whole part of this regulatory relief comes up as a-- in relationship to the COVID. It comes up with the decisions that were made that we were-- we, we temporarily make some restrictions on our laws and it's just giving an opportunity, as we've found in many other industries for other instances, to use the COVID as a reason to change laws on a permanent basis. And what we're seeing here, this is happening with the alcohol industry and I'm very concerned that we're making a sweeping policy change here that we may regret down the line. There is, for example, and I think at minimum, this bill should have a sunset provision on it. We don't know what the, what the, the permanent implications of, of either of these. We certainly know that when you decrease the tax on alcohol, that that's going to increase the usage of the alcohol. Let's, let's just look at some facts in the state of Nebraska. Nebraska is considered the fifth worst binge drinking state. We have the second worst self-reported drunk driving rate in the country. We're almost double the national average. In 2015, the Nebraska Department of Health and Human Services reported an estimated 703 alcohol-related deaths and over 2,400 hospitalizations. This has been fueled in part by the fact that alcohol outlets have grown at a rate in Nebraska, nearly double other states of similar populations. So with LB274, we are going to have an automatic expansion of the cocktails to go. I think that's something we need to take into consideration. We want to think about this as an economic

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

recovery, part of the economic development, but the fact is, is that excess alcohol consumption cost the Nebraska economy almost \$1.2 billion in 2010 alone, most of that with the lost productivity in the workplace. Policies that increase this off-sale or off-premise alcohol sales may have a major impact on our public health and the safety in neighborhoods. So I think we need to also look at our alcohol excise taxes. As I say, the, the LB578, which is amended into this omnibus bill, if you look at the fiscal note, it, it's \$5 million less in taxing right there, so this is not just a little pennies thing that we're talking about here. So if you, if you want to stop an activity, you-- I, I believe that you add a tax to it so it makes it worthwhile to stop the, the activity. And spirits should be taxed as spirits and that's simply it. We are trying to change things here at this point. So I would say that at minimum, I think we need to-- I-- at minimum, we need to have a sunset clause on this bill. Any time we lower the cost of alcohol, we know that we're going to have-- particularly our young people are going to be more affected. There's going to be increased consumption. We're going to have more problems with our young people. We're going to have more binge drinking. I just think that, that, that before we get swept up into this new thing that we're going to be doing here, I, I have-- those are my concerns about this. I would like to see this portion of this bill, the-- particularly the, the lowering of the cost of alcohol, the tax on alcohol, I would like to see that portion amended out of this bill. That would be the ideal thing. And at the minimum, I think we need to have a sunset clause so we can assess what this entire bill does. I know we have our relicensing through our liquor commission and so forth, but I'd like to take a time out here and let's talk about this bill in a little further manner. Alcohol, I, I-- I'm sorry, it's one of the major illnesses that we have in this country. The DUIs, the-- I'm certain everyone here in this body knows of someone who-- whose family has paid the price of people driving while intoxicated and so therefore, I-- that's-- the purpose of this bill would be to-- I would like to, to, to amend out those sections that have to do with the lowering of the tax on alcohol. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hilkemann. Senator Briese, you're recognized.

BRIESE: Thank you, Mr. President, and good morning again, colleagues. I, I stand in opposition to FA4, but I first want to thank Senator Hilkemann for sharing his concerns and his concerns over public safety and the impact some of these things can have on public safe-- safety. I appreciate that. But in the Rev-- in the General Affairs Committee, we put together what I would call a pro-growth, pro-small business

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

bill. There was no opposition at the hearing to LB578 and LB578, in the green copy, took the tax to 31 cents. As a committee, we moved it up to 95 cents. We heard testimony at the hearing that this ready-to-drink cocktail industry is the fastest-growing segment of that industry. We heard testimony that lowering the excise tax on this could help jump-start what is essentially a fledgling industry in Nebraska. We heard testimony that we had local small businesses, they actually testified saying that they wanted to get into this industry, but the tax was prohibitive. These items, they're already on the shelf. I understand Moscow mules, canned margaritas, and so forth are already on the shelf and this doesn't increase access to these items. It simply allows some of our small businesses to participate in this industry and generate employment, generate economic activity. And again, the original proposal was at 31 cents. We took it to 95 cents essentially to match the wine tax and there was testimony that much of what's going to be produced here in Nebraska in this category is going to be 5 to 6 percent alcohol. And this floor amendment would suggest we tax it the same as we tax hard liquor, tax a product 5 to 6 percent alcohol up to 12.5 percent alcohol the same as we tax a product that's 40 percent alcohol. That, that doesn't make sense to me. The 95 cents that we landed on in committee of AM-- reflected in AM427 does make sense, I believe, and that, that's why the committee landed on that number and chose to include it in AM427. I would-- I'm going to oppose FA-- FA4 and I'd ask for your opposition also. Thank you, Mr. President.

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

LOWE: Thank you, Mr. President. You know, we listened to LB578 in committee. I'm going to basically reiterate what Senator Briese just said because it's an important point. Right now, if a micro distillery would decide to make a canned cocktail-- and we all know these because they're on the TV commercials all the time. They're the, the new spritzers or the new lemon-lime drinks that companies all over the country, big companies make. They're anywhere between 4 and 6 percent alcohol, so you have a full-- you have a can of these cocktails, 12 ounce can, and it only has 5 percent of that can that is actually alcohol in it, but you're paying for 12 ounces of full alcohol. That's what the tax is on it, a full 12 ounces, when there's really only one ounce of alcohol in it. That's not fair when you're trying to compete with national brands and these little fledgling companies that would like to get into this market are willing to pay the 95 cents. Now when we look at Iowa, Iowa is much less, but we're still more than Iowa, so we don't have the cheapest tax around. So I'd, I'd much rather have a person buying a canned cocktail that is 5 percent alcohol than a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

canned cocktail that's 100 percent alcohol. I think it's a way to get these, these small distilleries that we have in Nebraska, great little businesses, to advance, to bring on more products that are controlled in the way we drink it because when you serve a bottle of alcohol at 80 proof, 90 proof, you mix it yourself, you don't know how much alcohol is in that drink when you add the soda to it or tonic or whatever you put into it. A canned cocktail is very measurable. You know how much you had at the end of the week-- end of the night. If you've had one or two or three, you know how much alcohol you've ingested. It's a good way to measure things, so I'm against FA4 and for AM427 and the underlying bill of LB274. Thank you, Mr. President.

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

HILKEMANN: Thank you, Mr. President. I want to make a comment, following up on what Senator Briese said earlier and I think that he, he said, well, this RTD is one of the, the new burgeoning industries. Well, that's fine, but let's not be lowering the tax on alcohol. This is a, this is a-- I think about our young people who get caught up with this alcohol, the binge drinking. I think about all the DUIs. I think about the families that have been destroyed by alcohol. And so I think that this is the-- and I'm concerned also that we're using this whole COVID thing-- we've, we've placed some temporary things in, into place to help businesses because of the COVID and now we're going to make it permanent. And not all these changes that we've made regarding that I think are necessarily good. And therefore, at, at minimum, I would like to see a sunset on this-- these issues, particularly on the alcohol tax. And maybe this is a good idea. Maybe it'll be good for the RTDs. Maybe we won't experience more binge drinking. Maybe we won't experience more people out there driving under the influence, but I think the potential is certainly there and I-- that's my biggest argument about this is, is, is let's take it into consideration. And they said-- well, the, the sponsor of LB5 [SIC] said it's not that much. The fiscal bill says it's going to-- just that point alone is going to take \$5 million of revenue away from the state over the next two years. It's not a small issue and this is-- if, if this is going to-- the industry has been trying to lower the tax for years and any efforts to try to get Nebraska to back with any-- with other states has always fallen on deaf ears in, in, in our General Affairs Committee. So at either rate, be thinking about this, what this is-- I'm not talking about-- we need to, we need to think long term, folks, and I am concerned about what this bill has the potential of doing long term to alcohol use, to DUIs, to teenage drinking, to-- or I shouldn't say-- I shouldn't use teenage. I should say underage

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

drinking. I should, I should be politically correct on this thing and-- but you all know what-- where I'm talking about. And so consider this before we just take this bill and, and, and I'm asking at minimum, that it be amended. At minimum, there should be a sunset clause in it at, at the minimum. And therefore, thank you, Mr. President.

WILLIAMS: Thank you, Senator Hilkemann. Seeing no one in the queue, Senator Hilkemann, you're recognized to close on FA4.

HILKEMANN: Thank you, Mr. President. I'll consider that I just had my closure on that.

WILLIAMS: Thank you, Senator Hilkemann. Members, the question for the body is the amendment to the committee amendment to LB274. All those in favor of adopting FA4 vote aye; those opposed vote nay. Have all voted? Senator Morfeld.

CLERK: Are you telling me you want to change, Senator? You want to change from no to not voting? Thank you.

WILLIAMS: Record, Mr. Clerk.

CLERK: 2 ayes, 17 nays, Mr. President, on the amendment.

WILLIAMS: The amendment is not adopted. Mr. Clerk.

CLERK: Mr. President, Senator Hilkemann would move to rerefer or recommit the bill to the General Affairs Committee.

WILLIAMS: Senator Kolterman, you're recognized to open on your amendment. Senator Hilkemann, you're recognized--

HILKEMANN: Yeah--

WILLIAMS: --to open on your amendment.

HILKEMANN: OK, now we're, now we're live. What I'd like to do is say that the bill is to recommit this back to committee. This has become an-- this is an omnis-- an omnibus bill. They've incorporated three or four bills into one bill and we've done this on this, on this floor on numerous times. Sometimes these all work together OK, but I have a concern about what we've done with this particular bill. And there's, there's some really good things about this bill. I like, I like Senator Lowe's proposal for the farmers market. I think that's a really good idea. And I, I-- on Senator Geist's bill, I wouldn't mind seeing a sunset on that. We're making something permanent that was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

made temporary. We don't know what the long-term effects would be on this. And then the third thing that I would like to see is I would like to see a sunset particularly placed on the alcohol tax and so I-- this would give the, the committee-- this is not killing the bill. This is taking it back to the committee. They can look at it. They can amend this bill and it-- bring it back out. I think that any bill can possibly get improved. I'm just looking for improvement of this bill. Again, I go back to the whole thing of alcohol and who really is affected by it. Every one of us are affected in some way by the abuse of alcohol or may have. If you haven't, you, you're a very fortunate person. And alcohol is one of those that we-- we all realize it's a problem, but we all think, well, it's not us it's going to-- that, that it affects us. I just feel very strongly that we need to be careful to discourage underage drinking. We need to discourage binge drinking. We need to discourage DUIs. This affects every one of us. Fortunately, we-- with the Uber and, and Lyft and those organizations, we-- we're, we're finding some improvement of people not driving drunk. But I mean to tell you, how often do you see these reports the alcohol was drive-- that the driver was under the influence of alcohol? So lowering the tax on alcohol, I think, is the-- is, is-- it's a very big concern to me. Let's do a sunset clause at minimum on this. Let's reassess it and at-- down the line, we can reassess the whole thing and it-- so that's what I'm asking at this point, members of the body. So I would ask that we recommit this back to the committee. The committee can certainly modify it and it can be brought back up on the floor. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hilkemann. Seeing no one wanting to debate, Senator Hilkemann, you're recognized to close on your motion to recommit. Senator Hilkemann waives closing. Members, the question is shall the amendment to recommit be adopted? All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

CLERK: 2 ayes, 20 nays, Mr. President, on the motion to recommit.

WILLIAMS: The motion to recommit is not adopted. Mr. Clerk.

CLERK: Mr. President, I believe we're back to consideration of the General Affairs Committee amendments.

WILLIAMS: Back to debate. Seeing no one in the queue, Senator Brieese, you're recognized to close on the committee amendment AM427.

BRIESE: Thank, thank you, Mr. President, and we-- we've had a lot of great discussion here this morning, covered a lot of ground. A lot of issues got fleshed out and I appreciate the debate and discussion. It

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

was very helpful and-- but, but this is a good pro-growth, pro-small business bill. I would encourage your support of AM427. Thank you.

WILLIAMS: Thank you, Senator Briese. Members, the question is shall the committee amendments to LB274 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

CLERK: 30 ayes, 1 nay on adoption of committee amendments.

WILLIAMS: The amendment is adopted. Returning to debate. Seeing no one in the queue, Senator Lowe, you're recognized to close on LB274.

LOWE: Thank you, Mr. President. It's been a good discussion this morning. I want to let everybody know that Senator Brewer is back home and recovering. It's good to have you back home and recovering, Senator Brewer, and wish you were with us here today. LB274 is a good bill. It's a good committee bill and we're glad to bring it out of committee with the three bills that are in it. And with that, please vote green on LB274.

WILLIAMS: Thank you, Senator Lowe. Members, the question is the advancement of LB274 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB274.

WILLIAMS: The bill advances. Mr. Clerk for items.

CLERK: I'm fine right now, Mr. President. Thank you.

WILLIAMS: We'll return to General File, LB368.

CLERK: Mr. President, LB368 is a bill by Senator Sanders. It's a bill for an act relating to the Auditor of Public Accounts; provides for a late fee and audit powers. Introduced on January 13, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments.

WILLIAMS: Senator Sanders, you're recognized to open on your bill.

SANDERS: Thank you, Mr. President. Good morning, colleagues. This morning I'm introducing LB368 to give the Auditor's Office the ability to fine political subdivisions for filing a report past the application due date. I'd like to thank the Auditor of Public Accounts for bringing us this bill. LB368 was advanced from the Government and Military Veterans Affairs unanimously with no opposition testimony. The Auditor's Office monitors the financial records of over 2,800

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

political subdivisions in the state. For fiscal year 2019, there were 309 audit reports filed late. Nineteen entities have still not filed audit reports for 2019 as of January 29, making them late by anywhere from 120 to 394 days. Chasing these reports down can be frustrating and expensive for the Auditor's Office and it prevents the public from seeing the results of an audit in a timely manner. Many smaller subdivisions can file an audit waiver and most cities and counties file their reports in a timely manner. However, there is currently no enforcement mechanism for those that choose to ignore the set deadline. LB368 would allow the Auditor's Office to assess the political subdivision a late fee of \$20 a day per each calendar day that a required report, audit, or budget from the subdivision remains unfiled. Not to exceed \$2,000, this fee would be remitted to the State Treasurer, who would then reimburse the Auditor's Office no more than \$100 to reimburse the cost of enforcement. The remaining fee money, if any, shall be distributed by the State Treasurer in accordance with Article VII, Section 5 of the Constitution of Nebraska, like many state fees are. I would like to note that this bill does, does say may assess on page 2, line 17. This would give the Auditor's Office flexibility responding to extenuating circumstances such as COVID-19. Thank you for your time and attentiveness. I would like to thank-- I would like to ask you to vote green on LB368. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Sanders. As the Clerk stated, there are amendments from the committee. Senator Sanders, you're recognized to open on the committee amendment.

SANDERS: Thank you, Mr. President. On behalf of Senator Brewer and Vice Chair Senator Hansen, who are not available, this bill includes language about granting the Auditor a power to audit political subdivisions. As we looked at this further, it was determined that the Auditor already has the power. The language in this bill granting the same power is therefore redundant. This amendment deletes that language. I encourage you to vote green on AM66 and LB368. Thank you, Mr. President.

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

M. CAVANAUGH: Thank you, Mr. President. Good morning, colleagues. I have some questions and, and concerns about this bill and I'd ask if Senator Sanders would yield to some questions?

WILLIAMS: Senator Sanders, would you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

SANDERS: Yes.

M. CAVANAUGH: Thank you, Senator Sanders. So this assesses a fee and I guess you mentioned there's 300 audits a year?

SANDERS: No, there's over, there is over-- it's in the thousand-- let me see, I've got my note right here.

M. CAVANAUGH: Is it 300 that I thought I heard? Sorry.

SANDERS: Three hundred that are late--

M. CAVANAUGH: That are late.

SANDERS: --or haven't filed at all.

M. CAVANAUGH: And what are the reasons that are given for the late filings?

SANDERS: I don't have that with me on each one of their excuses or their-- what they're asking for as far as late permissions, but I have that information here for you if you'd like to read it.

M. CAVANAUGH: Yes, I would. Do you have maybe just an overarching theme of why they would be late? No. OK. So my concern is that we are assessing fees to, to local entities and the only way that they can fund themselves is through property tax and so I'm concerned if we're trying to address high property tax in the state, that this is another fee that we're assessing that would have to be levied through property tax. Is this something-- and I'm looking at the fiscal note. It seems to have no fiscal impact, so is this something that we really need to do?

SANDERS: Well, I think the \$20 a day was as minimum as, as it could get without-- with putting pressure on them to file the report, but hoping that they don't have to partake in paying the \$20 a day.

M. CAVANAUGH: OK, and I guess I'm just confused by the fiscal note because it doesn't show any revenue or expenditure that they're having. Did you have a chance to talk with the Auditors about why that would be?

SANDERS: I did not, but I assume they do not want to have a fiscal note if they comply with the deadline.

M. CAVANAUGH: OK, so the, the thinking is, is that by imposing this fee, they will comply with the deadline? And are those that are in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

compliance, are they municipalities, towns, counties, all of the above?

SANDERS: All of the above.

M. CAVANAUGH: OK, thank you, Senator Sanders.

SANDERS: Thank you.

M. CAVANAUGH: I, I think I'll have to take a closer look at this because I do have concerns about levying more fees to local governments when we're talking about property tax, so thank you. I yield the remainder of my time.

WILLIAMS: Thank you, Senator Machaela Cavanaugh and Senator Sanders. Senator Flood, you're recognized.

FLOOD: Thank you, Mr. President. Members, I appreciate Senator Sanders' bill and I think-- to Senator Cavanaugh's questioning, this isn't about increasing anybody's property tax liability. This is about holding public governments accountable for the people's money and if we're going to-- if the taxpayers are going to trust that their dollars are being spent the right way, we have to make sure that the Auditor of Public Accounts can get in there and see it. And if you've got some renegade or lazy or nonconforming board that doesn't think they're subject to the transparency requirements in the Auditor's Office, there should be some accountability. And I guess the reason I like the \$20 fee is that-- per day is that if, if you're an elected official and you're on a board where you've been assessed fines of \$400, I think that sends a message to the taxpayers that you're not undertaking your responsibility as a steward or a fiduciary of the public's money in the right way. And so I think what the Auditor of Public Accounts here, by giving them this authority, they're essentially able to maybe get these cities to comply. It reminds me a lot of the Nebraska Political Accountability and Disclosure Act where we as, as officeholders are familiar that if you miss a deadline, there is a fine to pay and that, I think, helps us keep more accountable. And there are situations where people miss deadlines and I think that's where the use of the word "may" comes in. So I actually think when you rank what this bill does, what Senator Sanders' effort here is doing is basically saying that if you're going to be entrusted with the public's money, you have to be responsible, you have to file on time. There shouldn't be 300 political subdivisions out there that are not paying attention. And to Senator Cavanaugh's question, this could be a community college, it could be a community college, an NRD, a school district, a city, a county. There are so many-- ag society.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

All of these public entities are audited-- not every year, but are subject to the audit of the State Auditor and I think what Senator Sanders and the Government Committee have done here is not only reasonable, but it's worth supporting. And I actually would, would ask the question, what if somebody doesn't pay the fine? What if you've got a public body that's not paying the fine? Like, do we need to go a step further on Select File and say, well, then the county attorney can or the State Attorney General can file an action in the district court to make the political subdivision pay that fine? I don't think that's necessary, but that was about the only question I had about the bill when I read it. So thank you, Mr. President.

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

M. CAVANAUGH: Thank you, Mr. President. Thank you, Senator Flood, for your comments. I don't disagree that transparency in government is essential and, and I think having these audits is really important. I do, I, I do want more information about are those 300 late audits-- is that typical or is that just this year and is that something that we can address without having a financial element added to it? I, I do believe that our elected officials should be held accountable and that we should have transparency in government. I just-- if we start assessing fees to everything-- and, and to your point, Senator Flood, how do we even enforce them paying the fees in addition to, to not being compliant with the audit? So I just don't know that this is something that's necessary at this point without having more information about those audits. And additionally, the fiscal note to me is concerning that there is no fiscal impact, but we're collecting fees and so we should at least have a revenue impact on that. And if it's to offset the cost of, of pursuing these audits, then we should have an expenditure. Otherwise, how will the State Treasurer determine whether or not they need to pay them, the Auditor? So just some things that I think we need to investigate a little bit further and a little bit closer and I just wanted to get that on the record and that's it. Thanks. I'll yield my time.

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

FRIESEN: Thank you, Mr. President. I rise in support of LB368 and the amendment. I, I think too, it, it-- all it does is hold these taxing entities accountable. And so when I look at that, if, if we require reports and I've run across this in numerous different processes that we do. We create all these different reports that people are supposed to fill out. There's applications when you apply for an exemption on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

property. To me, if you're going to create this report and have people fill it out, then either you fill out the complete report and turn it in as scheduled or else you should-- you, you didn't do your job and there should be some repercussions from it. And so in order to-- all of these things, whether it's this bill or there's other issues out there. I've, I've run across forms where we send them out and they only partially fill out certain parts of the form and leave the rest blank and yet we continue to approve it. So I guess if we're going to establish these rules, if we're going to create these forms, they either fill the form out correctly or we get rid of the form. And so with that, I, I do believe that there should be some repercussions for those entities not filling out these forms and this will be one way of doing it. And if they did their job, there would be no cost. Thank you, Mr. President.

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

CLEMENTS: Thank you, Mr. President. I rise in support of LB368 as well and just wanted to let you know that in Appropriations Committee, we've been dealing with budgets of all the different agencies and the State Auditor was one of the people who has come before us and he had a request wanting to add another audit team. They're so busy doing audits and having a lot of requests for audits that he wants another five people on his team to be able to handle all the work they have. I think also that entities that are failing to file these reports, they're having to follow up and ask them, spend a lot of time asking for reports that haven't been submitted and might be part of the reason that he needs some more staff, that they're not getting reports timely they're needing. And he's also definitely having a demand for more entities to be audited and believe we're probably going to include funding for another audit team. I'm going to support putting that in our budget. And the, the problem is that if there is not a penalty for failure to act, you really don't do anything about it. And I think this is not an excessive fine. I think it's not going to be enough money to have to raise anybody's property tax and it needs to be something to get their attention. And so I'm in favor of this bill and thank you for bringing it, Senator Sanders. I'll support LB368. Thank you.

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

GROENE: Thank you, Mr. President. I stand in support of LB368 and AM66. This bill is very well, well written. We-- I like the word "may." There are a lot of small subdivisions out there with a lot of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

volunteers basically trying to run them and low-paid individuals. The "may" is important because the State Auditor has an awful lot of things to audit so he might not catch this or she might not catch this for 30 days or 60 days or even longer that the audit has not been sent in. So it makes this Auditor who he is a public servant that he can first contact the, the entity and say you didn't do your audit and they can say, oh, my gosh, yes, we forgot and then they send the audit in with no fine at all. But if they get resistance, they have this big hammer to say starting the day after it was due, we're going to charge you \$2,000. And it's already been 30 days, so you're already \$600 behind, so could you have your audit to us within a certain amount of time? It's very good, it's a very good bill. It allows the Auditor to be a public servant to work with the entities, but it also allows a, a tool that says if you're a bad character, you're going to get fined. So I appreciate the bill Senator Sanders, Sanders brought. It, it's very well written. Thank you.

HILGERS: Thank you, Senator Groene. Senator Dorn, you're recognized.

DORN: Thank you, Mr. Speaker. Would Senator Sanders take a question?

HILGERS: Senator Sanders, would you yield?

SANDERS: Yes.

DORN: Yes, thank you. Talked to you a little bit there a second ago and you're not changing any of the dates or anything like that or when something might be due. Generally speaking, the parties involved here, they know when something is due, when a report is due or that, so you're not changing any of that. This just puts in-- I call it some more teeth in the game so that, hey, this isn't no surprise. You know when the due dates are, you're only changing the fee.

SANDERS: Correct. There's no change in the date, just the fee.

DORN: Thank you.

SANDERS: Thank you.

HILGERS: Thank you, Senator Sanders and Senator Dorn. Senator Machaela Cavanaugh, you're recognized. Senator, Senator Cavanaugh, this is-- and this is your third opportunity.

M. CAVANAUGH: Thank you, Mr. Speaker. Senator Clements, would you yield to a question?

HILGERS: Senator Clements, would you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

CLEMENTS: Yes.

M. CAVANAUGH: I apologize. I was in a conversation and did I hear you say that there are FTEs for this?

CLEMENTS: No, not in this bill. There are no FTEs. That's a request in our general budget for the State Auditor's agency that he's wanting more staff, but this bill does not have any FTEs included in it.

M. CAVANAUGH: Is that staff to-- does he need-- requesting that staff to enforce this bill?

CLEMENTS: No, it wasn't mentioned in his request. They just have a lot of auditing to do statewide and they're shorthanded somewhat.

M. CAVANAUGH: OK, so the, the agency request is for the current workload, not for what would be enacted by this bill?

CLEMENTS: Correct.

M. CAVANAUGH: And what about the State Treasurer's Office? Because the money is collected by them and then distributed, did they have any additional requests?

CLEMENTS: No.

M. CAVANAUGH: OK, thank you. I yield the remainder of my time. Thank you.

HILGERS: Thank you, Senator Clements and Senator Cavanaugh. Seeing no one else in the queue, Senator Sanders, I understand you opened, so you're welcome to close on the committee amendment.

SANDERS: Thank you very much. I'd like to also add to Senator Cavanaugh, thank you for your questions. I wanted to respond there are 2,800 total audits that need to be performed annually and if they just filed, there will be no fee and I have all the documents here and I'll share that with you. And then again, thank you again, Mr. President. As with the committee amendment, LB368-- this bill includes language granting a redundant power of the Auditor. This amendment deletes the language granting the redundant power. I encourage you to vote green on AM67 [SIC--AM66] and LB36-- oops, I think I'm reading-- excuse me-- this bill has language about granting the Auditor power of audited subdivisions. And we looked at this further, it was determined the Auditor already has this power. This bill is granting the same power, therefore redundant. This amendment deletes the language. I encourage you to vote green on AM66 and LB368. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

HILGERS: Thank you, Senator Sanders. The question before the body is the adoption of AM66. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

CLERK: 36 ayes, 0 nays on adoption of committee amendments.

HILGERS: The committee amendments are adopted. Turning-- returning to debate on LB368. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Oh, I meant to vote on the bill.

HILGERS: Senator Pansing Brooks waives the opportunity. Seeing no one else in the queue, Senator Sanders, you're welcome to close.

SANDERS: Thank you, Mr. President. Again, I thank you for your consideration of this bill. Would like to ask you to vote green and thank you for your attentiveness.

HILGERS: Thank you, Senator Sanders. Colleagues, the question before us is the advancement of LB368 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of the bill.

HILGERS: LB368 is advanced. Mr. Clerk for items.

CLERK: Thank you, Mr. President. Government Committee reports LB261, LB294, LB442, LB443, LB236, LB285 to General File, some having amendments. The Retirement Systems Committee reports LB17 to General File with committee amendments. Amendments to be printed: Senator Ben Hansen to LB106 and to LB437 and to LB301. I also have notice of hearing from the Revenue Committee. So I also have a confirmation report, Mr. President, by the Investment Council-- an appointee to the Investment Council, I should say. New resolution, LR56 by Senator Gragert. That'll be laid over. Mr. President, a series of announcements: Education Committee will have an Executive Session at 1:00 today; Banking Committee in Room 1507 upon adjournment; Transportation in Room 1113 at 1:00; Revenue, an Exec Session following the 1:30 Revenue Committee hearing; Appropriations will have their Executive Session at 1:30 in Room 1301; and the Health Committee on Wednesday, March 10, at 1:30, all signed by the respective Chairs. Name adds: Senator Vargas to LB14; Brewer to LB64; Clements to LB85; Murman, LB143; Clements, LB173; Briese, LB236; Linehan, LB250; Matt Hansen, LB258; Albrecht, LB310; Murman, LB322, LB389, LB436; Slama to LB496; Albrecht, LR3CA; Hunt to LR54; Hilkemann, LR54; Flood, LR54;

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2021

Brewer and Briese all to LR54. Mr. President, Senator Groene would move to adjourn the body until Wednesday morning, March 10, at 9:00 a.m.

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