

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 15, 2021

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

McCOLLISTER: Good morning, colleagues. One of my favorite verses in the Bible is First Corinthians, verse 13. It's particularly fitting to give this-- these verses in this body: If I speak in the tongues of men or of angels, but do not, do not have love, I'm only a resounding gong or a clanging cymbal. If I have the gift of prophecy and can fathom all mysteries and all knowledge, if I have the faith that can move mountains, but do not have love, I am nothing. If I give all that I possess to the poor and give over my body to hardship that I may boast, but do not have love, I gain nothing. Let us pray. Dear Lord, thank you, Lord, that your love is patient. Help us show patience with those around us. Lord, thank you that your love is kind. Help us to extend kindness to others. Lord, thank you that your love is not jealous. Help us cast aside feelings of jealousy or hatred toward others. Lord, thank you that your love does not brag, is not arrogant. Help us choose to walk with humility and grace. Amen.

FOLEY: Thank you, Senator McCollister. Senator Brewer, could you lead us in the Pledge of Allegiance, please. Thank you, Senator Brewer. I call to order the forty-third day of One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: There are, Mr. President. Your Committee on Education, whose Chairperson is Senator Walz, reports LB630 to General File with committee amendments, as well as LB639 to General File with amendments. Health and Human Services reports favorably on appointees to the Stem Cell Research Advisory Committee. That's two reports. Amendment to be printed from Senator Williams to LB22. Your Committee on Education reports LB198, LB281, both to General File with committee amendments attached. Health and Human Services reports LB296 to

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General File, LB325, LB390, LB437 all, all to General File with committee amendments attached. Revenue reports LB39, LB64, LB310, LB313, LB366, and LB479 all to General File with committee amendments attached. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Members, Senator McCollister would like us to recognize Dr. Will Ostdiek of Omaha, Nebraska, serving us today as family physician of the day. Dr. Ostdiek is with us under the north balcony. Doctor, if you could please rise, like to welcome you to the Nebraska Legislature. Additional items for the record, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Your committee on Enrollment and Review reports LB66, LB106, LB106A, LB113, LB113A, and LB163, all placed on Final Reading. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR54. Members, we'll now move to General File 2021 priority bills. Mr. Clerk.

ASSISTANT CLERK: Mr. President, first bill this morning, LB487 introduced by Senator Arch. It's a bill for an act relating to insurance; amends Section 44-793; change mental health condition and serious mental illness coverage provisions; and repeal the original sections. This bill was introduced on January 19 of this year, referred to the Banking, Commerce and Insurance Committee. That committee reports the bill to General File with committee amendments attached.

FOLEY: Thank you, Mr. Clerk. Senator Arch, you're recognized to open on LB487.

ARCH: Good morning, colleagues. First, I want to thank Senator Williams and the members of the Banking, Commerce and Insurance Committee for making LB487 a committee priority bill for this session. That means a great deal to me and to the many supporters of the bill. Obviously, LB487 was referred to the Banking, Commerce and Insurance Committee. A public hearing was held on February 1, and the committee voted unanimously to advance the bill with a minor committee amendment. There is no fiscal impact. LB487 would require commercial insurers to reimburse for the treatment of mental health conditions delivered using telehealth services at the same rate as a comparable treatment provided in person. I consider LB487 to be the companion bill to LB400, which is my personal priority bill that we advanced from General File on Tuesday. As you may recall from my introduction

on LB400, I conducted an interim study that focused on the impact the COVID pandemic has had on the utilization of telehealth to access healthcare services. Part of the study included a survey of stakeholders and adequate reimbursement, payment parity, was by far one of the issues related to telehealth that providers felt was extremely important. Medicaid currently reimburses all telehealth visits the same as if conducted in person. LB487 limits the parity requirements for commercial insurance to behavioral services only. I generally do not support mandates on the private market, but during the pandemic, insurers voluntarily restructured reimbursement rates to accommodate telehealth claims, and it was very successful for behavioral health. I think ensuring payment parity going forward for behavioral health services specifically is worth putting into statute. Obviously, while people were isolating at the onset of the pandemic, telehealth usage skyrocketed. One area where it increased significantly was in behavioral health services. The interim study also included a survey of commercial insurers and the utilization--

FOLEY: Excuse me, excuse me, Senator. Members, if you could hold the conversations down, please, is very distracting to the Senator who's speaking. Senator Arch.

ARCH: Thank you. The interim study also included a survey of commercial insurers and the utilization of telehealth services. The survey found that in the first three months of the public health emergency, nearly half of all outpatient telehealth visits were for behavioral health services. Now, let me provide my rationale for supporting this payment parity requirement for behavioral health. First, providing behavioral health services, whether in person or through electronic means, should be fairly equal in costs. There's no need for large overhead costs, nursing and support staff, lab facilities, exam rooms for either in-person or telebehavioral health. It is also not necessary to have physical contact with a patient at every visit. There are no hands-on examinations performed. The licensed mental health practitioner can deliver services from almost anywhere and because of the pandemic, we are learning that patients can effectively receive these services from almost anywhere. So in behavioral health, the provision of behavioral health in person is generally one-- one room, generally an office, desk, computer. The provider sits at the desk, the patient sits in a chair across from the desk, or in the case of behavioral health telehealth is on the screen. No difference in costs. Second, providing behavioral health services via telehealth is effective. Numerous studies on the efficacy of treating mental health conditions through telehealth report-- through telehealth, report the patient's rate the treatment to be as

therapeutic as meeting in person. It has been found to be particularly effective in reaching patients with severe conditions that make them unable or unwilling to seek treatment outside their homes. Anecdotally, I have been told providers are reporting people appear more receptive to treatment provided from the comfort of their own home and that appointment no-show rates are down. Third, and most importantly, telehealth increases access to behavioral health services. We want to encourage that access. The Kaiser Foundation reports that over one million Nebraskans live in a mental healthcare shortage area. The shortage of behavioral health providers is particularly detrimental to our rural parts of the state. According to the CDC, the agriculture industry has one of the highest suicide rates among major industry and occupation groups. The ability to seek services through telehealth eliminates the need for long distance travel time and provides for greater confidentiality in smaller farming communities. Statewide being able to access services, conveniently eliminating the costs associated with taking time off of work and traveling makes important mental health services more available to many Nebraskans. And let me make that statement in the reverse. Having lower reimbursement rates for-- for telebehavioral health, actually "disincent" providers from offering telehealth services, which is essential to our less populated areas. As we discussed on the floor briefly last Thursday, there are many Nebraskans who suffer from mental illness to varying degrees. It is a debilitating disease. It's devastating to the children and families of those who suffer from mental-- mental illness and it's costly to our society. With the passage of LB487, we can better ensure effective, valuable services are adequately reimbursed and readily available to those who need it. I urge your green vote on the committee amendment and on LB487.

FOLEY: Thank you, Senator Arch. As the Clerk indicated, there are amendments in the Banking Committee. Senator Lindstrom, as Vice Chair of the committee, would you handle committee amendment for us, please.

LINDSTROM: Yes, thank you, Mr. President. The committee amendments to LB487 would make a technical cleanup change to four places in the bill. The amendments were recommended to the committee by Senator Arch as the bill introducer. The bill provides in the treatment of mental conditions for equal-- equal insurance reimbursement for telehealth and telemonitoring services on the one hand and on in-person services on the other. Senator Arch tells us that referencing telemonitoring along with telehealth in this setting is out of place. Telemonitoring is defined as the remote monitoring of a patient's vital signs, biometric data, or subjective data by monitoring device which

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transmits such data electronically to a healthcare provider for analysis and storage. These functions are generally irrelevant to a mental health provider session with a patient whether by telehealth or in person. The committee amendments would simply strike all references to telemonitoring as they appear in conjunction with telehealth. Those are the cleanup amendments from the BCI committee. I would urge your adoption and advancement of the committee amendment and LB487. Thank you, Mr. President.

FOLEY: Thank you, Senator Lindstrom. Debate is now open on LB487 and the pending committee amendment. Senator Bostelman.

BOSTELMAN: Good morning, Nebraska. Good morning, colleagues. Thank you, Mr. President. I take this opportunity once again to stand up. I'll continue to stand up and talk about broadband needs across the state or unserved and underserved areas across the state and those providers that are in the state that continue to refuse to-- to bring broadband services to rural Nebraska, to outstate Nebraska and provide them with broadband connectivity that they need. This is one specific area that's very important. I believe that Senator Arch may have talked about a million rural folks, our farmers, those, again, in outstate Nebraska that desperately need services. We're not talking about schoolchildren. We're talking about mental health, medical services that you can do using broadband. You need broadband to do that. But yet our providers, and I will start naming them in the future, are refusing to provide those type of services, that connectivity with majority of Nebraskans out there that are unserved and underserved and this cannot continue. This body needs to take action, needs to move broadband connectivity forward for all Nebraskans, not just people who live in the cities, in the large cities, but every Nebraskan, whether you live in the Sandhills or whether you live in northeast Nebraska, southwest Nebraska, wherever you're at, broadband is not something, it's not a luxury anymore. Broadband is something we need to grow our economy. Broadband connectivity is what we need for our schoolchildren. Broadband connectivity is what we need for proper-- for needed health services across the state. And yet, and yet we still have providers that refuse to give-- to provide services in unserved and underserved-- underserved areas at the bandwidth that they need. I'll talk about my home again. We can't stream at my home and I'm 32 miles from here. We have satellite. Two weeks ago, at that, our upload speed with satellite was .5, .5. How can we continue to let that happen in this state. This is something that desperately needs to be addressed. We need to make certain that we take action on it this session. Providers need to come to the table. They refuse to come to the table to talk

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about this. To me, it's unconscionable. To me, it's something that we need to move forward. Those providers who absolutely refuse need to come to the table or we will-- I'll work with anybody on the floor that wants to listen to me, anybody in my committee that wants to listen to me and work on this to make this-- make Nebraska-- it's in statute. It's in statute that if I live in rural Nebraska, I should have reasonably comparable broadband services as what you do in-- in-- in urban areas and we don't do that. This needs to be addressed. This needs to be helped. I thank Senator Arch for the bill. I do support AM160 and LB487. I encourage you to have a green vote on this bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Senator Clements.

CLEMENTS: Thank you, Mr. President. In general, this looks like a good idea, but I did have some questions about it. Would Senator Arch yield to a question?

FOLEY: Senator Arch, would you yield, please?

ARCH: Yes.

CLEMENTS: Thank you. One-- one thing about teleconference items is patient privacy. Was patient privacy discussed in-- in this bill or what the providers are going to do to assure patient privacy?

ARCH: It was not discussed specifically in this bill, but I will tell you what I know about it. And it-- and it all has to do with encryption. When the-- when the pandemic hit, there were certain provisions that the federal government allowed. And one is-- one of those was to use a software that did not require encryption. As the pandemic goes away, I believe that that will come back and encryption will be required. And-- and now almost all of the telehealth software has encryption because, of course, obviously they're not going to be able to sell their services without that capability. So as far as confidentiality goes, encryption is one thing, but of course, the confidentiality doesn't change with regards to the keeping of the records either for the provider. Those-- those remain in place. Of course, there has to be HIPAA compliant protection.

CLEMENTS: All right, thank you. And there-- are there-- it seems to me there should be some cost savings to the provider that could be passed along to the patient or into the insurance company. How was that addressed?

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ARCH: Well, at the present time, unless telehealth completely replaces in-person visits and I don't think that's going to happen anytime soon, the-- to shed some of the cost of a-- of a behavioral health provider, they would have to stop their lease at their office. That would be-- that that would be the primary, have no-- have nobody scheduling appointments. But if you're blending telehealth with in-person, those-- the lease and the-- and the front desk person would-- would remain. And then there's an additional cost to the provider so payment parity doesn't cover that. But the additional cost, of course, would be the equipment, the connection, the software in order to conduct telehealth. So I don't see-- I don't see a-- a saving so much. There's actually some additional costs. And so rather, it's just parity is-- is what this bill is looking at.

CLEMENTS: All right. I see that Blue Cross Blue Shield opposed that. I've-- I've been a Blue Cross Blue Shield agent quite a while and respect their opinion. Did they offer mental-- telehealth for mental services during the last 12 months of COVID?

ARCH: Yes. And-- and they had payment parity. As a matter of fact, Blue Cross intends from their testimony, they do intend to continue payment parity. So-- so there were-- there are a few commercial insurance that are currently offering payment parity. They weren't sure whether they were going to continue payment parity. So in this particular case, just for behavioral health, they would be required to continue that payment parity.

CLEMENTS: Oh, the transcript is not available for the hearing. What did they oppose then if they're willing to have payment parity? Do you recall?

ARCH: OK, I think-- I think in general the insurance industry, of course, does not support mandates in-- in statute. And so it would be based on that, that there would be opposition.

CLEMENTS: Oh, they wouldn't be able to design a policy that excluded this altogether.

ARCH: Correct.

CLEMENTS: Even if customers demanded it who didn't think they'd ever need this service. All right, I see. And let's see.

FOLEY: One minute.

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CLEMENTS: Oh, thank you. Are there-- well, I think that's all I had. Thank you, Senator Arch. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements and Senator Arch. Continuing discussion. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Good morning, Nebraskans. I rise in support of AM160 and in support of LB487. I'm grateful to the Legislature for prioritizing healthcare this year, especially after the devastation of the pandemic. You know, it's more clear than ever to us that when we're talking about public health, it doesn't matter how good your insurance is, it doesn't matter, you know, how great your doctor is. In public health, all of us are only as healthy as the least taken care of, the poorest insured, the person with the least access to healthcare in our state around us. Because especially when you're talking about a pandemic, you know, obviously a virus doesn't care, you know, if you have insurance or if you have a doctor. And this is a really great way to not only say that during this troubling time during the pandemic, we're going to prioritize healthcare, but moving forward, we're going to keep making sure that people are going to have access to telehealth. I also agree with Senator Bostelman who said that we need to have broadband for all the people. We need to have healthcare for all the people. But we also need to make sure that we have available for all the people, all the procedures that meet the standard of care, that meet the American Medical Association standard of care and best practices in giving healthcare services. It has to be said that in Nebraska we can talk about telehealth. And we've had many, many senators in the body in my time here bring bills around telehealth. But there is still one procedure in Nebraska that you cannot get via telehealth. And that's because in 2011, kind of recently in legislative history, the Legislature passed a bill to ban telehealth for medication abortion, which is an essential service that many patients need. And because of a bill that was passed here in 2011, that's not available here in Nebraska even though it's considered an appropriate standard of care. There's also a study that came out of Iowa over many, many years that showed that patients who receive medication abortion via telehealth actually have better health outcomes than those who don't. And we know that we have pushed access to reproductive healthcare for patients further and further out of reach in this state. And if we really want to care about public health and we want to have a healthy populace, we have to make sure that that includes all healthcare, not just all people, but all procedures that are considered the standard of care. In Nebraska, we have an A+, top-grade, first-class medical community. Our medical leaders and

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doctors and researchers at UNMC, they led the way fighting the SARS virus, the Zika virus, Ebola. We know that our medical community here is strong and amazing. And so when they tell us trust us to do our jobs and women tell us, trust us to make decisions about our bodies, we need to respect the sacred space that is there between a patient and their provider and make sure that access to care is available as well. I have a bill, LB276, in the Judiciary Committee that would allow us to do this. That would just say we're not going to push this care more out of reach for Nebraskans and we're going to make sure that the standard of care is available to everybody. I support this bill because I want healthcare to be more accessible. It's going to help people who have disabilities. It's going to help people who are older, people who have mobility issues, people who are single parents like me, who have a hard time getting childcare so they can go make appointments and things like that. So it's a really good bill and it's a really good idea. Colleagues, I think that we need to take it further. And we also need to be honest with Nebraskans and say that when we say we want you to have access to healthcare, we don't mean all healthcare. Thank you, Mr. President.

FOLEY: Thank you, Senator Hunt. Senator Hughes.

HUGHES: Thank you, Mr. President. Good morning, colleagues. I was wondering if Senator Arch would yield to some questions, please.

FOLEY: Senator Arch, would you yield, please?

ARCH: Yes, I will.

HUGHES: So, Senator Arch, I understand the reason for the move toward telehealth, and-- and I'm all for that, but I was curious of in your position, have you come across any studies that have been able to evaluate is telehealth as effective as in-person visits?

ARCH: Yes, yes, I have come across some. As a matter of fact, one of the testifiers at the hearing was from the Nebraska Association for Marriage and Family Therapy. She came in and I'll-- I'll read from a letter that she provided. We're providing to the committee a list of comparative studies between telebehavioral health and in-person behavioral health services supporting the efficacy of behavioral telehealth as evidenced by patient satisfaction and other indicators. And then she attached those-- those studies and so that was very helpful. Yes, both-- both from the studies as well as anecdotally when we did our-- our interim study, that was one of the questions that we discussed was, are the providers adopting this. For a long time prior

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to this pandemic, there was hesitancy on the part of providers because they weren't really sure whether or not in their own personal experience, whether that efficacy, the effectiveness of telehealth would be equal to in person. And I will tell you that it has been widely embraced by behavioral health providers because they did discover that not only was it as effective, but as I said in my opening, in my opening remarks that there were people that preferred not going to the office to be seen at the office, wherever that might be, to be identified as somebody that needs these services, but rather can take these services in-- even in their own home, which lowers that anxiety, lowers-- lowers that, that concern about, about being identified. And so it opens that up as well. I-- I got more. Senator Hughes, can I continue? I've got some other things to--

HUGHES: Absolutely.

ARCH: OK, so-- so LB400, which is my companion bill, one of the-- one of the things in LB400 also talked about identifying the originating site. The originating site is where the patient, is where the patient is, and that originating site could be anywhere and that includes in-home. So if that bill passes, you have the-- the ability for the patient to stay in the home and-- and receive those services by the-- by the provider. So you combine this of-- of payment parity in behavioral health with the originating site clause in LB400, and you now have removed the disincentive that providers experience when the-- when the behavioral health, the telehealth is lower than the in person, you've removed that disincentive. So they're able to provide those services and the patient in that originating site clause is able to receive those services where they are most comfortable. So I think the matching up of those two is-- is a-- a-- a strong support for behavioral telehealth.

HUGHES: Thank you, Senator Arch. I guess the-- the reason I wanted to quiz you on that a little bit, because I've always felt that the telehealth, and I-- and I-- I apologize for not listening to your opening, but body language, you know, from someone when I'm having a meeting with them tells you a lot, probably not as much, but body language does tell you a lot.

FOLEY: One minute.

HUGHES: And that's what I see as missing from telehealth, especially mental health. So-- and I-- and I-- but I have not considered the anxiety of traveling to an office and-- and being seen there. So I do

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appreciate your explanation for that. If you have anything else to add, we probably got 30 seconds.

ARCH: Yes, I-- I think that-- that the body language is-- is real and as well as facial expression. And-- and again, I have talked to psychiatrists that I know personally and-- and frankly, there are some psychiatrists that said we would be happy to go to 100 percent telehealth. So they're obviously feeling as though they are comfortable with-- with the video and-- and the audio and what they're-- what they're able to determine.

HUGHES: Thank you, Senator Arch. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes and Senator Arch. Senator Clements.

CLEMENTS: Thank you, Mr. President. I did think of another-- the other question that I wanted to ask Senator Arch if he would yield to a question.

FOLEY: Senator Arch, would you yield, please?

ARCH: Yes, I will.

CLEMENTS: The other question I had was whether all health insurance policies will be mandated with this or only those who currently offer an in-person mental health coverage? Is there a difference?

ARCH: I am not familiar, first of all, that there are policies that only offer in-person mental health. I don't-- I don't know that there's any-- I'm not aware of any policies that that is that restrictive for in person. However, in answer to your question, so I go back. I go back to, you know, the three categories of funding for our-- our health services in general, Medicare, government, Medicare, Medicaid, they are-- they are already payment parity so that-- those are off the table. Within commercial insurance, of course, you also have-- I say I'm going to use the term traditional commercial insurance. Somebody-- a small employer goes out and purchases insurance on the market and lines up with one of the provider-- or one of the insurance carriers and purchases insurance for their employees. Those-- those people in that category is what this bill addresses. Then there are those who are self-funded, ERISA. ERISA plans because they are controlled by the federal government, would not be impacted by this bill. We cannot put in position. We cannot impose any-- any-- any restrictions on ERISA plans. And so those that are self-funded would not be covered by this bill. That, from my understanding, is approximately 50 percent of the commercial product that is out in the

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market right now where the insurance carrier becomes a third-party administrator rather than the at-risk insurance. The employer themselves are-- are at risk for the costs of the insurance and they hire an administrator to process claims and adjudicate claims. So that-- I hope that helps.

CLEMENTS: Oh, I don't think it quite got to what my-- my question was, if the policy excludes any mental health coverage at all, is it going to now be mandated to add it in?

ARCH: This policy-- this-- this bill does not affect that. However, I'll go back to the federal government again. There is mental health parity. And so the mental health parity from the federal government, I don't believe allows the insurance companies commercial insurance now, traditional insurance to exclude. I will-- I'll check on that and I-- I will-- I'll make sure--

CLEMENTS: Well,--

ARCH: --that I'm correct on that,--

CLEMENTS: --I think you're right.

ARCH: --Senator Clements.

CLEMENTS: The Affordable Care Act, I believe, did mandate mental health benefits. I'm not sure if all types of procedures are in it, may be some various there. Do you have an idea of what other states have done in this regard? Have you heard of any?

ARCH: There are approximately, and I'm going to-- I'm-- I'm going to use the term-- just a second, I-- I do have that number. There are 23 states right now that have some form of a payment parity law. It could be complete payment parity for all types of healthcare, it could be just behavioral health, but there's 23 states now that have some type of payment parity law.

CLEMENTS: Thank you, Senator Arch. That's all the questions I had with you. I did want to respond to a comment that was made that telehealth should be available for the abortion pill. And I--

FOLEY: One minute.

CLEMENTS: --definitely disagree with that, that it's not just another procedure. It's really-- that-- that pill is only recommended to, I think, maybe only ten weeks of pregnancy or a limited number of weeks

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of pregnancy. And how is a person going to be sure what their condition is, how far along they are without having an ultrasound and a visit by a-- a professional provider, a doctor? I think that an in-clinic visit is really necessary in-- in regards to an abortion pill of treatment. And so I definitely do not agree with saying that that's just another item that ought to be a telehealth medication. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Senator Groene to be followed by Senator Brandt. Senator Groene.

GROENE: Thank you, Mr. President. I might have some questions for Senator Arch. I'm assuming that they have a preferred-- most insurance companies have preferred-- preferred providers. I would assume that this follows through on telehealth. Also a little bit concerned that once you're on the web, you could be talking to a psychologist in New England or one in Washington because you don't have to physically go see them. I wondered about-- I see Blue Cross of Nebraska came out against this. I'm wondering if they're concerned that they are going to have to track down the-- the license, if it's-- I guess another question is, does the license have to be of the psychiatrist or the mental health provider have to be licensed in Nebraska? Or do we just go out there on the web? And-- and the other thing is accessibility now. Somebody is anxious, whatever you want to call it, and now they can, they can email their psychiatrist every day and have an appointment. Is their limits on cost, the provision because now it's so simple to get ahold of-- of your doctor. Senator Arch, you caught-- there's a multiple list of questions there if you want to start trying to go down the list. I'll interrupt you if, if I get the answer and you're getting windy.

FOLEY: Senator Arch, would you yield, please?

ARCH: I will. Thank you. Yes, let me first of all, talk about the-- about the provider list that an insurance company has. So the process of getting on a provider-- on a provider panel of the insurance company starts with getting licensed in the state of Nebraska. The law is that you must be licensed in the state where the patient is, not where you are, but where the patient is. So that-- so that if you have a patient that you are treating and I'll use the example, for instance, of a physician in Nebraska who does a telehealth visit of, I would say, their patient that lives in Iowa and-- and doesn't come into the office, but rather does a telehealth visit with that patient in Iowa. That physician needs to be licensed in the state of Iowa because they are treating that patient in Iowa. That's how the law

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understands that. And so anybody that wants to do telehealth in the state of Nebraska needs to get licensed in the state. Now, that can be done through a compact. We've got a bill coming up here on some-- well, that doesn't include the physicians. That doesn't count. But-- but-- but in this case, they-- they have to go through the process of getting licensed in the-- in the state of Nebraska. Once they're licensed in the state of Nebraska, then they must apply to the insurance company to become one on their provider panel. And they go through another credentialing process at the insurance company to determine whether or not they will be allowed to participate on that panel. So it's not as simple as I hang up my shingle in New Jersey and I start calling around and seeing if anybody needs some pills in Nebraska, there's a process that you have to go through to become licensed.

GROENE: Thank you, Senator Arch. Thank you, Senator Arch. So we won't see advertisements like we do with the trial attorneys on-- on the Monsanto. You just call this 800 number and I can give you mental health. I appreciate that, that those-- those safeguards are still in place on-- on this issue. But what about the ability-- is there limits to how much the insurance company-- can they set how much they're willing to pay and how often they-- is there a national standard of how often that patient should be seen by this mental health individual?

FOLEY: One minute.

ARCH: I--

GROENE: Go ahead. Is that a--

ARCH: Yeah.

GROENE: --it's a question. Is the standards--

ARCH: OK.

GROENE: --there?

ARCH: So-- so the commercial insurance as-- as part of whatever plan that-- that they are paneling that they're putting-- that they're putting the providers on, they determine what they're going to pay. So when we say payment parity, we don't-- we're not saying how much the insurance company should pay. They can pay whatever they want according to that contract. It's just that if they pay this in person, they would pay this for the telehealth behavioral health.

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GROENE: Thank you. You answered my questions. Thank you, Senator Arch. That's all I have. I'll probably support the bill. Just wanted to make there was some safeguards still in place. Thank you.

FOLEY: Thank you, Senator Groene and Senator Arch. Senator Brandt.

BRANDT: Thank you, Mr. Lieutenant Governor. I rise in support of AM160 and AM487 [SIC LB487]. These-- these are good bills and I really appreciate the help coming to rural Nebraska. Mental health in rural Nebraska is sorely lacking. And with that, I'd like to put in a plug for the rural response hotline that was instituted in the '80s. That phone number is 1-800-464-0258, 1-800-464-0258. And anybody in-- in Nebraska, not just rural Nebraska, but typically rural Nebraska, if you would call that, they have the resources available and can get you in touch with people that you need to talk to. I'd also like to echo Senator Bostelman's views about broadband availability. It's more necessary than ever in rural Nebraska. And for his information, my upload speed is .62. Thank you.

FOLEY: Thank you, Senator Brandt. I see no further discussion. Senator Lindstrom, you're recognized to close on AM160. He waives closing. The question before the body is the adoption of the committee amendment, AM160. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 47 ayes, 0 nays on adoption of committee amendments.

FOLEY: Committee amendment is adopted. Any further discussion on LB487 as amended? I see none. Senator Arch, you're recognized to close on the bill.

ARCH: Thank you, Mr. President. I do have just a couple more comments. One is cost. One of the questions that we-- that was asked was, is the patient going to experience cost and-- and should that be passed on? One of the obvious costs that the patient will be experiencing, is this travel time taking time off work. The ability to do this in your home is a cost to the patient. While that's not directly tied into the payment parity, the telehealth and-- and telebehavioral health allows that patient with the originating site provision to stay in their home and receive that which definitely would reduce cost. The other-- the only other comment that I would make is that with-- with the pairing of LB400 and LB487, with the originating site as well as the payment parity, I-- I-- I look to the-- I look to the school systems as to whether or not this would be useful. We know that there are not therapists in all the schools. We know that access to some of those

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services for children and adolescents is not available, but if the originating site could be the school and payment parity, perhaps that would also incent some providers to help some of the kids out that are struggling in school. So with that, I will close on LB487, and I would encourage your green vote.

FOLEY: Thank you, Senator Arch. Members, you heard the debate on LB487. The question for the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Got a computer glitch, members, just please sit tight. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 46 ayes, 0 nays on the motion to advance the bill, Mr. President.

FOLEY: LB487 advances. Items for the record, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. New A bill, LB275A by Senator Brewer. It's a bill for an act relating to appropriations to carry out the provisions of LB275. New resolutions: LR61 by Senator Arch, LR62 by Senator Flood, LR63 by Senator Linehan. All will be laid over. Committee on Education reports LB378 to General File with committee amendments. And an amendment to LB274 from Senator Hilkemann to be printed. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Proceeding now to the next bill, LB285. Mr. Clerk.

ASSISTANT CLERK: LB285 introduced by Senator Brewer. It's a bill for an act relating to government; to change election provisions relating to voter registration lists and certain notice of filing deadlines, filing periods, filing forms, filing fees, write-in votes; to change a certification deadline for certain public power districts; provide a written notice of appointment requirements for educational service units; to eliminate provisions relating to overvoted ballots; repeal the original sections; and repeal Section 32-1006. The bill was introduced on January 12, referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Brewer, you're recognized to open on LB285.

BREWER: Thank you, Mr. President. This bill includes a number of election law updates brought to our attention by the Secretary of State's Office. I will give you a brief overview of these changes.

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Keep in mind, there are 11 exciting sections to this bill. Section 1 of the bill would help create the legal framework for the Secretary of State to link up with a nonprofit called ERIC. ERIC stands for the Electronic Registration Information Center. ERIC was originally created by New York University as a way for states to share voter registration data. ERIC provides a secure, say again, a secure way to improve voter file accuracy. As of last year, there were 20 states that have joined ERIC. There are a number of states that are in the same position we are discussing becoming part of ERIC. These states range from red states like Louisiana and Alabama to blue states like Rhode Island and Vermont. Section 2 is about preventing identity theft and harassment of registered voters. The bills would say that voter lists shall not be posted, displayed, or made accessible on the Internet. This bill would not prevent people from obtaining the voter lists directly from our election officials. Section 3 adds the Secretary of State to the list of officials that give notice to local government officials about election filing deadlines. Section 4 carries certain candidate filing deadlines from December 1 to January 5. That, again, is simply to prevent multiple filings within a month. Sections 5, 6, and 7 delete current language about processes involving write-in candidates. Again, this is just cleanup information. Section 8, adjust the deadline for public power districts to get certain filings into the Secretary of State's Office. Section 9 provides for notice to the Secretary of State when a ESU appoints someone to fill a vacancy. Section 10 and 11 reply-- apply to the original sections of the statute. Again, this bill is an annual elections update proposal brought to the secretary-- from the Secretary of State. The majority of these are cleanup issues. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. As the Clerk indicated, there are amendments from the Government Committee. Senator Brewer, you're recognized to open on the committee amendments.

BREWER: Thank you, Mr. President. AM431 addresses certain concerns by the ACLU and Media Nebraska at the hearing. And these are changes from the green copy. The committee amendment does a few things. In Section 1, the amendment tightens up the language relating to ERIC, the Electronic Registration Information Center. These changes make it clear that this part of the bill does not apply to partisan groups that do things other than helping election officials exchange voter information. The amendment also adds a new report requirement for the Secretary of State. This report would be filed each year with the Clerk of the Legislature, and it would give us statistics about how the Secretary of State uses the information collected by ERIC to update voter files. Finally, the amendment tightens up language in the

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pledge signed by people who obtain voter files. The amendment is the product of discussions between the Secretary of State's Office, Media Nebraska, ACLU, and Civic Nebraska. Our committee voted LB285 and the amendment AM431 out 8-0. I believe the amendment makes the bill better. I would ask for your green vote on both AM431 and LB285. Thank you, Mr. President.

FOLEY: Debate is now open on LB285 and the pending committee amendment. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, good morning. Would Senator Brewer yield to a few questions, please?

FOLEY: Senator Brewer, would you yield, please?

BREWER: Yes.

LATHROP: Senator Brewer, I support this bill and the amendment. I appreciate the work the Government Committee's done in that respect. I do have a couple of questions for you. As I read the bill, existing law sets some criteria for who and how we go about identifying who to purge from the voter list. Is that right?

BREWER: Correct.

LATHROP: Does any of this process if we are-- if we are signed up with ERIC or we take them on or we-- we're accepted, whatever that process is, if we use that vendor, are we, Nebraska, do we change any of our purge criteria or process?

BREWER: No.

LATHROP: So what this place does is it's going to identify some people maybe that like my daughter, for example, I had-- one of my daughters moved to Colorado and I think I still get some of her voter cards, right, that-- ERIC is intended to kind of be some communication or a clearinghouse for some of those people that have moved.

BREWER: Correct. Think of it as a secure conduit to transfer information so that if there's replication, we know it. If someone passes away, we know it, and that the voter files are updated.

LATHROP: OK, one-- maybe two more questions. In the bill, I saw something about not being able to do a Freedom of Information request. Is that prohibition apply to ERIC or does it apply to the Secretary of State?

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BREWER: Your ability to FOIA information from the Secretary of State's Office wouldn't be changed. That would only limit being able to gather information from ERIC.

LATHROP: OK, but we could see what the Secretary of State is doing with it.

BREWER: Yes.

LATHROP: OK, so that would-- that would still be something that we could FOIA.

BREWER: And-- and keep in mind that part of that was the report that would go to the Clerk of the Legislature, that would give an update on that information that the-- the Secretary of State is utilizing from ERIC.

LATHROP: Last question, and I think you may have covered this in your introduction to the committee amendment, but political parties that have voter files, both political parties have voter files that are populated with information from the Secretary of State. That can still continue, there's no limitation--

BREWER: That is correct.

LATHROP: --on the political parties getting information to populate or stop their voter files?

BREWER: Yes, they would still have that ability.

LATHROP: OK, perfect. Thank you, Senator Brewer. I appreciate your courtesy.

FOLEY: Thank you, Senator Lathrop and Senator Brewer. Senator Friesen.

FRIESEN: Thank you, Mr. President. I do rise in support of the bill, but I do have a couple of questions I'd like to ask Senator Brewer.

FOLEY: Senator Brewer, would you yield, please?

BREWER: Yes.

FRIESEN: So currently, how do other states share voter data-- data with us? Because obviously there's-- there's people moving back and forth and-- and I'll just use an example, someone I know lives in another state could have been registered there, but I know they're

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still registered here. Is there any way of them checking that now under current law on making sure there's not duplication?

BREWER: There is the ability to go Secretary of State to Secretary of State. But as far as a universal system that can identify if someone's passed away or if someone has dual, I guess, registrations, I'm not aware of a-- of a nationwide system that can do that.

FRIESEN: So it is possible right now that you could be registered in multiple states.

BREWER: And I would imagine there probably are some that actually are.

FRIESEN: OK. Does this change any of the filing fee requirements in our current law?

BREWER: Filing as far as deadlines or--

FRIESEN: Yeah, not just-- there's just certain offices require a filing fee. None of that changes, I take it?

BREWER: No, none of that change.

FRIESEN: OK. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen and Senator Brewer. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President, and good morning, colleagues. I'll just be real brief. I do rise in support of the bill and thank Chairman Brewer for both introducing it and prioritizing it as a committee priority. Joining ERIC, that interstate system is something we've-- it's been on our radar at least several years that I've been on the Government, Military and Veterans Affairs Committee as a kind of an election's best practice. I think it's a good opportunity for us to move forward. So I support all components of the bill, but I just want to rise and especially say I was excited that the Secretary of State and Senator Brewer figured out how to get it done and across the finish line this year. I would urge the body's adoption and a green vote. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Is there any further discussion? I see none. Senator Brewer, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of AM431, Government Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

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ASSISTANT CLERK: 47 ayes, 0 nays on the adoption of committee amendments.

FOLEY: AM431 is adopted. Any further discussion on the bill as amended? I see none. Senator Brewer, you're recognized to close on the advance of the bill.

BREWER: Thank you, Mr. President. I've been coached by my companion to my right here that when it's 47 to zero, not to close, but I-- I feel like I do owe some explanation of how we're going to move forward on this bill. We did have an area that was discussed that needs-- again, this is a cleanup bill. So it's the language, its-- its words, and sometimes only a few words. But Senator John Cavanaugh brought up some issues to the staff. We feel those are valid issues that we need to do some tweaking on language. We will do that between General and Select so that-- that what we have for Select has the verbiage absolutely correct. So with that, I would thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Members, you heard the debate on LB285. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 46 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB285 advances. Proceeding now to LB83. Mr. Clerk.

ASSISTANT CLERK: LB83 introduced by Senator Flood. It's a bill for an act relating to virtual conferencing; to provide for virtual conferences; to change provisions of the Open Meetings Act; to harmonize provisions; repeal the original sections; declare an emergency. This bill was introduced on January 7, referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Flood, you're recognized to open on LB83.

FLOOD: Thank you, Mr. President. Good morning, members. This bill deals with the Open Meetings Act. And after the year we had last year with the pandemic, we learned a lot about what the act does and what it prevented and how we could make changes. Now, luckily, last year, the Governor's emergency order allowed political subdivisions to do things that they hadn't maybe done before. This bill in a very important way amends the Open Meetings Act. You'll find it in Chapter 84, Article 14 with two major objectives. Number one is to modernize

the way public bodies hold virtual meetings. And number two is to create the statutory framework for public bodies to hold virtual meetings during a declared emergency. And we're going to talk a little bit more about that. There are two major parts of the bill and then two subparts that I want to address in my opening. First of all, what we used to call video conferencing is now virtual conferencing. It used to be that you would go to a public building and there would be a camera set up with a return TV and you could in the '90s and the first part of the century, participate in a public meeting that way. And we update the definition of virtual conferencing to include systems like Zoom, which a lot of us are now familiar with. The second is dealing with public meetings during the time of an emergency. What changes here? During an emergency, public bodies under current law can take actions related to the emergency. For instance, if you're in Plattsmouth and there's flooding and you need to buy sandbags or you need to move assets around to get more sandbags to deal with the flooding, you can do that, but you can't deal with your payroll or paying claims. This bill, under a Governor-declared emergency, allows the public body like a city council or a county board to conduct its regular public business. And as you know, Governor Ricketts declared a statewide emergency for COVID last year. And in a situation like that, political subdivisions would-- would be able to conduct the public's business virtually. The other thing that this bill does is that on page 10, you'll see there are regional public bodies that currently can hold one-half of their meetings virtually. This would be like, for instance, a community college board or the University of Nebraska Board of Regents. Under this bill, they can still only have one-half of their meetings virtually. The things that change is that a public official that participates virtually doesn't have to be in a public building. They can be in their living room on Zoom, for instance. The public body, the regional public body must have one designated spot that you can actually show up in person at, and members of the public have virtual access as well. What I do hear from public bodies is that because they were able to conduct some of their meetings on Zoom that it increased-- or whatever video conferencing system was in use, it did increase public interaction. And I'm pleased to say that a lot of the public bodies were really excited with the way the public was able to interact with them. The last thing that I would say this bill does in terms of a summary is that it requires larger cities, larger counties, NRDs, and all K-12 school districts to put their agendas and their meeting minutes online. I think that's an important step in transparency. It's important to note that this bill has the support of Media of Nebraska. It was a long process between all sorts of political subdivisions and Media of Nebraska over the summer and into

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the fall. I should credit Lynn Rex with the League of Nebraska Municipalities for drawing this coalition together. It's amazing how much work has gone into this and to all the public entities that participated and to the members of the public that weighed in. We appreciate all of it. And I'm hopeful that you'll see fit to advance LB83 together with the committee amendment that makes some changes that I-- I think draw in the support of our executive branch and Governor Ricketts. Thank you, Mr. President.

FOLEY: Thank you, Senator Flood. As the Clerk indicated, there are amendments in the Government Committee. Senator Brewer, you're recognized to open on the committee amendment.

BREWER: Thank you, Mr. President. Since last spring, my office has been working with more than a dozen stakeholders to develop this legislation. Again, as a result of-- of COVID-19, we had to do business different and this bill addresses that. It has been a long road to get here. And I'm grateful for Senator Flood to carry this bill. And I think it is a proper priority for the Government Committee. We heard this bill in Government Committee on January 27. It came out of committee with AM127 on 11 February with a 8-0 vote. AM27 [SIC AM127] makes a few important changes to LB83. Last year, the Governor issued a number of executive orders. Along with other emergency measures, he temporarily changed public meeting requirements. This amendment makes clear that those actions taken on public meetings during this time have the force of law. The amendment also adds MUDs and regional metro transit authorities to this list of public bodies who can use virtual conferencing for their meetings. The other thing that AM127 does is it tightens up requirements for virtual conferencing meeting sites that are to the public available. We want to make sure that there are representatives of the public body at the location where the public meeting is being held to participate. We also want to make sure that all relevant documents available should be available to the public also at these locations. The committee amendment also limits how many emergency meeting powers under this bill are activated. It is a transparency issue and the public's right to participate in their government. Finally, AM127 makes it clear that the address publication recommendations does not apply in the cases where published-- when they're publishing someone's home address that may endanger that person's safety. I think that LB83 is an important update to our law about public meetings and AM127 makes it even better and strikes a balance between flexibility of our public servants and transparency to the public. I would ask for your green vote on AM127 and on LB83. Thank you, Mr. President.

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FOLEY: Thank you, Senator Brewer. Debate is now open on LB83 and the pending committee amendment. In the queue are Senators Pahls, Geist, and John Cavanaugh. Senator Pahls, you're recognized.

PAHLS: Thank you, Lieutenant Governor. May-- I have a question or two for Senator Flood.

FOLEY: Senator Flood, would you yield, please?

FLOOD: Yes.

PAHLS: This is speaking directly to the bill. I heard you say that-- and I'm going to use the word Zoom because that's what I'm familiar with. Zoom meetings have been very well-received throughout the state during this past several months. Would you say that's true?

FLOOD: Oh, absolutely. Yes.

PAHLS: OK, if we are looking for transparency, then would you suggest that all meetings be Zoomed?

FLOOD: Well, no, I-- and I think one of the important things in this bill is that we're not making major changes from what's allowed right now. I do think that there's value to having the public's business be done as much as possible in person. But during an emergency, I think that it makes sense. And for these regional governing authorities, like community colleges and the Board of Regents, something that doesn't change in here, is that we still require the notice that it's happening. I think that more and more public bodies are putting their meetings on the Internet or Facebook or media outlets or covering them on Facebook or on the Internet or on overall TV or radio. I-- I don't think we want to make major change because I-- I think-- just like the Legislature, it's beneficial for us to be here in person and to interact in person. I think this is just another tool for safety purposes mostly.

PAHLS: Well, I understand that, but let's say that you and I happen to be on the Norfolk's-- the city council. They had the regular council meeting going on, but to enable the public to not only appear at the council meeting, but if they had access over Zoom, that would seem to me to be even a more effective way of letting the public become involved.

FLOOD: Well, absolutely. I think there's-- there's benefit to it. This agreement came after a lot of negotiation. So it isn't-- it isn't what every exact party wanted. I think that one of the things I found over

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the summer is just watching the county board in Madison County deal with a zoning issue, you saw a lot more engagement from the public. I think that speaks to your point because it was easier for them to participate than be down at the courthouse. So I, I think that's good. And I-- I think that one-half of meetings that are allowed for these regional governing authorities, you'll see a lot more of that. And those are situations where, you know, if I'm going to the Norfolk City Council, I live in Norfolk, it's easier for me to go 15 blocks versus if I have an issue at the community college. The meeting is in Norfolk and I live in Ainsworth, well, that's a long drive for me and that regional governing authority can take that testimony then through Zoom or whatever video conferencing system they use.

PAHLS: Right. I see where that's very valuable for those, like you say, those regional meetings. But what I found out is interesting is that we had more involvement on the city council when we did have those meetings. In fact, if I'm not mistaken, I think since within the last month or so, the City Council of Omaha, their meetings are Zoom. So that allows people to not only view, but if they want to interact. And I'm just thinking that if we truly want to make everything more transparent, I know there are limitations and I understand that, but it would be very interesting if we would walk the talk. I know that this particular bill is not designed to do that, but I always hear people say, well, we need to be more transparent. And I'm telling you, if you open up a Zoom to the city council meetings and other meetings such as that, it-- it does allow the public not only to view you, but to interact with you. And again, I know that this bill is not set up for that and I appreciate your efforts on moving us in a more transparent direction, Senator Flood. Thank you.

FOLEY: Thank you, Senator Pahls. Senator Geist.

GEIST: Yes, I would ask if Senator Flood would yield to a question, please?

FOLEY: Senator Flood, would you yield, please?

FLOOD: Yes.

GEIST: Senator Flood, on-- I've been trying to listen to the discussion and read through the bill and is there allowance for actual voting on your Open Meetings Act?

FLOOD: There is during an emergency the ability to vote.

GEIST: OK.

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FLOOD: And these are emergencies of two kind. One is during an emergency, that's an actual emergency happening right now, like the Plattsmouth sandbag issue--

GEIST: Um-hum.

FLOOD: --and then there is the emergency during the Governor's declared emergency where the public body can conduct public business. As it relates to these regional bodies, they can take testimony and they can hold these meetings, but as I understand it, they do not have the ability to actually vote.

GEIST: OK, thank you. Thank you for that clarification. I appreciate it. That's all. Thank you.

FOLEY: Thank you, Senator Geist and Senator Flood. Senator John Cavanaugh.

J. CAVANAUGH: Thank you, Mr. Lieutenant Governor. Would Senator Flood yield for a question?

FOLEY: Senator Flood, would you yield, please?

FLOOD: Yes.

J. CAVANAUGH: First, thank you, Senator Flood, for bringing this bill. And I-- I agree with all of the remarks that have previously been made about open access and availability and especially in this crisis. I just want to make sure you addressed a lot of institutions that are going to increase to be able to use this, but I just want to make sure that this is not going to affect court proceedings.

FLOOD: No, nothing in this bill deals with anything related to the court system for two reasons: separation of powers and-- and I don't think we could because it would be governed by court rule by the judicial branch. And number two, I-- I agree with where you're coming from in your question, and that is that the ability to confront live witnesses in a court setting is, is paramount, and we wouldn't want to compromise anything like that.

J. CAVANAUGH: Thank you, Senator Flood, and you answered my follow-up question, so thank you. I yield the remainder of my time.

FOLEY: Thank you, Senator Cavanaugh and Senator Flood. Members, I'm going to pause the debate for just a moment. Speaker Hilgers.

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HILGERS: Thank you, Mr. President. Good morning, colleagues. Just a quick housekeeping update for scheduling today and tomorrow. As you know, we're only having morning debate this morning. We'll probably go a little bit past 12:00, depending on how far we get on these bills. We don't have afternoon debate. Tomorrow-- originally, we were thinking we were going to have afternoon debate. After we got the priority bills last Friday as of this morning or I should say end of day, 5:00 last Friday, 49 of the 79 priority bills that we current-- that we have had-- that have been designated are bills that are still in committee. And so tomorrow afternoon, we are not going to have floor debate to allow committees additional time to Exec and try to kick some more of those bills out. So tomorrow morning we will just-- tomorrow we will just have floor debate in the morning. Also, reminder today, I am now in my office. We are now accepting consent calendar requests. If you requested a Speaker priority and it is not chosen as a Speaker priority, you do not need to submit-- resubmit another letter to have it be considered for consent calendar. We are going through that list also considering those bills for consent. You-- you certainly can if you like, but you don't need to go to the extra work. So no afternoon hearing-- or floor debate tomorrow afternoon. We are accepting consent requests today through Thursday at 3:00 for the first round of consent. And that's all I have, Mr. President, thank you.

FOLEY: Thank you, Mr. Speaker. Continuing discussion on LB83. Senator Hughes.

HUGHES: Thank you, Mr. President. Wonder if Senator Flood would answer some questions?

FOLEY: Senator Flood, would you yield, please?

FLOOD: Yes.

HUGHES: Thank you, Senator. I-- I like this bill, but the challenge that I've got, one of my constituents during one of my conference calls had alluded to the difficulty of hearing some of these small city councils or NRDs or things like that, that their infrastructure for their microphones was not adequate to be able to Zoom their meeting. Now, I-- I understand that's probably a local issue, but I did want to bring that to your attention that there are challenges in some smaller locales. And you being the media specialist that you are, if you had any kind of idea or advice or whatever we could come up with to make sure that the city councils or whatever governing body

was meeting, that they have adequate microphones and speakers so that those who did Zoom in would be able to hear everything.

FLOOD: That's-- nothing is more frustrating than technical difficulties. And I have a lifetime of them under my belt. I would say that-- that if-- if a city council knowingly has a-- or a public body knowingly has an audio issue on their-- on their videoconferencing, it's something that perverts the reason for doing this, for allowing video conferencing in the first place. And they would be remiss if it wasn't immediately addressed, because if you can't hear them, and quite frankly, if you're using a video conferencing platform and you can't see them and you can't see whose lips are moving or who's talking, it's almost impossible for the public to weigh in. So to the extent we're making a record on the legislative record, I would say that holding a video conference where you can't hear the audio clearly would be violating the intent if you're doing it knowingly. Now, it happens to the best of us. I will visit with some of the public bodies between now and Select File to see if there should be any language added to that. I'd hate to penalize a well-intentioned, good meaning, honest public body, which I'm pretty sure 99 percent of them fit into that category, because it could happen to the best of us. But if it's done knowingly and intentionally, that would be different. So I will talk to them to see if there's something we can do to make sure that everyone knows that reasonable steps need to be taken to ensure the audio quality of the content of the meeting.

HUGHES: Thank you, Senator Flood. That's just an issue that I wanted to raise while we're having this debate on the floor for those local entities who may be listening that are on maybe the fence of upgrading their speaker system or the ability to have a Zoom, be it laptops at their-- at their council stations or whatever, to put them on notice that if indeed they intend to utilize this medium of having council meetings and board meetings and those types of things, that they do need to have the type of equipment available that will transmit and broadcast, if that's the case to their constituents. So thank you for bringing this bill. Thank you, Mr. President.

HILGERS: Thank you, Senators-- Senator Flood and Senator Hughes. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I know in the past I've-- we've run into some issues with county board members, NRD board members. I think it's happened on some city councils where people-- they run for these offices and then they spend six months and one day maybe down in Key West somewhere where we don't have any state income tax. And so

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they're-- well, maybe their residency isn't there, so they stay less than six months. But in cases like that, I mean, you can have people that take it on a-- on a city council or an NRD board who leave for six months and go on vacation and yet can participate if they maintain their residency in Nebraska and still participate in these meetings. And I take it that they could vote. And I'm-- I'm feeling-- I-- I need to ask some questions, so if Senator Flood would clarify some things on how this bill actually works.

HILGERS: Senator Flood, would you yield?

FLOOD: Yes.

FRIESEN: So is this only available during times of emergency or is it all the time?

FLOOD: So there's different authority granted for different times. So during an emergency, an actual emergency that the-- through video conferencing, the public actors can vote as it relates to the emergency only. And during-- that's during an actual emergency, that's when Plattsmouth is flooding and they need to-- they need to buy sandbags. And then there's the Governor-declared emergency, which is kind of what we're in now with the coronavirus or had been, and they can conduct regular public business during a Governor-declared emergency.

FRIESEN: OK. So if it's not under any of those conditions, then they're not allowed to vote?

FLOOD: Right.

FRIESEN: So they could still participate, so to speak, in a county board meeting?

FLOOD: Yes.

FRIESEN: Let's say they were vacationing in Florida during an NRD meeting. These board members could then participate in the meeting, but they'd not been allowed to vote. They wouldn't be counted towards a number of senator-- or members participating.

FLOOD: Unless it was during an emergency, yes.

FRIESEN: OK. So I-- you know, there's-- there's some statutes in place that different, like NRD boards, they're required to attend so many number of meetings. And so I-- I was just curious if this would

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interfere with any of those rules maybe that they have in place where they're required to be in attendance for a majority of their meetings. Would being just available on a Zoom conference or a meeting, even though they're not participating in a voting process, they would be counted as attending the meeting?

FLOOD: I believe they would be counted as attending the meeting. They would be treated as if a citizen attended a meeting. They just wouldn't have any rights to cast a vote during the process or make a motion. They would be able to participate in the discussion as they saw fit as a member of the public body. But no, they-- I-- I guess how the agenda reflects their presence doesn't-- isn't articulated in the bill. I guess what I would say is we're making a legislative record is that did the minutes of the meeting would-- would show that they appear by video conference and as such are not allowed to vote.

FRIESEN: Would-- would they be counted towards having a quorum of their board?

FLOOD: No.

FRIESEN: OK. Thank you, Senator Flood. So I-- I-- I think this is needed. There are-- there are numerous meetings where I think people, especially on-- on larger regional boards--

HILGERS: One minute.

FRIESEN: --where they've sometimes had to travel long distance to attend a meeting to make some, what I would call a short meeting. I think this would be very beneficial to those people to be able to-- to do that. But I do think that personal meetings still need to be-- to be held quite often because there's nothing like having a room full of people and the citizens in that room when you're making some tough decisions. So with that, I do support the bill. I like the idea of it, but I think we need to tread carefully when we're moving forward on how many meetings we allow this to happen in the future. Thank you, Mr. President.

HILGERS: Thank you, Senator Flood and Senator Friesen. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker. I appreciate that. So listening to the debate this morning, I think this bill is probably OK as Senator Friesen alerted to-- alluded to. But I have a-- I have a question for Senator Flood if he would yield?

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HILGERS: Senator Flood, would you yield?

FLOOD: Yes.

ERDMAN: Senator Flood, on the document that you handed out, on the front page, it's the third paragraph from the bottom, I have a question about that. It says it's the intent to change to allow a member of the public body to appear by virtual conference, but does not allow that member to be counted towards a quorum or participate as a member of the public body. So if they had a public meeting by Zoom, none of those people could be counted as part of a quorum?

FLOOD: That's correct.

ERDMAN: So then any business transacted at that meeting that was voted upon by virtual conferencing would not count?

FLOOD: Unless it was-- now the distinction here is right now under the current Nebraska law, a regional governing body like the community college or the Board of Regents can hold up to one-half of their meetings virtually. And during those meetings, no, they would not count and they could not vote. But if that meeting was done pursuant to either an actual emergency and the vote related to the actual emergency or a, what I call a Governor-declared emergency, if it's a Governor-declared emergency, then they could transact the public's business and vote and be counted as a forum if they're operating under the declared emergency from the Governor.

ERDMAN: OK. So my-- I guess my concern was once we end this pandemic and the sooner the better, but once the pandemic is ended, these public bodies couldn't hold all their meetings or even half of them by virtual conferencing and have those meetings count towards passing and transacting-- transacting business?

FLOOD: No, once-- once the emergency declaration is over, they can have one-half of their meetings virtually. They still have to have a physical quorum and only the people in the room can vote. They can allow other members of their regional governing body to do it. It would not be a city or a county, it would be a community college or the Board of Regents--

ERDMAN: OK.

FLOOD: --or authority like that.

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ERDMAN: So let me ask you a different question then. Living where I live, the Internet signal is not the greatest. And I'm-- I'm attending a meeting virtually, and I lose my connection and I can't get hooked back up because of the poor service that I have, how do I get involved with those meetings then if these things happen to me?

FLOOD: Well, one of the-- one of the requirements here is that, first of all, you're talking about a situation maybe in a nonemergency, I'm not for sure, but there always has to be a place where the public can go to-- to participate virtually if-- if the meeting is virtual. So it doesn't eliminate the requirement that there be a place to go. Now if that place is in Lincoln and you're in Morrill County, I understand what you're saying. It speaks to the problem of broadband, which is a pressing need. I think the reason we're allowing these virtual meetings, especially during a declared emergency, sometimes is obviously the priority health concern of coronavirus or the emergency nature of whatever is happening. Certainly, there will be people that run into trouble with their Internet signal and until broadband's addressed to the rest of the state, that's not something we can probably avoid.

ERDMAN: OK. All right, well, thank you very much. Appreciate you answering my questions.

HILGERS: Thank you, Senator Flood and Senator Erdman. Senator Dorn, you're recognized.

DORN: Thank you, Mr. Speaker. Good morning, colleagues. Would Senator Flood yield to a question?

HILGERS: Senator Flood, would you yield?

FLOOD: Yes.

DORN: Just a couple of questions. Appreciate very much the dialogue this morning as we try to get, I call it some clarification or some understanding of this bill. I do stand in support of this bill and amendment. One of the questions during this emergency, and they hold one meeting maybe by Zoom, do they have to continue holding meetings by Zoom or I call it open to the public in that format during the so-called Governor emergency or is that a case-by-case or meeting-by-meeting decision?

FLOOD: They don't have to. And in fact, the city council or the county board, for instance, can even during an emergency, conduct their meetings as-- as they see fit regularly. There's no requirement that

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they use video conferencing. It's a tool in a toolbox, but regardless of whether they're in person or on Zoom or both, they have to make sure that the public knows in the notice exactly how they can participate. So it's not like they can-- they can go in person and then not let people know about Zoom because there's a public comment. If they're going to be in-- if they're going to be-- we keep saying Zoom, I should say video conferencing, because there's lots of different services out there, they have to make sure that's in the public notice.

DORN: So when-- when they put out the agenda that has to be as part of that, because that's just 24 hours before, or do they, I call it kind of have to put out a public notice before that to give more time?

FLOOD: Well, the more public notice, the better. The-- the nature of an emergency meeting, and I-- and I talked to actually Lynn Rex this morning and she said a true emergency is not something you do tomorrow. A true emergency is if we don't meet in the next couple hours, we're going to not have enough sandbags to take on the-- the water tonight. If it's an emergency notice is, you know, at best 24 hours, given the nature of what the city or the county is facing. For instance, it could be a couple hours of notice. But I'm pretty confident with social media and the partnership with the news media that a Zoom link is actually much easier to-- to check on than even going to a website and watching it on the Internet, so.

DORN: Well, this is something that I think during this pandemic especially has been very beneficial to some of these governing bodies or whatever. I was able to attend a county board meeting in Gage County here this last fall, and they did have one of their board members participating via the Zoom or whatever was not able to be there. And I think during this emergency, the way watching that meeting, they were able to count his vote as part of that meeting. They did not have the public involved in it, but they did have him via Zoom at the whole meeting. So I think the one thing some of the others have brought up the-- also the point of this that I think Senator Friesen, maybe Senator Geist, that this is a so-called for an emergency type thing, Governor-- Governor declaration or, you know, a flood, something like that. For our normal meetings, this does not qualify that we-- if we're not in, in an emergency, they would not be able to hold these meetings, correct, Senator Flood?

FLOOD: Right. Depending on whether it's a regional governing authority or not. But with your experience on the county board, no, they would not be able to do that.

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DORN: Well, thank you. Thank you very much for answering the questions. Appreciate it very much. And I'll yield the rest of my time.

HILGERS: Thank you, Senator Flood and Senator Dorn. Senator Lowe, you are recognized.

LOWE: Thank you, Mr. Speaker. You know, I like public meetings. I like them being broadcast. It-- it allows the public to see what's going on and gives them some feel of being there. I have problems, though, with individuals being scattered about a region, a town, a county, a state, country, holding meetings, virtual meetings because you don't know who's on the other side of that camera or that laptop coaching or-- or-- or telling somebody what to do. As I've been on all these virtual conference calls and everything else, you see everything from a person working on another computer while this one is on and not really paying attention to what's going on. Well, you really can't do that in a meeting that's being held in the public where the public is in front of you sitting in the chairs or the other office member sitting next to you around the circle. So it worries me that this is just during an emergency, but it worries me that nefarious things could happen. Would Senator Flood yield to a question?

HILGERS: Senator Flood, would you yield?

FLOOD: Yes.

LOWE: Thank you, Senator Flood, and I'm not opposed to LB88 [SIC LB83] or AM127, I just have questions. The-- is there anything that we can do, and I know it's a big ask, but to make sure that the person in one of these virtual meetings is just there and is just totally there and concentrating just on the meeting like you would be in a public meeting?

FLOOD: That's a good question. The one change that I-- I did fight for as it relates to that is that if you're going to speak virtually at a meeting, you have to give your name and your address so that we know who you are and where you live. That, I think is important for two reasons. It gives us, obviously, their identity and so that the news media knows who's talking. And by giving an address, you know whether they live in the district or not that they are making a public comment on. As far as paying attention while the Zoom meeting is going on, or I keep saying Zoom, video conferencing, there is nothing in here that says a member of the public has to pay attention. They-- they would be allowed to do whatever they want to do. You know, if they're-- if

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they're taking the feed, I guess I would suggest that at that time they'd be better off putting a picture of themselves up on the screen. But no, there's nothing that requires their-- or their participation in a certain way or governs their behavior in a certain way.

LOWE: Does this also include the officers of the commission or the-- the council or-- or anybody else that would be actively participating?

FLOOD: Yeah, there is no requirement. My guess is that as a public official, they would want to be seen as somebody that's actively listening and paying attention. But I think your point is well made and that is, it's difficult to be on a video conference when people are multitasking with 15 different things and maybe checking their email more than they are listening to the people that are on the conference and it's the public's business. So I would-- I think that one of the things that this bill does is while it does allow video conferencing to happen, virtually, it's still keeps a pretty good rein on making sure that things are done in public view as much as possible, except the ability to--

HILGERS: One minute.

FLOOD: --for regional governing authorities. And even there, they can't vote when they're-- when they're appearing virtually. So I think it has appropriate safeguards for things like that.

LOWE: All right. Thank you, Senator Flood. And thank you, Chair.

HILGERS: Thank you, Senator Flood and Senator Lowe. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I support LB83. I would like to have it do a little bit more than what's in it. I have a letter from a Sanitary and Improvement District in my-- in my district that is on the Platte River near Plattsmouth. And they evidently approached the League of Municipalities by amending this bill, but was evidently met with some concerns and so they didn't. But the-- the deal with a SID is the current statute says the clerk or administrator of each Sanitary and Improvement District shall notify any municipality or county within whose zoning jurisdiction such district is located of all meetings of the district board of trustees not less than seven days prior to the date of the meeting. And so in 2019, this SID that's on the Platte River was having flooding, needed to meet to make some emergency expense repairs and decisions and the-- they found there was no exception for an emergency to wait seven days after they had

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notified the county or the city in which jurisdiction they reside. And so they would like to add Sanitary and Improvement Districts to the-- with an emergency clause for them with some conditions on it. And I-- I would like to do that. I'd like to-- may I ask Senator Flood a question?

HILGERS: Senator Flood, would you yield?

FLOOD: Yes, Mr. President.

CLEMENTS: Senator Flood, I've had-- evidently this bill doesn't address Sanitary and Improvement Districts. Would you be willing to work with me to see if they could be included in LB83?

FLOOD: Yes, I would be happy to work with you between now and Select File. That's not an issue that I specifically have worked on with regard to the bill. And I have several SIDs in my area and so I think you make some good points and I'll be happy to sit down and see if we can't find some answers. I know there's a lot of them in the Omaha area as well.

CLEMENTS: Thank you, Senator Flood. Yes, and this one particularly is right on the banks of the Platte River close to the Missouri River and in 2019 had a lot of damage with flooding and the board of trustees there needed to make some emergency decisions, but were prevented for seven days from having official action taken. And so I thank you, Senator Flood, and we'll work on that. The letter that I received does say that the League of Municipalities had some concerns and I have not been told what those were and hopefully we can work on that and try to come up with an acceptable-- acceptable amendment. Thank you, Mr. President.

HILGERS: Thank you, Senator Flood and Senator Clements. Senator Moser, you're recognized.

MOSER: Thank you, Mr. Speaker. Would Senator Flood respond to some questions, please?

HILGERS: Senator Flood, would you yield?

FLOOD: Yes, I will.

MOSER: So I've-- I've asked you a couple of questions in between. You've been pretty busy this morning trying to explain your bill to-- to all of us and I appreciate your patience. But is the purpose of the

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bill to make the governmental body more functional, or is it to increase the public's interaction with the governmental body?

FLOOD: Well, I would say that functional, first and foremost. During the pandemic, the Governor issued an emergency order with special emergency powers and while every public body appreciated everything that the executive branch did to accommodate what was a very difficult safety situation, at the end of the day, our statutes were out of pace and not up to par when it came to describing what a video conference is. And so by changing the definition, by recognizing this isn't the two-way kind of communication that it used to be where you just go to one room, nobody could have envisioned in the 1990s that you could appear at a public meeting from your living room. And all of that changed with the technology and this bill recognizes that. The side benefit is that I think it will allow for more participation by the general public. But first and foremost, this bill is utilitarian in that by modernizing the statutes, you really recognize what the technology is allowing us to do and still keep appropriate safeguards on the protection of the actual public.

MOSER: Would the local governing bodies be required to accept video testimony on items on their agenda?

FLOOD: No, they would not.

MOSER: So if they still wanted to do it strictly in person, they're still allowed to do that?

FLOOD: Right.

MOSER: So they-- and then in terms of what we describe as virtual teleconferencing or virtual conferencing, they could stream their meeting and then accept emails as testimony from citizens?

FLOOD: Well, this email or this bill references video conferencing. They can accept emails as a public record because emails are public records. I think this governs more of the ability of an individual to appear in their living room or their office or wherever they may be situated to weigh in and testify or make their voice heard on a certain zoning amendment or whatever it may be. They can certainly allow emails to come in and be part of the public record should they so choose.

MOSER: Does the governing body reserve the right to write their own rules for testimony from people who are testifying remotely?

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FLOOD: Well, there are specific statutes that govern what a public hearing is and-- and how a public hearing is conducted. This would allow that to be done through a service, a video conferencing service. I think that this, you know, I think the county board has to require under this bill that anybody that testifies give their name and their address.--I think the, the public officials can-- can interrupt them and say, listen, we can't hear you, or as often happens on a Zoom conference, you have to remind somebody to take themselves off mute. I think those things would be well within their ability to do.

HILGERS: One minute.

FLOOD: Just they couldn't frustrate the citizen's ability to weigh in on what they-- or want to during a public comment period.

MOSER: But they could limit the-- the length of their testimony.

FLOOD: I believe so.

MOSER: And, or insist that it's germane to what we're talking about.

FLOOD: I believe so.

MOSER: I-- I could see this being a boon to people who want to testify on something, but they're reluctant to show up in person. And by video conference sitting on their couch at home, they're more likely to call and-- or to-- to check in on a Zoom conference, if you're going to call it that, or Skype or whatever. But I could see where there would be a lot of testimony that way and I could see where local bodies would want to be able to-- I don't want to say control it, but keep it organized, keep it functional and not wind up spending a lot of time spinning their wheels.

HILGERS: Time, Senator.

MOSER: So that that was the reason for my questions. Thank you very much.

HILGERS: Thank you, Senator Flood and Senator Moser. Seeing no one else in the queue, Senator Brewer, you're recognized to close.

BREWER: Thank you, Mr. President. Well, first off, thank you to Senator Flood for not only sponsoring the bill, but enduring that line of questioning. I want to stress to folks that this discussion that we've had for a year now on this bill, it wasn't the idea that we would take public meetings and throw them into the dustbins of

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history. The idea was that in certain circumstances, it was essential for us to be able to continue to do business. When the Governor issues executive orders, emergency measures, we have to be able to make sure that it has the force of law, and that was the idea behind it. So please understand that even though it appears to be a boogiemán out there, it isn't-- it isn't as bad as-- as some obviously are perceiving. We could just for a moment just think of what it would be like if we opened this in our-- our regular committee hearings to the entire state. How many hundreds would want to be able to remote in and ask questions or testify? It would make it unmanageable. And so the reason why this is under certain very special circumstances is so we can deal with that emergency or the situation, not to change the way that we conduct public hearings or meetings. So with that, thank you, Mr. President.

HILGERS: Thank you, Senator Brewer. Colleagues, the question before us is the adoption of AM127. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 48 ayes, 0 nays on the adoption of committee amendments.

HILGERS: Committee amendment is adopted. Turning to debate on LB83. Seeing no one in the queue, Senator Flood, you're recognized to close.

FLOOD: Thank you, Mr. President, and members. I guess for the benefit of the legislative record, if someone's going to read this in 30 years, I should-- I should probably note that Zoom in 2021 is a video conferencing platform that's owned by an individual company. And it's been very popular during this pandemic. And if you are some lawyer in Alliance trying to figure out how to sue somebody off this deal, you should know that when we referenced Zoom today, it was actually a video conferencing platform. I guess I would just say thank you to Senator Brewer and Dick Clark in his office and all of the different public bodies. I will work with Senator Clements between now and Select File on the SID issue. I think this is a good step in our Open Meetings Act, and I would urge your adoption. Thank you, Mr. President.

HILGERS: Thank you for your closing, Senator Flood. The question before the body is the advancement of LB83 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.

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ASSISTANT CLERK: 48 ayes, 0 nays on the motion to advance the bill, Mr. President.

HILGERS: The bill is advanced. Mr. Clerk, for items.

ASSISTANT CLERK: Mr. President, thank you. Your Committee on Health and Human Services reports LB211 to General File with committee amendments. The Education Committee will hold an Executive Session at 1:00 this afternoon in Room 1525. Name adds: Senator Kolterman and Slama to LB64, Senator Dorn to LB236, Senator Morfeld to LB283, Senator Dorn to LB283, Senator DeBoer to LB320, Senator Sanders to LR60. And finally, Mr. President, Senator Hunt would move to adjourn until Tuesday, March 16, 2021, 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.