

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

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

**LOWE:** Genesis 1:31, God saw all that he had made and behold, it was good. Good and sovereign Father, we thank you for choosing us to make-- making us state leaders. We praise you for giving us leadership in this holy nation as we interact with each other, our advisers, the departments, and the administration with whom you placed in their positions. Grant us all remarkable humility and wisdom through righteousness and integrity with complete patience and love for your people, particularly as we consider how to lead, protect, and give freedom to Nebraskans on this day. Amen.

**FOLEY:** Thank you, Senator Lowe. The Chair recognizes Senator Halloran for the Pledge of Allegiance.

**HALLORAN:** Good Morning, Nebraska. Please join me in the pledge-- Pledge of Allegiance, please. I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**FOLEY:** Thank you, Senator Halloran. I call to order the fifty-third day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**ASSISTANT CLERK:** There's 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 Enrollment and Review respectfully-- respectfully reports that examined LB273, LB639, LB154 and LB143 as correctly engrossed. Those will be placed on Select File, all having E&R amendments. Your Committee on Judiciary, chaired by Senator Lathrop, refers LB51, LB474, LB525 to General File, all having committee amendments. Additionally, Senator Clements, LR80, that'll be laid over. That's all I have at this time, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** Thank you, Mr. Clerk. We'll now proceed to the agenda, legislative confirmation reports. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, committee report from the Natural Resources Committee concerning the appointment of Thomas Riley to the Department of Natural Resources.

**FOLEY:** Thank you, Mr. Clerk. Senator Bostelman, you're recognized to open on the first confirmation report.

**BOSTELMAN:** Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. I present for your approval Thomas Riley as the director of the Nebraska Department of Natural Resources. The Nebraska Department of Natural Resources is committed to providing Nebraska citizens and leaders with a-- with a data analysis they need to make wise resource decisions for the benefit of all Nebraskans, both now and in the future. The Nebraska DNR's primary responsibility is for surface water quality and for surface and groundwater integrated management planning. Mr. Riley was born and raised here in Nebraska and currently resides in Eagle. He serves as a founder-- as a founder and president of the Flat Water Group, a firm that specializes in water resources engineering, restoration design, and environmental engineering. He spent the past 20 years at the Flat Water Group. At his current position, he man-- he's managed water projects across the state, including irrigation and water supply restoration to Nebraska's unique sa-- saline wetlands and stream and reservoir restoration. Mr. Riley is a graduate of the University of Nebraska-Lincoln, where he received a Bachelor of Science in civil engineering and a master of science in civil engineering. He has also taught courses at UNL civil engineering department and is currently pursuing a Ph.D. in bio-- biological systems engineering. Mr. Riley has appeared before the committee on January 29. The committee voted the advance of his appointment with 6 yes and 2 present not voting. I ask for your confirmation of Mr. Riley as the director of the Nebraska Department Natural Resources.

**FOLEY:** Thank you, Senator Bostelman. Is there any discussion on this first report? I see none. Senator Bostelman, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report from the Natural Resources Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 33 ayes, 0 nays on the adoption of the committee report.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** First confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next confirmation report from the Natural Resources Committee concerning two appointments to the Nebraska Power Review Board.

**FOLEY:** Senator Bostelman, you're recognized to open on your second confirmation report.

**BOSTELMAN:** Thank you, Mr. President. These are reappointments to the Nebraska Power Review Board. I present for your approval two reappointments to the Nebraska Power Review Board, Charles Hutchison and Gregory Moen. For the past 24 years, Mr. Hutchison has lived in the Bellevue area and has served his community on the Bellevue Chamber of Commerce, president of the condominium association, and vice chair of the Nebraska Power Review Board. As well as serving his community, Mr. Hutchison has also served as our-- our country since 1992 as a Navy submarine officer and a Navy Reserve officer commanding a 40-person reserve unit and manning support to U.S. Strategic Command. Currently, he serves as the chief advanced warfare implementation for the Civil-- the federal Civil Service at U.S. Strategic Command, where he accelerates the fielding of critical weapons, sensors, and communications capabilities. Mr. Hutchinson was originally appointed to the Power Review Board on May 10, 2017, and confirmed by the Legislature in-- on May 23, 2017. This will be his second term. He is one of the board's two designated lay members. Mr. Hutchinson appeared before the committee on January 29. Second reappointment is Mr. Gregory Moen of Norfolk received his bachelor's of science in electrical engineering from South Dakota State University in 1990. He is currently an electrical engineer for Nucor Steel in Norfolk. In the past, Mr. Moen has held various positions with Nucor Steel, including maintenance supervisor and maintenance and engineering manager. He also assists his community by serving as chairman of the board of administration for Christ the Servant Church pas-- church president and Sunday school teacher. Mr. Moen was appointed to the board on March 13, 2017, and confirmed in April 2017. He is one of the board's two designated lay members. This is his reappointment to his second term. The Nebraska Power Review Board is comprised of five members, all appointed by the Governor. The board must include an engineer, an attorney, an accountant, and two laypersons with no geographic boundary restrictions. The Nebraska Power Review-- Review Board is a state agency created in 1963 to regulate Nebraska's publicly owned electric utility industry. As we know, Nebraska is the only state in the country served entirely by consumer-owned power entities. These utilities include public power districts, cooperatives, and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

municipalities. The board's duties and responsibilities are set out in Chapter 70, Article 10 of the Nebraska Revised Statutes. One of the board's main responsibilities is the creation and certification of retail-- retail and wholesale service area agreements between electrical utilities operating in Nebraska. Any amendments to existing agreements must be approved by the board. The board also maintains official records pertaining to these agreements, which establish the geographic territory in which each utility operating in Nebraska has exclusive right to serve customers. The committee advanced Mr. Moen and Mr. Hutchison's appointments with a 7 yes and 1 present not voting. I ask for your confirmation of Gregory Moen and Charles Hutchison to the Nebraska Power Review Board.

**FOLEY:** Thank you, Senator Bostelman. Is there any discussion of the Power Review Board nominees? I see none. Senator Bostelman waives closing. The question before the body is the adoption of the confirmation report from the Natural Resources Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 39 ayes, 0 nays on the adoption of the committee report.

**FOLEY:** The confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next committee report concerns several appointments to the Natural Resources Commission: Stanley Clouse, Bradley Dunbar, Thomas Knutson, and Scott Smathers.

**FOLEY:** Senator Bostelman, you're recognized to open on the confirmation report.

**BOSTELMAN:** Thank you, Mr. President. Members of the Legislature, I present for your approval four reappointment to the Nebraska Natural Resource Commission: Scott Smathers, Bradley Dunbar, Stanley Clouse, and Thomas Knutson. Stanley Clouse appeared before the committee on February 10. Currently, Mr. Clouse works for the Nebraska Public Power District as an account manage-- manager while also serving as the mayor of Kearney and the-- and the Kearney City Council. Several of his other current com-- community services include the Nebraska State Chamber of Commerce, Kearney Area Chamber of Commerce, and the University of Nebraska at Kearney Center for Rural Research and Development Advisory Council. Mr. Clouse was first appointed to the commission in 2011 by Governor Heineman. Next, Mr. Bradley Dunbar appeared before the Natural Resource Committee on February 4. Mr.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

Dunbar's passion for agriculture and natural-- and nature started from a young age growing up in Eustis, with his family running a diversified farming operation and his career choices and community involvement, have followed suit. Over the last 13 years, he has worked for the Lindsay Corporation as an aftermarket manager, working for-- working with dealers, producers, land managers, NRDs and others across the state with a passion for economic growth, water conservation, and energy efficiency. Mr. Dunbar has also served on the Natural Resources Commission since his original appointment 2016 and is an active member of the commission serving as the chair of the legislative committee and being on the Water Sustainability Fund scoring committee the last three years, of which he has-- he was the chair in 2019. Next is Mr. Thomas Knutson appeared before the committee on February 3 after earning a bachelor of science degree and geology from South Dakota State, Mr. Knutson started working for the Department of Natural Resources State of South Dakota. From there, he has been an executive director of the South Dakota Water Development Task Force, assisted with-- in the Missouri River floodplain from South Sioux City, Iowa, to St.. Louis, Missouri; was the general manager of three irrigation districts; and appointed by Governor Heineman in 2008 to the Nebraska Water Sustainability Commission. All of these positions led him to win the Lifetime Achievement Award from the National Water Resource Association in 2015. Next is Mr. Scott Smathers, appeared before the committee on January 29. Mr. Smathers has served as executive director of the Nebraska Sportsmen's Foundation for the past 12 years, as well as serving in governor appointments since 2013, including serving the Water-- Water Fund-- Funding Task Force and the Natural Resource Commission. Under the Natural Resources Commission, Mr. Smathers has been the chairman of the comprehensive planning committee, chairman of the scoring committee, and vice chairman and chairman of the commission. He also spends his time serving on the Nebraska Land and Trust Board of Directors and president of the Colonial Hills Neighborhood Association. He also has two children and three grandchildren with his wife, Angela. The Natural Resource Commission is committed to providing Nebraska citizens and leaders with the data and analysis they need to make wise resource decisions for the benefit of all Nebraskans, both now and in the future. The committee advanced all four of these appointments with a 7 yes and 1 present not voting. I ask for your confirmation of Mr. Smathers, Mr. Dunbar, Mr. Clouse, and Mr. Knutson to the Nebraska Natural Resource Commission.

**FOLEY:** Thank you, Senator Bostelman. Debate is now open on the confirmation report. Senator Erdman.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**ERDMAN:** Thank you, Lieutenant Governor. Good morning. I was wondering if Senator Bostelman would yield to a question.

**FOLEY:** Senator Bostelman, would you yield, please?

**BOSTELMAN:** Sure.

**ERDMAN:** Did you say yes, sir?

**BOSTELMAN:** Yes.

**ERDMAN:** Yeah. Senator Bostelman, I've listened to your opening on these-- your presentation on these four people. Are we voting on these as a bloc?

**BOSTELMAN:** Yes.

**ERDMAN:** Is it possible to separate these out and vote for one individual on-- by itself-- by himself?

**BOSTELMAN:** I believe it is. I'd have to ask the Clerk to be sure.

**ERDMAN:** OK, I would-- I would recommend that we vote for the first three as a unit and Mr. Scott Smathers as an individual later.

**FOLEY:** Your question is divide the question?

**ERDMAN:** Yes, sir.

**FOLEY:** Mr. Clerk, could you clarify which of the three we'll vote on first?

**ASSISTANT CLERK:** Mr. President, the first vote will be on Stanley A. Clouse, Bradley B. Dunbar, and Thomas L. Knutson to the natural-- Nebraska Natural Resources Commission. This will be the first vote taken.

**FOLEY:** Yes, it's the ruling of the Chair that it is divisible. We will proceed in that manner. Thank you, Mr. Clerk. Any discussion on the first portion of this confirmation report on those three names mentioned by the Clerk? I see none. Senator Bostelman, you're recognized to close. He waives closing. The question before the body is the adoption of the first three names referenced by the Clerk in the confirmation report. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**ASSISTANT CLERK:** 33 ayes, 0 nays on the first division of the committee report.

**FOLEY:** First division has been adopted. We'll now proceed to the second division. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Lieutenant Governor. I appreciate that. I appreciate the opportunity to speak on this nominee. Mr. Smathers has followed me around to every hearing I had this year with the Game and Parks. Mr. Smathers is a, what shall I say, wildlife enthusiast, and he wants more wildlife in the state. He is a representative as he-- as he claims of the big game hunters and the wildlife preservationists and the hunter-- hunting establishment. We have had a problem with wildlife for a long time. And when we had depredation permits issued in '19 to help solve the problem with the wildlife, the Game and Parks Commission designated 50 permits to shoot elk in Morrill County. We actually shot eight and it made a huge difference. In '20, the same landowners petitioned Game and Parks to do depredation permits and they said they would not be able to do that because of all the pressure they received the year before because of the hunting organizations. Mr. Smathers is one of those. So their organizations stood in the way of the landowners getting depredation permits again in '20 that they had in '19 because the hunters didn't want them to do that. The solution for the wildlife problem has to include three groups: the hunters, the landowners, and Game and Parks. And so when one of those groups, like the hunters, are absolutely opposed to controlling wildlife and they want an expansion of the wildlife population, there's a disconnect. And Mr. Smathers is part of that. I will be voting no on Mr. Smathers and I would recommend that you do the same. Thank you.

**FOLEY:** Thank you, Senator Erdman. Is there any further discussion? I see none. Senator Bostelman, you're recognized to close.

**BOSTELMAN:** Thank you, Mr. President. This appointment, reappointment is to the Natural Resources Commission. It is not to anything with Game and Parks. Mr. Smathers has served this commission for a number of years and was-- has been the vice chairman, was the chairman. And recently, unanis-- unanimously voted as chairman once again by his peers on the commission. Mr. Smathers does serve the commission very well, especially in the-- in our-- in our planning and processing for the comprehensive plans and the Water Sustainability Fund. He's a key member there. I do believe Scott has served this commission extremely well. I think this is a separate issue from what Senator Erdman is

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

talking about. And I would strongly encourage your vote, green vote for Mr. Smathers. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Bostelman. Members, you've heard the debate. The question before you is the second division of the Natural Resources Committee confirmation report regarding the appointment of Mr. Scott Smathers to the Natural Resources Commission. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 30 ayes, 4 nays on the second division of the confirmation report.

**FOLEY:** Second division of the confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next committee report from the Natural Resources Committee concerning the appointment of Joseph Citta, Thomas [SIC Timothy] Krause, Rick Kubat, and LeRoy Sievers to the Nebraska Natural Resources Commission.

**FOLEY:** Senator Bostelman, you're recognized to open on the confirmation report.

**BOSTELMAN:** Thank you, Mr. President. Members of the Legislature, I present for your approval four appointments to the Natural Resources Commission: Joseph Citta, Jr., Timothy Krause, Rick Kubat, and LeRoy Sievers. Joseph Citta, Jr., appeared before the committee on January 29. Mr. Citta graduated from Hastings College in 1973 with a bachelor of arts degree in biology and science. Mr. Citta holds over 40 years of experience in various positions in the operations and environmental area and currently is responsible for NPPD's corporate environmental compliance, stewardship efforts and oversees the environmental and water resource policies and processes that support the utility's operational and strategic needs. He also serves as chairman of the Environmental Task Force, where he represents the environmental and water interests on a national legislative and regulatory level as a certified hazardous materials manager and a registered environmental manager. Next is Mr. Timothy Krause, who appeared before the committee on February 4. Mr. Krause's passion for agriculture, strong work ethic, and love for the lifestyle of farming and ranching started at a young age, growing up on his family farm in Custer County near Mason City. Mr. Krause received his bachelor of science degree in agribusiness at the University of Nebraska in Kearney. After receiving his degree, he worked as a location manager

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

for United Suppliers, as well as technical service salesman for the Servi-Tech Laboratories, where he worked in all areas of agriculture, including working with farmers, ranchers, agronomists, ruminant nutritionists, feed companies, manufacturers and municipalities, performing analytical testing of soil and working with the natural resources of Nebraska. Mr. Krause is currently engaged with his local NRCS in expanding his feedlot operation in order to create a more environmentally friendly operation and placing marginal farm ground back into habitat for pollinators and rangeland. Next is Mr. Rick Kubat, appeared before the committee on January 29. Mr. Kubat earned his bachelor of arts in political science at Miami University in 1998. He is a 2002 graduate of the University of Nebraska Lincoln College of Law. Currently, he is a governmental-- government relations attorney with the Metropolitan Utilities District of Omaha. He also currently serves as the president of the Nebraska Water Resources Association. Finally, Mr. LeRoy Sievers appeared before the committee on January 29. Mr. Sievers is a longtime Nebraska resident growing up in Blair and graduating from Doane College in 1970. He served three years in the United States Army, two of which in the White House; then worked in Washington, D.C., as a programmer analyst and earned a master's of science degree. He returned to the Nebraska-- he returned to Nebraska in 1975 and graduated from UNL Law School in 1977, starting a prosperous career in law. While in the Attorney General's Office, he worked on interstate litigation dealing with water issues on the Missouri and the Platte Rivers. Later, in state agencies, he continued to work on a variety of water and natural resource related issues, including flood mitigation efforts. He was a copresenter across the state in programs on floodplain administrators. The Natural Resources Commission is committed to providing Nebraska citizens and leaders with the data analysis they need to make the wise resource decisions for the benefit of all Nebraskans, both now and in the future. The committee advanced all four appoint-- appointments with a 7 yes and 1 present not voting. I ask for your confirmation of Mr. Joseph Citta, Timothy Krause, Rick Kubat, and LeRoy Sievers to the Nebraska Natural Resources Commission.

**FOLEY:** Thank you, Senator Bostelman. Is there any discussion on the report? I see none. Senator Bostelman, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report for the Natural Resources Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 33 ayes, 0 nays on the adoption of the confirmation report.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** The confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, next committee report from the Education Committee concerning an appointment to the Board of Educational Lands and Funds.

**FOLEY:** Senator Walz, you're recognized to open on the Education confirmation report.

**WALZ:** Thank you, Mr. President, and members of the Legislature. This is a new appointment to the Board of Educational Lands and Funds. The board is established-- the board was established in the Nebraska Constitution in 1875 to serve as trustee of the lands contributed to the state in 1867 by the federal government. It provides general management of all lands set aside for educational purposes, which includes approximately 3,200 agricultural leases as well as mineral-- mineral and renewable energy leases. Excuse me. This is a five-member board and the appointed member served a term of five years. Members are paid \$50 a day when actually engaged in the performance of the duties of their office and reimbursed for necessary travel expenses incurred while upon business. Duane Kime is a rancher from Vallentine with 48 years of experience. He has served one year on the Cherry County Planning Board and six years on the Sandhill Area Foundation, as well as the local board of education. Thank you for your time-- for your time. And I ask for the confirmation of Duane Kime. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Walz. Discussion on the confirmation report. Senator McKinney.

**McKINNEY:** Thank you. I rise to kind of state why I was present not voting for this. When we were going through the process of reading his application, I had came across something. He checked a box and said that he had posted something discriminatory in the past. And we went through a process to see if that was correct, ended it up-- he ended up sending something back to the Governor's Office saying that it was a mistake. And me just being me and, you know, understanding where I come from, and I was still a little hesitant after, you know, further investigation into it, which is why I was present not voting. That's not to say he ever posted anything discriminatory. I was just hesitant to vote as well as a couple other members on the committee as well. But I was just saying that to just put it on the record. Thank you.

**FOLEY:** Thank you, Senator McKinney. Senator Morfeld.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**MORFELD:** Thank you, colleagues. I just wanted to follow Senator McKinney and also explain my present not voting vote. It fell along the same lines as Senator McKinney. It may have just been a mistake to check that box on the application for the confirmation or excuse me, for the position. And after reviewing social media and some other things, I did not find anything that was discriminatory in nature or anything like that. That being said, any time somebody checks that box, it causes pause and concern. And because I couldn't find anything and I didn't hear anything negative about the individual, I decided to be present not voting rather than voting no. And so I just wanted to explain my vote. I will continue to be present not voting on this one. And I wish him the best and I'm sure he'll be confirmed. But I thought that it warranted some explanation along the same lines as Senator McKinney. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Morfeld. Any further discussion? I see none. Senator Walz, you're recognized to close.

**WALZ:** Thank you, Mr. President. I want to thank you, thank my two colleagues on their explanation. That really shows that we've done our due diligence and we're doing what a committee needs to do. So I appreciate their input and I would appreciate your green vote on this confirmation report. Thank you.

**FOLEY:** Thank you, Senator Walz. The question before the body is the adoption of the confirmation report from the Education Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 32 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** The confirmation report has been adopted. Next report, Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next report is from the Health and Human Services Committee concerning Mark Patefield to the State Board of Health.

**FOLEY:** Senator Arch, you're recognized to open on the first confirmation report.

**ARCH:** Thank you, Mr. President. On February 24, the Health and Human Services Committee held confirmation hearings on the appointment of six individuals to the Board of Health. Before I begin the confirmation report, I want to go back and just give an overview of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

this Board of Health because it's a large board. There are 17 members on the Board of Health. There are two individuals licensed to practice medicine and surgery, one dentist, one optometrist, one veterinarian, one pharmacist, two nurses, one osteopath or osteopathic surgeon, one podiatrist, one chiropractor, one physical therapist, one professional engineer, one hospital administrator, one credentialed mental health professional, and two laypersons interested in the health of the people of the state of Nebraska. So as you hear these confirmation reports today, you'll hear me reference this person would fill this particular position. And that's what I'm referring to here on the Board of Health. So the first confirmation is for Mark Patefield. Mark Patefield is a new appointment to the Board of Health, and he will fill the pharmacist vacancy on the board. He grew up in Laurel, Nebraska, attended UNL, and then pharmacy school at Creighton. He owns pharmacies in Laurel and Wayne, Nebraska, along with his wife, who is also a pharmacist. At his confirmation hearing, Dr. Patefield expressed his commitment to public service. He recently finished serving a second term as the mayor of Laurel, Nebraska. He also expressed his desire to represent the perspective of a retail pharmacist on the Board of Health. Dr. Patefield is qualified, dedicated to the public service. So I urge your support for his appointment.

**FOLEY:** Thank you, Senator Arch. Debate is now open on the first confirmation report. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I was present not voting on this gubernatorial appointment. Really, my-- my main issue with Dr. Patefield was when I asked him about medicinal marijuana and he expressed a prejudice against it. And-- and whether you agree or disagree, when-- if it comes to the voters deciding, I don't think it's appropriate to have people on the Board of Health that have a prejudice in-- that are going to be implementing and overseeing something that the voters are deciding. And so that was something that was of concern to me. But there wasn't any serious concerns other than I felt that we only have one woman currently on the Board of Health. And when we have vacancies, we should be taking every opportunity to ensure that we are fully representing our state and our communities. And I am 100 percent certain that there are women that are pharmacists in this state. I know several of them. I even know the woman who is the head of the pharmacy school at one of our universities. So with that, I will be present not voting on this confirmation. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Clements.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**CLEMENTS:** Thank you, Mr. President. Would Senator Arch yield to a question?

**FOLEY:** Senator Arch, would you yield, please?

**ARCH:** Yes, I will.

**CLEMENTS:** Senator Arch, I'm not familiar with this Board of Health. I'm wondering what their function is. Do they review licensure? Or do they set health policy in Nebraska?

**ARCH:** They work closely with the Department of Health and Human Services on policy. The-- the particular role that most often comes to the committee, HHS Committee, has to do what is called the 407 process, which is a process that determines scope of practice and licensure of-- of practicing professionals. There's three reviews of the-- of the 407 process and which was started many years ago. And it is a-- it's a process that puts the professionals together with a technical review committee, the Board of Health and then the medical director of HHS itself to review whether or not there should be change of scope of practice based upon the-- based upon the educational process that is ever changing within professions and-- and how that would impact the-- the scope of practice of the professionals in our state. So that-- that in particular is the-- is the largest interface between the Board of Health and the HHS Committee.

**CLEMENTS:** Thank you, Senator Arch. That answered my question. Thank you, Mr. President.

**FOLEY:** Thank you, Senators Clements and Arch. Any further discussion? I see none. Senator Arch, you're recognized to close. He waives close. The question before the body is the adoption of the first confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 29 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** The first confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next confirmation report from the Health and Human Services Committee concerning the appointment of Timothy Tesmer to the State Board of Health.

**FOLEY:** Senator Arch, you're recognized to open.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**ARCH:** Thank you, Mr. President. Dr. Timothy Tesmer is a new appointment to the Board of Health. He will fill one of the physician positions on the board. Dr. Tesmer is an otolaryngologist who has been practicing here in Lincoln since 1998. He went to college at Nebraska Wesleyan; received his medical degree from UNMC; completed his ear, nose and throat residency in Kentucky. Dr. Tesmer is-- expressed a desire to get back to the state of Nebraska. We're fortunate he's willing to volunteer his time for the Board of Health. I would urge your support of his confirmation.

**FOLEY:** Thank you, Senator Arch. Any discussion on the report? I see none. Senator Arch, you're recognized to close. He waives closing. The question before the body is the adoption of the second confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 30 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** Second confirmation report has been adopted. Mr. Clark.

**ASSISTANT CLERK:** Mr. President, the next confirmation report from the Health and Human Services Committee concerns the appointment of Russell Crotty to the State Board of Health.

**FOLEY:** Senator Arch, you're recognized to open.

**ARCH:** Thank you, Mr. President. Dr. Russell Crotty is a new appointment to the Board of Health. He will fill the optometrist vacancy on the board. Dr. Crotty received his doctorate of optometry from Northeastern State University in Oklahoma, currently practices as an optometrist in Auburn. At his confirmation hearing, Dr. Crotty testified that his two main focuses for the Board of Health are protecting the safety and health of the public and offering his professional opinion on optometry-related issues before the board. Dr. Crotty will be an asset to the Board of Health, so I would appreciate your vote in favor of his confirmation.

**FOLEY:** Thank you, Senator Arch. Any discussion? Senator Slama.

**SLAMA:** Thank you, Mr. President, I rise today to briefly express my support for Dr. Crotty's confirmation today. He practices in my district and is a well-respected member of his community. So that's why I encourage a green light vote on his appointment.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** Thank you, Senator Slama. Any further discussion? I see none. Senator Arch waives closing. The question before the body is the adoption of the confirmation report. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Recordt, please.

**ASSISTANT CLERK:** 28 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** The confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next confirmation report from the Health and Human Services Committee concerns the appointment of Michael Kotopka to the State Board of Health.

**FOLEY:** Senator Arch, you're recognized to open.

**ARCH:** Thank you, Mr. President. Dr. Michael Kotopka is a new board-- is a new appointment to the Board of Health. He will fill the dentist vacancy on the board. Dr. Kotopka attended UNL, UNMC College of Dentistry, then served as a dentist in the Air Force. After his military service, Dr. Kotopka moved back to Nebraska in 1997 and currently practices in Lincoln. He expressed a desire to volunteer in this role as a way of serving the public now that his children are older and he has more time to give back. Dr. Kotopka's experience and dedication to public service will be an asset to the Board of Health. And I urge your support for this appointment.

**FOLEY:** Thank you, Senator Arch. Any discussion? I see none. Senator Arch, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 29 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** The confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next confirmation report from the Health and Human Services Committee concerns the confirmation of Dan Vehle to the State Board of Health.

**FOLEY:** Senator Arch.

**ARCH:** Thank you, Mr. President. Dan Vehle is a new appointment to the Board of Health. He will fill one of the two layperson positions on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

the board. Mr. Vehle grew up in South Dakota but has lived in Nebraska since 1988. He spent more than 40 years working in medical sales and currently serves as the territory manager for endovascular sales with W. L. Gore and Associates. Mr. Vehle expressed his desire to engage in more public service as his career slows down and to utilize his experience in the medical industry to serve on the Board of Health. Mr. Vehle was very enthusiastic about serving on the board, so I would appreciate your support for his confirmation.

**FOLEY:** Thank you, Senator Arch. Discussion on the report. Senator Wayne.

**WAYNE:** Thank you, Mr. President. Nebraska, it's not for everyone. I'm looking down this list of State Board of Health people. I'm not going to take a lot of time, but, colleagues, we got a serious problem when I look over here and see nobody practices east of 72nd on the state board. If anything, this pandemic has shown us is there are people who are left out of our health services. And yet nobody practices east of 72nd is on this board. We're talking a significant portion of our population who is not represented on our state board. Now, I know that might not mean a lot to everybody here, but I would encourage everybody to go read my Facebook posts where a VP of First National Bank, former VP, talked about how Omaha and Nebraska is not for him or his family. And then look at the hundreds of comments of people who have left or are leaving, young professionals, who are black and brown because they are under the same impression that Nebraska, particularly Omaha, is not for everyone. But our State Board of Health, nobody practices in the most neediest area of our community. There's nobody who represents the areas of the tribes. There's nobody, according to this, when I'm looking at Grand Island and Lexington where poverty is, where they actually interact with those individuals. So I'm not going to take a lot of time on this one. But we might take a lot of time talking about and maybe I'll just read some of the Facebook posts of what people are actually-- we talk about brain drain. That's part of it. We talk about every survey that happened from the Nebraska Chamber to the Omaha Chamber, not just in Omaha but across Nebraska, diversity is one of the things we care about. We talk about inclusion on this floor all the time. But yet our state board is not inclusive. There's only one female on that board. But everybody is going to push green because that's what we do on all of our confirmation reports. We just push green. I know in Natural Resources we've been having conversations about not pushing green on a couple to send a message, not just to the Governor, because it's not about him. It's about the overall system. But if we think healthcare is that important, if we think inclusion is that important and not just talking points, then on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

one of these we need to vote no. We need to make people go back and find diversity and at least not from a racial perspective, but at least the people they represent and interact with in an industry where we've seen the gaps increase during the pandemic. And the fact of the matter is, I've been here for four years and nobody knows how these confirmation reports are actually done. We don't know if the Governor just calls up people he knows. We don't know if there's actually a vetting process. I'm assuming they are. I'm assuming that he actually vets. But at what point are we going to look up and say, everybody we're appointing doesn't represent Nebraska? At what point are we going to stand up and say we need to take a different approach to how we do confirmation reports to make sure that everybody is included, at least in the process? I'm not going to pick on Senator Clements, but I remember when he got appointed. There were a lot of people who applied and the Governor reached out to him. I love working with Senator Clements. He votes no on most of my bills, but at least he's honest and we have a conversation and we try to find common ground. I'm not faulting that.

**FOLEY:** One minute.

**WAYNE:** I'm not faulting the process. But when people are left out of one of our most important boards, we've got to figure out a different way. And maybe today we're just all going to vote green and keep this moving and not care about inclusion or diversity. But then don't talk to me about inclusive and-- and being diverse when our state board is not diverse at all. And I'm not talking racial because we know that's not it. By Googling everybody, I can tell that. But they don't even represent the people who need it the most. Not one, not a dentist, not a psychologist, not a physical therapist, not a doctor. But we're OK. We don't want to challenge anything. We're OK. But I just saw people vote no against Scott Smathers because he's against some things and for some big game.

**FOLEY:** That's time. Thank you, Senator Wayne. Senator Hunt.

**HUNT:** Thank you, Mr. Lieutenant Governor. I rise in agreement with-- with Senator Wayne, in particular to three different points he was speaking about: the representation of people throughout Nebraska, not just racially again, but geographically, in terms of gender, in terms of experience. Having nobody representing the people who are the most vulnerable and who struggle the most with poverty in eastern Nebraska is a problem to me. And I also-- I question how much this body continues to give up power as a legislative branch to the executive branch when these confirmation reports really do sail through every

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

single time. We almost never see a red vote. And I'll tell the people of Nebraska, if there ever are any questions that come up about one of these appointees, it's often discussed frantically in the morning in a group text. And someone will say, oh, did you see that this person had this happen or this person posted this on Facebook? And that's really problematic. Did anybody know this? How is-- how are they vetted? What is their experience? And it's just a very kind of slapped together process that ends up affecting people of Nebraska. Because as Senator Arch said in his conversation with Senator Clements, the Board of Health actually does really consequential, important things for the state of Nebraska. It's not just like a vanity board where you can, you know, put some political appointees and some friends of yours and some donors. It's a board that actually makes decisions and puts input into the system that affects the policy we make. And my concern is that these appointed boards are becoming exactly what I said they shouldn't be, that they are becoming a place for donors, for friends, for political allies to gain prestige, to gain power. And they slip in under the radar because we in the Legislature aren't giving enough oversight to this process. And that comes out when we're talking about diversity, when we're talking about geographic representation, when we're talking about experience and identity, and making sure that the people of Nebraska have someone on these boards that reflects their experiences and the problems they really have. And then finally, the question of vetting. There were some remarks in the different confirmation hearings that I was in this year in my committees and also on the floor from Senator McKinney and Senator Wayne about this new section of the application to be on a state-appointed board or commission. And on the application, there's a new section with a box that you check that says something, I don't have it in front of me. It's something like, have you ever shared a discriminatory view or have you ever shared a view or a position that could be construed as discrimination? There's something like that. We didn't have that in past years. But we have that now this year, because last year we had some appointees that came up for confirmation and I actually Googled them and I saw their Facebook pages and I saw their Twitter and I saw their blogs. And they-- this person in particular had shared some really, really racist views and some very racist memes. Some-- some really horrible things were said about immigrants and people of color in Nebraska. And this was a person who was going to be on a board serving the public health of Nebraska. And I brought this to the attention of the committee once I found out about it, which was, you know, later than I wanted to. And that person ended up pulling their name out of consideration because I said that I was going to talk about it on the floor because I don't think these are the kinds of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

people who we should have on appointed boards in Nebraska. We know that we have enough like latent ignorance and racism in government. I didn't want to put people--

**FOLEY:** One minute.

**HUNT:** --on boards who had just like direct, outspoken racist beliefs. And as a consequence of that, now that's something that we actually examine. It's something that we actually examine when we're appointing people to these boards. So that's a little part of vetting. But when we're doing a frantic group text in the morning, when we're just letting these people sail through, when we're not having substantive discussion about somebody's qualifications and experience, we're doing a disservice to the people of Nebraska because we're abdicating our authority and oversight to the executive branch. And I know a lot of folks in here are OK with that. And if you're OK with that, I would challenge you to ask yourself why you're giving up the power that the folks you represent in your districts have trusted in you. Do not give up that power that the people have given you--

**FOLEY:** That's time.

**HUNT:** --up to the Governor.

**FOLEY:** Thank you, Senator Hunt. Before proceeding, Mr. Clerk, for an announcement.

**ASSISTANT CLERK:** Thank you, Mr. President. Announcement: the Revenue Committee will meet right now in Executive Session in Room 2022; Revenue Committee, 2022, 10:00 right now. Thank you.

**FOLEY:** Thank you, Mr. Clerk. Further discussion on the confirmation report. Senator Hilkemann.

**HILKEMANN:** Thank you, Mr. President. I rise to talk about the discussion we're having about the Board of Health. I don't know, but I probably am the only person in this body who's actually served on the Board of Health. And I was very appreciative of my opportunity in the '80s. And for a period of two years, I actually served as chair of the State Board of Health. And I understand where Senator Wayne is coming from as far as the-- the diversity on that board. Let me tell you just a little bit about how these confirmations, how these persons are selected, at least it was during the period of time that-- that-- that I served. People served for a specified term. I think it's a three-year, maybe a four-year term on the Board of Health. And in my profession, for example, when we-- when-- when Dr. Rietz was the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

doctor who was predecessor. His term ended. Our profession submitted to the Governor recommendations for persons to replace him. And I was one of those persons that they-- that the association sent to the Governor. I was actually appointed by Governor Kerrey to serve on the Board of-- of Health. And while I was there, we had women. We had-- I believe we had several minority people who were there. But what I want to say is, is that this board is-- it is very fluid. It's-- there's always changes occurring. The optometry board, they're coming in at a different time and the chiropractic board are different and the physicians are at a different level and the audiol-- the different members. And so it would be very hard to say when-- when-- when Senator Arch has someone come at the request of the Governor to [INAUDIBLE] say, oh, we can't do it because we need to have-- we need to have another female or we need to have another minority. I just want to say that we have had-- certainly part of the time that I was there, the chair of the Board of Health, was-- was actually a lay member of the board and a female from-- from Omaha, Nebraska, did a very fine job of being chair. So what I-- what I'd like-- I guess what I want to say is, is that for us to say we need to-- to make sure that we have diversity on that board, it's wonderful to have diversity. But this is one of those boards when you have this many members on a-- on the board with all the different terms that come to an end and new people coming, it's a good process. The board is a very important-- serves very important functions. I was fortunate to be there when the 407 process began. And I was the-- the first. I had to deal with that as chairman was installing the 407 process. But at either rate, I just want to let this body know that-- that there's not a conspiracy, that this is going to be all males or that it's-- that it's going to be an all that is-- that's just not how this particular board works. And with that, I would answer any questions regarding that. Thank you, Mr. Speaker. Mr. President.

**FOLEY:** Thank you, Senator Hilkemann. Senator Wayne.

**WAYNE:** Thank you, Mr. President. And Chairman Arch, I do actually support this individual, but I had to raise that concern at this point because I don't want to take up a lot of your time on the rest of the nominations, but I do support this individual and probably the next couple individuals. But I think it's something that as a body we need to be conscious about on all these confirmation reports. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. I see no further discussion. Senator Arch, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report. Those in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 27 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** The confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next confirmation report from the Health and Human Services Committee concerns the appointment of Anthony Green as director of the Division of Developmental Disabilities, Health and Human Services.

**FOLEY:** Senator Arch, you're recognized to open.

**ARCH:** Thank you, Mr. President. Good morning, colleagues. The Health and Human Services Committee is reporting Anthony "Tony" Green for confirmation by the Legislature for the position of the director of the Division of Developmental Disabilities within the Department of Health and Human Services. Tony Green has a long history of service to Nebraska. He attended Wayne State College in Wayne, Nebraska, and on the nights and weekends worked as a direct support professional through NorthStar and found his passion for supporting individuals with disabilities. In 1990, Mr. Green received a bachelor's degree in human service counseling and psychology and criminal justice while minoring in sociology. Immediately upon graduation, he took a services coordinator position at NorthStar in South Sioux City, Nebraska. He returned to Wayne, Nebraska, where he continued his work as a services coordinator supervisor, covering 20 counties in northeast Nebraska. After seven years working in services coordination, Mr. Green became executive director at Bethphage in north-- in Norfolk, Nebraska. Under his leadership, Bethphage expanded services to include all of northeast Nebraska and eventually merged with Martin Luther Homes to become the organization we now known-- we now know as Mosaic. In 2005, Mr. Green returned to the Department of Health and Human Services in the Children and Family Services Division. In a little under 11 years with CFS, Mr. Green was a supervisor, administrator, service area administrator, deputy director, and acting director. He collaborated with community groups in the Legislature in advocating for implementation of effective program services while supervising all aspects of service delivery and case management for Child and Adult Protective Services, economic assistance, and juvenile services. In 2016, Mr. Green became deputy director of the Division of Developmental Disabilities for DHHS, where he has helped oversee statewide operations of the division. He became interim director in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

March of 2020 in the height of the pandemic. Every week, sometimes multiple times per week, Mr. Green spearheaded group calls for service providers and stakeholders, explaining the changes the department and Division of Developmental Disabilities were making and patiently explaining the provisions of various newly enacted federal laws and changes to our state developmental disability waivers. Mr. Green was officially appointed director of the Division of Developmental Disabilities on August 24, 2020. During Mr. Green's confirmation hearing, he was particularly excited about the prospect of working with other divisions and other departments to help meet the needs of Nebraskans. Specifically, working on the Olmstead Plan offers opportunities to work with the Department of Education and the Department of Labor in order to help develop and implement the best possible plan. He is happy to continue to have long-term conversations with the Legislature. Mr. Green has an impeccable record of serving vulnerable Nebraskans for over 30 years. When asked by his staff how it felt to return to the Division of Developmental Disabilities, Mr. Green stated, I am home. We believe the department has and will continue to benefit greatly from his years of expertise and commitment to service. The Health and Human Services Committee voted to approve his confirmation unanimously. And we would ask for your green vote to approve Director Green on the floor here today. Thank you.

**FOLEY:** Thank you, Senator Arch. Debate is now open on the confirmation report. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I just wanted to stand and speak in support of Director Green. He has been an amazing asset to the state and to the individuals with developmental disabilities. And I am thrilled that he has agreed to take on this enhanced position because he is truly a hardworking public servant and is dedicated to the people of Nebraska. So I encourage everyone to vote green for Director Tony Green. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Vargas.

**VARGAS:** Thank you very much. And I was-- don't normally speak on confirmation reports. This might be the second time ever, but I did want to rise in support of Director Green. I have personal and professional experience engaging with his work ever since he was in sort of the acting director and then the permanent director now. And he has carried himself above board, cares deeply about the DD population and wants to make sure that we are getting to a place where we are providing better access and equity within the space. And I am looking forward to his-- his long-term tenure and leadership in this

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

position and ask everybody to support a longstanding public servant here, Director Green, to-- to lead this work in DD. Thank you.

**FOLEY:** Thank you, Senator Vargas. I see no further discussion. Senator Arch, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report from Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 29 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** Confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next confirmation report from the Health and Human Services Committee concerns the appointment of Kevin Bagley as director of the Division of Medicaid and Long-Term Care Department of Health and Human Services.

**FOLEY:** Senator Arch.

**ARCH:** Thank you, Mr. President. Good morning, colleagues, again. The Health and Human Services Committee is reporting Kevin Bagley for confirmation by the Legislature for the position of director of the Division of Medicaid and Long-Term Care within the Department of Health and Human Services. In 2008, Mr. Bagley received his bachelor's degree in economics from Brigham Young University in Provo, Utah, where-- where also he found a passion for public policy and public service. Shortly thereafter, he received his Master's of Business Administration in 2011 from Utah State University and began working with the Utah Division of Medicaid. He became the director of long-term services and supports in Utah's division of Medicaid in 2016. During his ten-year employment at Utah's division of Medicaid, Mr. Bagley worked to modernize reimbursement methodologies, helped create transparency in service coverage, aided in rolling out Medicaid expansion, worked to implement new strategic programs for individuals with long-term care needs. He helped implement a medically complex children's waiver, much like our Katie Beckett waiver, the Medicaid Autism Benefit Program and Medicaid Housing Coordination Program. Mr. Bagley stated that working with legislators, federal partners, Medicaid staff, and advocate families in implementing programs with measurable, beneficial outcomes awakened a desire to measure that value in all areas of Medicaid, which prompted him to pursue his doctorate of healthcare administration, which he is expected to receive in 2022. Mr. Bagley was appointed director of the Division of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

Medicaid and Long-Term Care here in Nebraska on November 30, 2020. Nebraska's Division of Medicaid and Long-Term Care faces challenges ahead, including Medicaid expansion. As you may know, the federal Center for Medicare and Medicaid Services, after approving Nebraska's 1115 Medicaid expansion waiver, has since placed that approval on hold pending further review. Federal regulations regarding Medicaid have been changing since the start of the pandemic. When asked how he planned to deal with issues in our Medicaid system, Mr. Bagley stated he wanted to, quote, sit down with providers and understand the impact of the issues. He said that he understands Medicaid is a big ship to turn, and so there needs to be a cohesive, thoughtful, well-informed plan going forward. I believe that Mr. Bagley's experience in Utah with Medicaid expansion and his proven record of working with their legislature and other key stakeholders in implementing targeted innovative programs will be beneficial for Nebraskans as we focus on the future. His commitment to transparency, communication, and thorough thoughtfulness and his ability to help create innovative solutions will benefit the Legislature and the department. The Health and Human Services Committee voted to approve Mr. Bagley's confirmation unanimously, and we would ask for your green vote to approve Director Bagley on the floor here today. Thank you.

**FOLEY:** Thank you, Senator Arch. Is there any discussion on the confirmation report? I see none. Senator Arch, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 34 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** The confirmation report has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next confirmation report concerns Robert Synhorst, appointed to the State Board of Health.

**FOLEY:** Senator Arch.

**ARCH:** Thank you, Mr. President. This is our last confirmation report for this morning. Robert "Bud" Synhorst is a new appointment to the Board of Health and he will fill one of the two layperson positions on the board. Mr. Synhorst has a master's degree in education administration from UNL and a bachelor's degree in business education from UNK. He currently serves as the president and CEO of the Lincoln

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

Independent Business Association and has served in leadership positions with a variety of organizations in Nebraska, including the state Republican Party, Mary Lanning Health Care Foundation in Hastings, and Metropolitan Community College Foundation in Omaha. Mr. Synhorst testified that he loves the state of Nebraska, hopes to bring a variety of different perspectives to the Board of Health. I appreciate Mr. Synhorst's willingness to serve in this volunteer position. I urge your vote in favor of his appointment this morning.

**FOLEY:** Thank you, Senator Arch. Senator Williams to be followed by Senator Machaela Cavanaugh, Senator Gragert, and Senator Geist. Senator Williams.

**WILLIAMS:** Thank you, Mr. President, and good morning, colleagues. And we've had a lot of confirmations this morning. And first, I would just like to thank those people that are willing to take their personal time and volunteer for these positions. On the issue of Bud Synhorst, I've known Bud for over 20 years and I certainly stand here supporting him today for this position. I first met Bud when he was working for the University of Nebraska Athletic Department as a development officer out of Lincoln. But he spent a lot of time out in my territory and that's when I first met him. Bud has a significant background of doing a lot of different things. He's been involved with education, fundraising, business, and he is currently, as Chairman Arch mentioned, CEO of the Lincoln Independent Business Association. He also did spend about two and a half years with the Republican Party as the executive director. Many of us would remember Bud when we were running for office, at least the group of Republicans that came in and-- that were elected in 2014. Bud was helpful to many of us at that point in time. Again, there was a question that came up during Bud's confirmation about the 407 process. And as all of you know, those of us that are serving on HHS recognize the importance of the 407 process. And I would remind people that when did you learn about the 407 process? You know, I didn't know anything about that process, Senator Hilkemann, until I became a senator. And it took a little bit of time after that. Well, Bud was appointed on December 21. He attended his first meeting of the Board of Health on January 25. And less than a month later, we had his confirmation hearing. And at that point in time, he-- he didn't know a whole lot about the 407 process. Maybe we asked the question wrong, because we talk in those terms of the 407. He talks in terms of the credentialing process. And I probably asked that question poorly of him in the conference. This has been a tough year for all of us. It's certainly been a tough year for the CEO of LIBA when you recognize that there's over a thousand independent businesses here in Lincoln that are members, many of which

were substantially affected by the pandemic and in particular the directed health measures that were-- were set out. So as an advocate for them, he was involved with education of his membership. He also was advocating for changes at times in the directed health measures and most of all, understanding what those directed health measures are. So I think Bud fits very well with the Board of Health as an independent member. I would tell you he fits so well that as of their meeting just this month, the group elected him as vice chairman of the Board of Health. So I think that shows the confidence that the Board of Health members have in Bud. With that, I would encourage your green vote on this confirmation. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Colleagues, I stand in opposition to this confirmation to the Board of Health. We've heard a little bit of discussion this morning about what the Board of Health currently looks like. And there is one woman on the Board of Health. There are no representatives east of 72nd in Omaha, which is the equivalent of saying that there's no representation in about six of your districts I think so that-- that's pretty significant. It's like 200,000 people that don't have somebody representing them. And we have some pretty severe health disparities in this state. I have brought a bill and Senator Vargas has brought bills around maternal health in the state. And it's really specific to the maternal health outcomes and infant outcomes for children and women of color. And it is no secret that most of the state's population that is people of color live east of 72nd Street. So if we're going to address real systemic issues in healthcare and not have a single person of color or healthcare professional or just general citizen representing east of 72nd, we're doing something very, very wrong. I didn't vote for any of the confirmations today because they didn't meet any of those criteria. This specific one, in addition to not meeting any of those criteria, is also the epitome of a political appointment. Mr. Synhorst ran the campaign against one of our colleagues this last year, ran the campaign. And we're going to put him on the Board of Health? That's not very collegial. Mr. Synhorst was in the-- was the executive director of the GOP and ran the-- and in that role, ran and oversaw attacks against other members of this body, and that's not acceptable either. And now he's a representative for LIBA. He's the president and CEO of LIBA, which I'm sure does some great work. But he has been very outspoken against the public health director of Lancaster County's public health measures. And now we're going to put him on the Board of Health? She's received death threats. She has to have security because of-- of people like Mr. Synhorst. And we're going to put him on the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

Board of Health when he doesn't have enough sense to not incite people against a public health official? What are we saying to our public health officials, that we don't care about them and their safety? This is a problem. This is a real serious problem, and I don't think that any of the people that we confirmed this morning deserved a pass. Senator Wayne has talked about how we just rubber stamp these appointments, and it's true and it's sad because they're important. And we should be having robust debate over every single one of them. And it's not to be disrespectful to the Governor and who he wants to appoint, but it's because we care about the citizens and the-- the representation that they are going to have in these different boards.

**FOLEY:** One minute.

**M. CAVANAUGH:** Mr. Synhorst is filling a position that's just the general public position, literally no other qualification than being in the general public. If any position could be used to bring diverse voices to the table, this position is it. We don't know a single woman that could just serve on the Board of Health, not a single woman could serve on the Board of Health as just a person, no other expertise other than being a citizen of Nebraska? Nobody knows that person? I have a lot of friends that are women, both Republican and Democrat. I feel like we could have found somebody if we really tried, if we really cared about the Board of Health. I'm going to talk on this several times. I'm not going to talk about Mr. Synhorst.

**FOLEY:** That's time.

**M. CAVANAUGH:** Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Gragert.

**GRAGERT:** Thank you, Lieutenant Governor. I rise in support of Mr. Bud Synhorst. I've known him for a number of years now, certainly not as long as Senator Williams, but this individual I find and have worked with again for a number of years. And he's very upstanding individual and I have all confidence in him in this position. So once again, I stand in support of Mr. Synhorst. I yield the rest of my time to Senator Slama.

**FOLEY:** Thank you. Senator Slama, you've been yielded 4:25.

**SLAMA:** Thank you, Mr. President. Good morning, colleagues. Thank you, Senator Gragert. I rise as well today in support of Mr. Synhorst's appointment, which is relevant only because Senator Cavanaugh did reference that Mr. Synhorst ran a campaign against a member of this

body. Spoiler alert. It was me. And I still rise in support because Mr. Synhorst has proven that he is qualified and competent in this position. And it gets to a larger discussion of how we're handling these confirmation reports today. We have over 1,500 appointed spots on boards in this state. And that's because we give a lot of power to the second house, to the people of the state of Nebraska. There's probably an argument there that we have way too many boards. And that's-- that's an argument that I wholeheartedly support. But we have people like Mr. Synhorst who put their name forward. These are volunteer unpaid positions where folks just raise their hand and say, I'm willing to serve and we're willing to drag the name of someone through the mud because they're a Republican, because they ran a campaign. I'm the person who the campaign was ran against and I'm supporting Mr. Synhorst because he's qualified for the job. So I-- I'd encourage this body to move forward with today's agenda. Please vote green in support of Mr. Synhorst's appointment. He is very well qualified for this position. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Senator Geist.

**GEIST:** Yes. Thank you, Mr. President. And I, too, stand in favor of the appointment of Bud Synhorst, who happened to have been my campaign manager and who I've known ever since I was a candidate. And I have to tell you, the accusation that he incited violence against anyone is absurd. Simply because he's a Republican or carries any kind of-- of opinion about anything has-- about whether you wear a mask or not? I don't even know that Mr. Synhorst cares nor supports or does not support, and I'm a friend of his. I do know every time I've seen him in the Capitol he wore a mask. Every time I've been with him in a public place, he's worn a mask. And to assert that he would cause or incite violence, that's a huge accusation. I totally reject it. That's nothing like the man I know, and I know him very well. On another point, just as Senator Slama said, people put their name forward. Yes, we need more diversity on our boards, but people of diversity need to put their name forward. But to deny Mr. Synhorst his confirmation because we need more diversity on the board is equally absurd. The question is, is he qualified for this position? I would say a resounding yes. And any accusation of ill intent or malice towards any public appointed, elected, nonelected official is absurd, in this case, flatly wrong. I support him 100 percent and he deserves to be confirmed and he will do an excellent job in this position. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist. Senator Kolterman.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I rise in support of the confirmation of Bud Synhorst. You know, I-- I haven't-- Bud never helped me with any campaigns, but when he was chair of the Republican Party, he did make a special trip out to my community to get to know me, get to know what made me tick, on the Fourth of July, in fact, and got to know him and his family, a very nice individual. He's a private business owner, and I think he would do a good job on the-- on the board. But I think the important thing that we need to talk about more than that is, and Senator Slama alluded to it, 1,500 people. That's how many people the Governor has to appoint. I can tell you that on the Public Employees Retirement Board, there's been a vacancy now for several years on the public side, the open public side of things. It's very difficult to find people that would like to sign up to volunteer, to get things done for their community and for the state because they don't want to take the time. I don't have any objection to putting diversity on the boards. In fact, I think the Governor would reco-- would be open to that. But before that can happen, the people of diversity have to come and they have to make the applications. And-- and if that starts to happen, then I think we-- and then we don't appoint them, that's a whole different issue. But-- but to say that there's not enough diversity on our boards, it's probably accurate. But that's-- that's because people don't volunteer. The other side of this is let me ask you this. Would you volunteer? Would you volunteer to be on a board if you knew somebody is going to come in here and slander or defame you or cut you down or drag you through the mud? I wouldn't want to do that. And I believe for some reason, that's why we aren't getting the applicants that we get, that along with the time commitment that it takes. So with that, I support this confirmation. If there's a better way to do it, let's figure out a better way to do it. Maybe we don't need as many of these boards and committees that we have, but we've got them. And so to find people that will serve is very important. And when-- when you do finally put your name out there, I think, and you go through the process and the committees vet them, at that point in time, I think we need to support them. The other thing I would tell you is we had a doctor that we turned down several years ago before some of you got here. He was supposed to be the medical director. We didn't accept his application. Some in my class will remember that. And-- and then we reconsidered it. And then he decided, well, I don't want to work for somebody that doesn't want me to work for them. So those are the challenges that we face with this type of confirmation process. But in Bud Synhorst's case, he's a really great family man. He's-- he's an individual business owner. I know he works for LIBA and LIBA and I've had our differences. But at the same time, he's a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

straightforward individual and he's a guy of integrity, so I would support him. Thank you.

**FOLEY:** Thank you, Senator Kolterman. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President. There's a lot going on and I feel the need to respond to some things that have been said already, so maybe I'll hit my light again. First of all, I do rise in opposition to Bud Synhorst's appointment. First and foremost, the reason I have is simple is since being on the Board of Health, he has continued to lobby on behalf of LIBA and has continued to oppose bills, I presume support bills, but more specifically oppose bills, including some bills on workers' compensation in front of Business and Labor. And I understand that's LIBA's purview and I understand that's their goal and their desire. But to have like a sitting Board of Health member come in and testify and weigh in against bills like changing the date that a workers' comp benefits come up by four days and to testify how he did and how they did shows that that is not necessarily an objective position on the Board of Health and is certainly not what we consider the general public. It is a very industry-specific view, and that is my primary concern with this specific appointment to Mr. Synhorst. Moving forward, I do want to say the challenge that nobody wants to volunteer or won't volunteer if they're scrutinized and the challenge that we and the senator-- senators would not, I have to disagree with Senator Kolterman. I have stood for election twice. I have been very publicly criticized. I have had attack ads in the mail and the radio, and I was willing to do so. And so was, I believe, all 48 members of this body. So the notion that there are too few candidates willing to stand up to the scrutiny of the Legislature, to me, doesn't pass muster when we simply compare it to a list of people who are willing to file for election in any given year. Moving forward, I do really think we have to think about the role of how we handle and how we handle these appointments. There seems to be this double standard where, maybe not double standard, but it seems to be the standard where it's our goal and our duty as a Legislature, as a coequal branch of government, to confirm these appointments, to make sure we serve as a check on the executive branch. And then if there's any sort of skepticism or concern, it's seen out of proportion, blown out of proportion. It's accused of blowing things out of proportion. It's we're going to, you know, dissuade applicants and so on and so forth, as if there wouldn't be a laundry list of people willing to serve on the Board of Health had they been asked. I think we know very much in the state of Nebraska that there is a-- that there is a strong public service, strong civic-mindedness among our folks. And we hear that from-- repeatedly. So the notion that holding a confirmation

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

appointment or two to a standard we should, a strict standard, and it's in view whether or not they are objectively able to do the job does not make me worried that we all of a sudden going to lose out on a pool of applicants in the state of Nebraska for these positions. I'll have more to say, but for the moment, I'll yield the balance of my time to Senator Machaela Cavanaugh. Thank you.

**FOLEY:** Senator Cavanaugh, you've been yielded 1:20.

**M. CAVANAUGH:** Thank you. Thank you, Senator Hansen. One of the-- the things that we keep saying is that we're vetting these candidates. How are we vetting them? Do we know who else has applied? I don't know who else applied for these positions. How do we know that this was the most qualified person if we don't know who else has applied? Do we know that people of color aren't applying for these positions? Can you confirm that, Senator Kolterman and Senator Geist? Have you seen the list of who's applied because I haven't? And I would love to know that you've seen that list. And how-- how have you seen that list? How do you know that we aren't just passing these individuals over? And I'm-- I am happy that Senator Slama is comfortable with this confirmation. I did not mention her by name because I didn't want to bring her personally into this. But I'm-- I'm-- I'm happy for her that this isn't something that is a negative thing for her. I still think it's inappropriate to be having people that have been so highly politically involved on the Board of Health. And Mr. Synhorst is probably a lovely human being, and he did make several public comments that were detrimental to the public health efforts in Lancaster County and that should be taken seriously.

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

**M. CAVANAUGH:** If he were being-- I'm sorry?

**FOLEY:** That's time.

**M. CAVANAUGH:** Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Hunt.

**HUNT:** Thank you, Mr. Lieutenant Governor. I do stand in opposition and I want to explain why, but I also want to respond to some points that have been made today so I might put my light back on so I can share the reasons for my opposition. When we're talking about people who get appointed to these positions, there's a lot of conversation about how this is a volunteer position. It's even emphasized in the introduction to the-- the person we're appointing. Senator Arch or the introducer

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

will often say, especially when there's a controversial appointee, please support their appointment to this volunteer position or this volunteer unpaid position just to drive home the point to everybody that they're really performing some act of charity out of the goodness of their heart, that they're not getting any gain or any kind of power from this position when we all know that that's not true. It is a volunteer unpaid position, but it's a powerful position. All of us in this body, we work here for \$12,000 a year. It's not an unpaid position. But, you know, none of us are here just out of the goodness of our hearts. This is a powerful job and we like that power. And you can't do this job without having a little bit of ego. And I would say that the same is true for anybody who applies to an appointment on one of these boards. You do want the power and that is valuable, and you wouldn't do this work if there wasn't something you could get out of it, whether it's the warm glow of the service or the ability to influence policy. So let's not act like this is, you know, just something people are getting nothing out of. It was also said that the boards that we have are evidence of the power that we give to the people in the second house, that the people in the second house that the average layperson in Nebraska can apply to be on these boards and then they can be engaged in the civic process. And this is a way in Nebraska that we really elevate the common man and get them involved in the civic process. But no. What this is, is evidence that a one-party run government in which people are promoted for being loyal to their party and loyal to party leaders and raising money and giving donations, that's what it's evidence of, because we know that we have people who are applying for these appointed positions. For example, there's a woman of color who has applied to be the youth prosecutor for the Children's Commission many times. And Governor Ricketts won't appoint her and the position remains open and she's mega qualified. But when we look at people on other positions, like the Board of Health, we see people who don't really have the qualifications and that's not dragging them through the mud. That's not saying they're a bad person, that they're not a family man or they're not this and that. It's just saying that we're having really different standards for who we put in power in this state, and the standard doesn't seem to be qualifications. The standard seems to be proximity to the Governor. The standard seems to be who is Pete Ricketts' friends? People put their names forward to be appointed to these positions, but I want all of you to ask yourselves, because this is a real question, what would prevent the Governor from telling current members on the board that their terms won't be renewed and then telling all of his friends to apply to put their names in so they can be appointed? What would prevent the Governor from doing that, from telling the already

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

appointed members like, oh, you're not going to be renewed on the Board of Health and then Bud Synhorst or any old person, for example, why don't you put your name in and I'll put you on there and then you can have that position. We all know that that's how it really works. We aren't dragging these people through the mud. We're providing the oversight we are supposed to provide. Nobody who wants to serve as an appointee to a board is entitled to that position. And we all know that's how it really works.

**FOLEY:** One minute.

**HUNT:** In public service, you are exposed to scrutiny. You put your name out there, and if you experience scrutiny, you should not be surprised because you are not entitled to that position that has so much power over the people of Nebraska without being vetted and scrutinized. I don't care if a person is nice or good or their campaign or they helped you with your campaign, but we have to ask bigger questions than that. This is a bigger question than that. By saying that you like this person based on a campaign that he ran or that you know him because of a campaign that he ran, proponents are just conceding that this is nothing more than a political reward. It has nothing to do with qualifications. It's a political reward. And maybe as a body, we think that's OK. Maybe we say OK, maybe it's a political reward, but we don't really have a problem with that. He's my friend. He helped my campaign. How powerful is this position, really? Does it really hurt anything? Sure, we'll confirm it.

**FOLEY:** That's time.

**HUNT:** But is that really the most responsible governance? Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Senator Hilkemann.

**HILKEMANN:** Thank you, Mr. Lieutenant Governor. I rise to once again talk about this board. Again, this is a public position, a public member of the board. And if I-- if I remember right, and I believe that every board that we have, optometry board, dental board, medical board, podiatry board, has a member of the public. And if you want to be a member of one of those boards or just have your-- or just volunteer for public service, I believe that there's an application process that you can go through. And I think Senator Geist referred to that just a little bit earlier. And so, Senator Cavanaugh, I don't know how many people east of 72nd Street are on that, who-- who have applied for that. But that's how public members are in this pool and

they're selected. Now, in talking, I want to direct, Senator Hunt, this comment about what Senator Hunt has just said. There's a thing called executive privilege. And when you are picking people for these-- these boards, very much as our President is selecting undersecretaries and has selected people to be in the cabinet process, these individuals, you bet those persons are-- are-- they are looked upon favorably by the President administration. Some of those people on the other side are not very happy about it, but they have to go through the Senate confirmation and be approved by that. Every one of these members of this-- of these boards that are brought up here have to be presented by-- have to be approved by this legislative body. And I think it's kind of interesting how it works. Earlier in the conversation, one of the members that was here was a pharmacist from Laurel, Nebraska. Well, I was raised eight miles from Laurel, Nebraska. It was kind of interesting to hear that-- that-- that one of these members from that area is going to be on on-- on one of-- on the Board of Health as the pharmacy member. One of the other that one of the physicians here was a graduate of Nebraska Wesleyan University. I'm a graduate of Nebraska Wesleyan University. I thought, yeah, all right, this person has got to be all right. And so at either rate, that's how this process works. And we're here. If there is some nomination that comes through that is totally a disqualifying nomination. And Senator Kolterman referred to that six years ago when we had the physician that was challenged here on this floor. The person was approved, but then they stepped down. That's why we're here. We're to check it. We're-- and so I understand the whole thing of diversity. We want to work toward that. But we have this responsibility as members of this Legislature to confirm these nominations. That's why we're here. This is important work. And so if you don't like that nominee, choose not to vote for that nominee. In this case, I know-- I happen to know Bud Synhorst, and I think he's a very-- having worked with some of these boards, you have some public members that-- that are just there. I can tell you that-- that Bud Synhorst is going to put his whole heart and energy into it. And so I will be supporting that nomination. But at either rate, just to give you a little fill in here as to how these public members are selected. And we're fortunate when we have people who step forward and do this, as I say.

**FOLEY:** One minute.

**HILKEMANN:** It gives you when you're on these boards, it cost you at least one day a month of your life to come down to a meeting. And we should be grateful for some of these members that step forward and serve on these boards. Thank you, Mr. Lieutenant Governor.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**HILGERS:** Thank you, Senator Hilkemann. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. Speaker. Senator Hilkemann said that he doesn't know how many people applied that practice or live east of 72nd in Omaha. And that's-- that's kind of the point. We don't know. All we know is that we were given a slate of seven gentlemen to appoint to the Board of Health, one of which was replacing an existing member who applied. That much I do know that the pharmacist, the outgoing pharmacist representative, had re-- had reapplied. So to Senator Hunt's point, how do we not know? How do we know if the Governor isn't just refusing to reappoint certain people and putting his people back on? We had a pharmacist who was willing to serve and who reapplied to continue that service and wasn't put forward. What is this process? It is not transparent at all. We do not know how many people of color have applied for these positions, how many women have applied for these positions, how many people who serve underserved communities have applied for these positions because we don't know who has applied. I haven't found a single person yet in this body that can tell me that they know who they've seen the list of who applied versus who was put forward. Yes, Mr. Synhorst is qualified to be the resident of Nebraska representative on the Board of Health. That is the qualification to be a resident of Nebraska, and he is that. This position, the layperson position on boards like this, these are the low hanging fruit for filling boards with diverse voices. And I get it that that's not important to most people in this body. But it is important to me and it should be important to most people in this body. It should be actually important to every single person in this body. Because what if this body was made up of all lawyers? What if this body was made up of all business people from Omaha and Lincoln and there was no rural representation? Diversity comes in different shapes and forms. If we redistrict to have a significantly urban slanted Legislature, I'm pretty sure a lot of people in this body would be upset about that because your voices wouldn't be represented the way that you think that they should be. My voice as a woman, as a mother is not represented on the Board of Health. There is one woman, one woman. Fifty percent of the population, and there is one woman. That is egregious. When we talk to women of color in health disparities, especially in maternal health, the facts are that doctors don't believe them. The facts are that black women die in childbirth at a higher rate than anyone else because doctors don't believe them. And we have a Board of Health that doesn't have a single person representing them. This is an opportunity for us to do something. This is an opportunity for us to ask our Governor to do something that can

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

positively impact health outcomes for women and babies. Heard stories after stories, after stories of women of color.

**HILGERS:** One minute.

**M. CAVANAUGH:** Thank you-- and their horrific experiences in childbirth. There was one woman who I heard from who had postpartum hemorrhaging, which is something that I also had, and I had no complications and she had a hysterectomy. And the only difference is that I'm-- well, there were probably other differences, but I'm white and she's black, and when I was bleeding out, they acted quickly; and when she was bleeding out, they sewed her up and took her to the recovery room and then hours later said, you're hemorrhaging out and took her back into surgery. Did you say time? Oh, OK.

**HILGERS:** Ten seconds.

**M. CAVANAUGH:** OK, well, thank you. I'll yield the time and get back in the queue. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Groene, you are recognized.

**GROENE:** Thank you, Mr. President. I stand in support of Bud Synhorst. I also know him personal-- personally. The man's fair-minded. I'll never forget when he came out as a representative of the Republican Party, came out to Lincoln County when I dropped my name in late to run. Some in the party already had chosen their candidate and met with him. And he said, you're a viable candidate. We will stay out of this race. They didn't support the guy who'd been a long time giver to the Republican Party. He was fair-minded. And I always kept that in the back of my mind. His vast experience, we heard of his education. He also was head of the alpaca growers for a while and he represented them well. I always kid him. He-- he knows a lot about representing elephants and alpacas. So but as far as accusations that he attacked the Lancaster County public health official, he did no such thing. He represented a group of business people. And the public health officials' mandates harmed their business, overaggressive mandates. He was directed by his board to take a position and he did so. Wasn't a person-- we don't know if it was a personal feeling or not. As far as minorities and women, there was a huge battle and laws passed that you can't ask on an application for work or anything what your sex is or what your race is. There's no box to check. I think that's a good thing. So now we're supposed to wink and nod when-- got-- got to go meet the person, the Governor does, and look at the race and decide

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

that's who you appoint. Is that what we want? Or do we want to ask and find out their qualifications and how they fit that position? I think we're evolving quicker than what we-- than I thought we would in race relations. I didn't even worry about what race or sex or anything when all of these nominations come up. I don't even look. And poli-- you know, there was a famous politician who said elections mean something. I hear a couple of senators here, they want to be Governor. Run, run and then you can appoint whoever you want. The system works. A majority of the people elected a certain Governor and that Governor reflects their views when he appoints to-- to these boards. What are we going to run this whole country like Russia does on a Tribune-- tribunal? Says everybody's got to be equal here in their living quarters. Everybody's got to be equal here in what they pay. Everybody's got to be equal here in representation. Run for Governor. Or let's put back on the questionnaires what your race is and what your sex is if you want to start appointing people by those qualifications. All I know on this position, Bud Synhorst is a very good man. And, Senator Cavanaugh, he loves babies so much he's antiabortion; and he loves mothers so much, he's antiabortion. I think that's OK to say that on this floor. So he cares about their health. I'm sure he does. I don't want to speak for him.

**HILGERS:** One minute.

**GROENE:** But Mr. Synhorst is a very good individual, a decent human being, and he-- and we need representation from the business because of the mandates we pass and other things, how it affects business. He is the perfect individual to be in that position. Perfect. He has the experience, so I stand in full support of Mr. Synhorst to be appointed to the State Board of Health.

**HILGERS:** Thank you, Senator Groene. Senator Wayne, you're recognized.

**WAYNE:** Colleagues, thank you, Mr. President, and colleagues, I hope we listen here just for a second. When it comes to race, nobody on this floor understands it better than me having both the best and worst of both worlds. Sometimes I'm too black. Sometimes I'm not black enough. Sometimes I'm too white. Sometimes I'm not white enough. I understand that many people may know this individual, many people may like this individual. But what I'm trying to explain to everyone here is that there are a lot of assumptions being made on the floor today that we need to talk about. When you make statements like we like diversity and inclusion, Senator Hinkle-- Hilkemann, but then you finish with but and go on, your but actually negates everything you said before that. Senator Geist and Senator Kolterman, when you make assumptions

that diverse people aren't applying, that assumes that the Governor's Office is reaching out to a diverse group of people. There are a lot of assumptions we bring to the table, and those assumptions are based off of our own collective realities in which we grew up with. But the one thing that is consistent when you look after survey after survey, and I'm talking economics, business, is that if you want Nebraska to be a growing place for diverse and young people to be-- to thrive, we have to be intentional about what we do out here. We have to be intentional that a group of people who represent the state health board is diverse. Now, if through the process there is no diversity, that's the process of itself. And we go back and we look at the process of how do we make a diverse pool of candidates? You don't make the final decision or a decision based off of race or where somebody comes from, but you do make that decision on how you get people to the door. And that's what is missing in this process. You know, it's a tough decision to look at your friend and say, I'm going to vote against this because I want a more diverse applicant process. And that tough decision lays in this body, because this body, my age, we're one generation removed from serious racial issues in America. Let me repeat, I am one generation removed. There are people in this body that has told me stories about when they were in high school and playing sports, names that they would call black and brown people. We all have people in our family who are just one generation above you who were flat out racists in some capacity. So yes, this generation, this body, my generation is carrying a burden that in order to shift the racial dynamics, the tension in Nebraska, we have to make some tough decisions. And the reason why this decision isn't so tough for me, colleagues, is because this person actually has already been appointed to another board. He serves on the 3rd District Court Judicial Nominating Commission. He's already been appointed by the Governor to a board. This is a layperson's position in which we can try to do better. And we can send that message. So, yes, Senator Geist, it's going to be tough. Yes, Senator Kolterman, it will be tough. But that is the courage we've been elected to do. That is what the chamber and the business community keep saying we have to do. We have to be uncomfortable with-- we have to be comfortable--

**FOLEY:** One minute.

**WAYNE:** --with being uncomfortable. And right now, this is uncomfortable. There are people, I know this individual. There are people that are going to come before us that I personally know, and I have to be comfortable with this uncomfortable decision to say what is best for Nebraska, what is best for this board. And the fact that he is already serving as an appointed position gives everybody in here an

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

out to send back to the Governor of let's create a diverse pool. And if this person comes out ahead, he'll have my full support. But let's create a diverse pool and at least go that way. At some point, we have to do that, colleagues. This is not Justin talking. This is what every state-- State Chamber, Omaha Chamber survey has said over the last five to ten years, that people on boards and commissions, whether corporate boards or public boards, don't look like the community they represent. We have to be intentional. And if I have to sit down with this individual and explain--

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

**WAYNE:** --to him why,--

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

**WAYNE:** --I will. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Senator Stinner.

**STINNER:** Thank you, Mr. President. Members of the Legislature, I stand in support of Bud Synhorst. I've-- actually I've known him from almost the first day that I decided to run. I got a telephone call, an interview. I went to Lincoln to visit with lobbyists and associations. In that process, I also stopped in and had a, you know, a face-to-face with Bud. And I, of course, I had some issues with the Republican Party on some stances. He listened and commented. Along the way, we had a meeting in North Platte and after he collected a check from me, decided that they weren't going to support me financially. And I still am waiting for that check to come back from the Republican Party. But in any event, no, Bud, I found him to be very fair-minded, very balanced. And I will tell you, as-- since he's taken over the LIBA position, we worked together on legislation as it related to the land bank. I thought he made some good concessions, some good points as to what was needed in the bill to satisfy his constituents. So I think he's somebody that is going to invest the time and going to do a good job in this position. I will tell you, I do have a problem with the 407 committee. I have had in front of HHS for a period of almost four years now, a bill about prescribing psychologists. And actually they went through the 407 process. And you have a hearing and based on the hearing, they advanced the bill or the request to the 407 committee. And of course, the psychologists all got together and showed up and they got about five minutes of time. And since that time, I've been going to HHS showing evidence that prescribing psychologists, first of all, have been adopted for over 20 years by the armed forces.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

Prescribing psychologists now are able to-- psychologists are able to prescribe in Iowa now, New Mexico, Louisiana, no events. And I continue to run up against the 407 as the standard and the-- and-- and the body that's going to make a decision whether we have mental health in rural Nebraska or we don't have it and we have gaps today. We have two positions at our hospital, Regional West Hospital, two psychiatrist positions. It's a trauma II hospital, smallest in the nation, trauma II hospital. They do a great job on a lot of different things, but attracting and retaining a psychiatrist is one of their problems. Over the time I've been there, there's probably two or three psychiatrists and open positions there. So the need to have prescribed-- prescription and the psychologists are willing to go to school for a two-year period of time. It isn't like they just want to have carte blanche. You have to go to school. You have to do certain requirements. You have to work with doctors, physicians. And we added a whole bunch of other things that were safeguards to the legislation. Still, I had a problem with the community as it relates to this. There's a huge need; 407 needs to have psychologists on it. They need to have the diversity. I agree with a lot of the things that have been said about that. But in any event, my problem is with the body that sits there that isn't balanced and I think Bud will be a balanced person for that and will lend to that as a-- somebody that a member of the business community. So with that, I will yield the rest of my time to the Chair.

**FOLEY:** Thank you, Senator Stinner. Senator Albrecht.

**ALBRECHT:** Thank you, President Foley. I rise today in full support of Mr. Synhorst. All dealings I've had with him have been very positive. And what I want to encourage those on the floor, I always get the list of things that need to be filled by the Governor. And-- and when I'm out and about in my district, I often ask people who have been retired or are thinking of retirement, those are the best ones to get to sit on some of these boards because they do have a very positive outlook on either the business that they have left or just the idea that they would like to continue to serve in some capacity. I know for myself, when I was in business for 33 years, I yearned to be on boards and to be able to have a voice somewhere. But I couldn't do it because of the demands that I had at home and the demands that I had at work. But we have the hardest time and I don't think anybody really realizes it. I remember serving on the Business and Labor. I mean, I had to go around and look for and encourage people to either be on the boiler, you know, commission or to-- to just rise up and volunteer in some way. I mean, there are-- those 1,500 positions are very, very difficult. But the Governor does have the ability. That's his role. He gets to select

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

who it is. And I'm quite certain that he doesn't take it lightly. But I also realize that there are not that many people that come up before him on those positions. Sometimes, you know, when we're sitting in these committees, I mean, I take a lot of stock in what the committee does. I mean, it's your job when you sit on those committees to vet these candidates. And I feel for the people who want to put their name in that they have to go through two or three hours of talking about them. You know, this is-- this is not what it's supposed to be like. If you're going to volunteer your time and you put your-- your application in and you get selected, I mean, I think it's prudent on our part to take the consideration of the committee that they've-- they've kicked-- kicked that particular name out and they believe that he would do a good job. We're standing up, those of us that know Mr. Synhorst, and letting you know that-- that we think he'd do a fine job. So I just ask for your green light and let's get on with some more business.

**FOLEY:** Thank you, Senator Albrecht. Senator Vargas.

**VARGAS:** Thank you very much, President. So-- so one point in my career, so I was a teacher. And after being a teacher, I worked in, I worked with-- I worked with school districts. I worked with state departments of ed. I worked-- I worked a lot in human resources side, human capital management. And the reason I want to rise is I really honestly didn't know how to process part of the conversation. This is-- I'm going to put Bud aside for a second, because the larger part of the conversation about representation is just hard. It's-- it's hard to hear from some of the colleagues who I have tremendous amount of respect that it's, well, the application's open. So it's, you know, we've given the opportunity and the availability for everybody to be part of any of these appointed positions or elected positions, any of those positions in leadership. And I-- and I feel like, and this is a little bit on what Senator Wayne said, I feel like I'm-- I-- I'm not doing-- I could be doing more and that's why I'm standing up. It's not that simple. And if you think it's that simple, we have a real problem on our hands. You know, when I used to work in-- in the education sector and the human resources side, people used to look at the entire country and say, we really can't get enough people of color in teaching positions in our urban city schools. We're just not getting enough people that represent some of the different faces in that school system. And I was helping to work with school districts to improve those outcomes. And the major first barrier to getting to more diversity in gender and race in people from those communities, being in those positions, in both teachers and as principals, the major barrier was accepting that there was even a barrier to begin with,

accepting that there was even this barrier that there-- there-- there are things in front of individuals that we may not see or understand because it's not our understanding, it might not be our perspective, that are impeding their ability to apply or even think about being in that space was the first problem that I had to diagnose with either superintendents or these organizations. If they can't get past that mindset, then there was no intention to what Senator Wayne talked about. They didn't take any different changes in their actions to then double down on recruitment of people of color or individuals from different disadvantaged backgrounds or underrepresented backgrounds or-- or women and many different underrepresented identities. They didn't do recruitment in places that they normally don't recruit. They didn't try to understand how people's experiences maybe match up to the qualifications. That intent and overrepresentation, that intent was very, very important. I almost got nowhere with certain organizations I worked with that couldn't get past that mindset that what they were doing was enough. If they had thought that they were doing was enough, there's nothing else that I can tell them to put into action that will change it, because that mindset impedes people's ability to think that we can and should do more. I say that also as one of the few people of color in this body, it's not intentional. Many of us that got to this position that represent different identities, it took a lot more than what you might consider to get to this position, and people were not trying to recruit certain individuals, definitely didn't try to recruit somebody like me to be in elected office. I wasn't seen as somebody in that position or recruited--

**FOLEY:** One minute.

**VARGAS:** --for appointed positions, to be quite honest. If we continue to have this mindset that we're doing is enough or that it's already open and it's fine, we are putting ourselves in a position where we're not going to be as competitive of a state and as cities here in Nebraska, we're just not. CEOs in many different chambers have been realizing this. But as a body here, we have to do a better job because that intent matters. Otherwise, 20 years from now, we're going to continue to see some of the representation and underrepresented identities that we currently see right now. And that's really unacceptable because the policy we create is-- is crafted by these diversity of experiences. So we have to do a better job in just that mindset than the conversation we're having.

**FOLEY:** That's time. Thank you, Senator Vargas. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President, and good morning again, colleagues. Colleagues, I'm going to start off by agreeing with something or at least agreeing with the statement of facts that Senator Groene said. So if he's on the floor, maybe that perks his attention. But his argument was that we cannot hold Mr. Synhorst and LIBA's opposition against the directed health mandates in Lincoln-Lancaster County and any criticisms or opposition to the Lincoln-Lancaster County Health Department, we can't hold them against Mr. Synhorst because he was ordered by his board of directors to take that position and he was doing his dutiful duty to represent LIBA and their position. I agree with the facts of that, that that did happen and that he does work for LIBA and that was an appropriate role for him to represent his organization. However, that is one of my exact concerns with then appointing him on the Board of Health. If he is beholden to a board of directors that has already shown the desire and the need and the want to come up pretty strongly about what many of us view as pretty basic public health measures, what is he going to do or what is he going to be asked to do on the Board of Health? And more importantly, what is that role supposed to be in terms of a member of the general public? Other people have called it a layperson. This is supposed to be kind of the generic Nebraskan, we pick somebody else out to make sure that a check on all the other boards of health, all the other members who have specific professions and specific duties have a different perspective. And the person we are considering appointing today, the person many people have spoken out in favor of today, is, in fact a lobbyist, a registered lobbyist for a business organization that has publicly criticized public local health officials' actions on behalf of that organization. I just want to flag that. This isn't just-- some people have tried to dismiss or diminish the opposition. There's a very valid reason to be skeptical of a person who has, when you Google his name, articles of him being critical of the mask mandate show up as like the second and fourth entry. There's a very good reason to be skeptical of this appointment, in addition to all of the other concerns, broadly, structurally, about how we've taken the Board of Health and what our applicant pool in the state of Nebraska looks like. I did want to say, in addition to Senator Groene's parts, he said, we've gotten to the point where we've banned the box in terms of asking for gender and race and ethnicity on things. We have not. In fact, if you look at the application for the state appointees, the Web form they fill out, among other things, has gender on it. And the reason we do that and the reason many organizations do that is to account for what we sometimes called disparate impact, sometimes we call unconscious bias. But when you look at and sometimes would it be nice to know is if you look at your

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

pool of candidates and you look at your pool of final applicants, and if they don't match up, there's something in your institution, there's something in your decision matrix that is impacting that. And maybe that's justified. Maybe it's truly based on qualifications. But in any case, it's probably worth review and probably worth reflection. And I bring that up to say, for example, if we knew, for example, that half of the applicants for Board of Health were women or even if 30 percent of the applicants for Board of Health are women and none got chosen, well, we'd have to-- that would be worth knowing. And it would be a very drastic impact, as if, for example, there were only 10 applicants and they all happened to be men, knowing those details and being able to contrast and compare. And that's the thing is, is we're flying--

**FOLEY:** One minute.

**M. HANSEN:** Thank you, Mr. President. We're flying a little blind here as people find out that we don't necessarily know the full pool of applicants. Senator Machaela Cavanaugh has known one applicant who didn't get appointed, but that's what we're happening at. And I think it's really unfortunate and really concerning to just act like this is not something worthy of more review or reflection. I think looking forward, kind of maybe some sort of more transparency in who applies, what's open, who's being considered, who's being seriously considered would very help this process and frankly, give the appointments the Governor does do some more credibility when they hit the floor. I would hope he could take some actions and some measures, something he could easily do in-house. And if it's something we as a Legislature need to look into and have some oversight, I think that's a worthy way of us looking. With that, continue in my opposition for the reasons I said before. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hansen. Senator Hunt.

**HUNT:** Thank you, Mr. Lieutenant Governor. I-- I rise again in opposition. And I would echo what Senator Matt Hansen just said on the microphone about serious questions about this applicant's views about public health, but then also just the integrity of the process that we have here in the Legislature and the validity of the opposition. I also know of an applicant who is a woman of color who didn't get appointed and the position she applied for remains open. I walked around the Chamber earlier and I stood under the balcony, under the north balcony, and talked to a group of senators who shared similar stories. They say, well, I know this person or I worked with this woman or I knew this black man or I knew this Arabic woman. And talking about I also know people who were-- applied for positions and

not only did they not get the position, the position remains open. It's as if the Governor is saying, I would rather have nobody in this position than have a person of color or to have a woman. And I don't really think he thinks that. But when you see that that's the outcome, what else are we supposed to expect? What else are we supposed to conclude? Continuing the remarks I was making earlier, Senator Hilkemann pointed out to me that there is a thing called executive privilege and that when you are the Governor, you get to appoint who you want. That's true. But there's also a thing called legislative oversight. There's a thing called three branches of government. And we have responsibilities and opportunities here to provide oversight of the executive branch. So, yes, anybody who's in the executive branch has executive privilege and gets to appoint who they want. But if we give up the opportunity to exercise that oversight, we are not fulfilling our duties to the best of our ability, which is the oath that we took when we came here, when the people who supported us sent here-- sent us here to do something good for them. To say this is how the process works, which was said many times, this is how the process works, that's not true. That's not even how it's meant to work. Usually, I think that when-- when processes don't work, they're actually working just as they were designed to: to preserve the power of the people who have it, to preserve the power of the people who remain in the majority. But really, according to our rules and according to the way government is supposed to work and how good governance is supposed to play out, that's not how it works. The executive branch gets to pick who they want and we get to say yes or no. It happens in Congress all the time. And it's a very, very political process. But here it really shouldn't be that way. Here in the Legislature is where we're in state government. We're very close to the people and we should be able to find a long list of people who are willing to serve in these roles. And when you speak to people anecdotally, it sounds like there are a lot of people who want to serve in these roles and they're not being selected. So I agree that I would like to know more about the confirmation process. I would like to know-- I would like us to have a list of who applied for the position. And I would like to know what the qualifications are of all the applicants for the position before we as an equal branch of government are asked to make a judgment about if we are confirming the best people for the job. Senator Groenei also talked about the same thing, say, you know, run for Governor and then you can appoint whoever you want. That's a wild thing to say out loud. No, you can appoint whoever you want, but that doesn't mean they're going to get confirmed. Nobody who wants to serve as an appointee is entitled to that position. And some of you are also basically saying what sounds

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

to me like, if somebody like Bud Synhorst can't be appointed to the Board of Public Health, then maybe we should get rid of some of these boards. Maybe we have too many boards. There's 1,500 appointees. Maybe that's too many.

**FOLEY:** One minute.

**HUNT:** This argument that we should just do away with the boards is an overreaction. It just shows the level and the inability of this body to have constructive and productive and meaningful debate. If you disagree with the point someone makes, you need to have a proportional response, not just say you're going to quit and go home and maybe we should just get rid of all the boards then. In response to these criticisms, no one has said anything except he's a nice guy. He does great stuff for LIBA as a lobbyist when he comes in and speaks for and against our bills. He-- he's helped me in my campaign, nothing about the health expertise, nothing about his experience in public health. I am not able to support an antimasker to be on the Board of Public Health in Nebraska. And for that reason and others, I will be voting in opposition to this appointee. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Senator Geist.

**GEIST:** Question.

**FOLEY:** Out of order. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I didn't realize that I was this close to being up. So I go back to and I've asked my office to prepare so that we can-- to make this request. So this is also telepathing to the Governor's Office that this request is coming, a list of the people that have applied for these positions because we're having this conversation about, well, if they're not applying then or this is the most qualified person, etcetera. But if we don't know who's applying, then how do we know that it's the most qualified person and how do we know that it is appropriate to move this forward? Additionally, how are we advertising for these positions? How are we reaching the populations of people that we want to reach? So one thing that I'm finding problematic is that a media outlet that I have become familiar with, it's called the North Omaha Information Support Everyone-- It's shorthand name is NOISE Omaha-- has repeatedly request credentials to attend press conferences with the Governor and has been met with silence, not a response or a denial, but silence. Today, a reporter from NOISE Omaha showed up to the press conference after sending five emails about credentialing and leaving numerous

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

voicemails and showed up because they couldn't get an answer and they were turned away. For those of you that are not familiar, which you probably all are familiar, north Omaha is our coded language for black Omaha and black Nebraska, and we are currently turning away their digital media outlet. I don't know how anyone in this body can genuinely say that efforts are being made to recruit people of color to any board when we're not even letting the media outlet that supports and reports to the community of color attend press conferences. I would assume and I will stand for correction if anyone wants to correct me that the state is not taking out ads in NOISE Omaha to advertise for these positions. I haven't seen them. And I do what Senator Albrecht does. I share the appointments. Whenever the staff member from the Governor's Office sends out an email about appointments, I share those appointments. I share them on social media. I email them out to people. I tell anyone that I think could possibly know anyone because that's really how it is done apparently. It's a who knows who and I don't remember the person's name, but I do remember a year or two ago asking somebody in-- in the appointment process, how did they come to-- to apply for this because they were a layperson and it's because they went to church with someone in the administration who told them. That's why. That's not a process.

**FOLEY:** One minute.

**M. CAVANAUGH:** That's not vetting, and we still don't know who's applying for these positions, but we still stand by that it is the most qualified person and that we don't have a responsibility to take charge of making our governing boards look more like Nebraska. That is our job. It is the Governor's job and it is our job. And I am going to put in a motion to reconsider to recommit this confirmation back to committee, because I think that it is time for this body to stand up and say we would like to do better. Mr. Synhorst is fine apparently. People don't have problems with him doing inappropriate things around public health when we're going to put him on the Board of Health. But he's fine.

**FOLEY:** That's time, Senator. That was your third opportunity. Mr. Clerk.

**M. CAVANAUGH:** Thank you.

**ASSISTANT CLERK:** Mr. President, Senator Machaela Cavanaugh would move to recommit the confirmation report to the Health and Human Services Committee.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

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

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. How much time do I have?

**FOLEY:** Ten minutes.

**M. CAVANAUGH:** Thank you. OK. So maybe while we're here, maybe the Governor's Office is paying attention, I would hope that they are and they'll send us out a list of all the people that have applied for these positions so that we can make an informed decision. Are these confirmations the most qualified? Did no women apply for these positions? Did no people of color apply for these positions? Is that what we are faced with? If that is the case, then yes, I will vote for Mr. Synhorst to be appointed. Because if nobody else applied, then, yeah, he absolutely is the most qualified because he's the only person. But Mr. Synhorst already serves on another board that he was appointed to in the same month that he was appointed to this board. And I find it very hard to believe that he is the only layperson in the state of Nebraska that wanted to serve on the Judiciary Nominating Committee and the Board of Health. I find that extraordinarily difficult to believe that no one else applied for those two positions but Mr. Synhorst. But you all like him. You've had friendly interactions with him. He's maybe written you a check, which many of you have admitted on the microphone, which is basically like the epitome of corruption in politics. We're going to appoint him to these very important, significant boards because he supported me financially when I was running for office. And no one has a problem with that. You should actually abstain from voting based on that alone. You should file a conflict of interest based on that alone. I mean, Senator Hansen filed a-- a conflict of interest because his father was being appointed. And we have people who are talking about being financially supported in your political careers by this individual who is being appointed to not one but two boards in this state. And he helped pay for you to get here and you're thinking that you shouldn't have to file anything? Shame on you. If Mr. Synhorst gave you a contribution, you should file a conflict of interest. Every single person that has said on the mike that Mr. Synhorst gave them a contribution should file a conflict of interest, and this is why we should recommit him to committee, because the Governor should put forward somebody who isn't so financially invested in so many members of this body. And to Senator Hansen's point, Matt Hansen's point about that he is beholden to another board, he is beholden to the board of LIBA, the board of LIBA that apparently doesn't agree with public health measures. And he's going to be on the Board of Public Health. So who is his master?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

The people of Nebraska or the board of LIBA? He's a layperson representative. Who is his master? Oh, I'm not going to. Don't you worry, we're going to vote on this. We are definitely going to vote on this recommit to committee and see where everybody stands on Mr. Synhorst and see where everybody stands on sexism and racism in our boards. We have no rules about the-- the gender equity or the racial equity of these state boards that we are appointing. I know we can't fix that right now with this confirmation hearing, but we sure should consider that a high priority. Sexism is real, racism is real, and our boards reflect that reality in Nebraska. If we aren't willing to take a stand and do hard things and say we can do better than this, then we don't deserve to be in the Legislature. And you certainly don't deserve to be in the Legislature if you're comfortable taking money from somebody and not filing a conflict of interest. You really shouldn't be in the Legislature. I think Senator Blood has a bill for that, campaign finance reform. Hers might be dark money, actually, but still we could amend it. Money in politics. It's a thing that people really hate. It's a thing that we should be more concerned, making a concerted effort about. How much time do I have left?

**FOLEY:** Four and a half minutes.

**M. CAVANAUGH:** I'm sorry, four and a half?

**FOLEY:** 4:30.

**M. CAVANAUGH:** OK, thank you. OK, so I've gotten away from one of the points that I've been wanting to make today, and I'm just going to grab this. Women, all kinds of women-- women. To quote a presidential candidate, I have a binder full of women. Thank you, Mitt Romney. I'm going to start with Danielle Smith. She is a Native indigenous woman, the Winnebago Tribe. She's part of the Winnebago Tribe of Nebraska's COVID response. She is the executive that took over the troubled Indian Health Services Hospital. So she's a hospital administrator. Danielle Smith is the chief executive officer of the Winnebago Comprehensive Health Systems, a subdivision of the Winnebago Tribe of Nebraska. The WCHS manages all of the tribe's health programs, including the 12 Clans Unity Hospital and the Winnebago Public Health Department. In 2018, WCHS assumed operational responsibility for the federal Indian Health Services Hospital located in Winnebago. Prior to the assumption, Ms. Smith served as a member of the tribe's self-governance steering committee, which was created to carry out planning and implementation activities necessary for the tribe to assume management of the hospital. Danielle Smith is a woman. She's a woman. She's Native. She works in healthcare. She could be the

layperson. Danielle Smith could be the layperson, and the diversity and representation of the state would jump exponentially. Let's see, who else do we have here? Well, I have a lot. There's a lot to say about Danielle Smith, so we'll have to come back to her again. Anitra Warrior, Ph.D., licensed psychologist. Hey, everybody. We have a female licensed psychologist that could serve on the Board of Health. She's also Native, Ambassador Award in behavioral-- from the Behavioral Health Education Center of Nebraska, undergraduate creative activities and research experience; Professional Associations: Bridges to Hope, nonprofit; State Advisory Council, Office of Health Disparities and Health Equity from 2014 to '16; Lincoln Human Rights Commission. She's got a very impressive resume. Not sure why we didn't ask her to serve on the board. Let's see, who else do we have? Freedom Thompson. She is the general manager of retail sales here in Lincoln. She is a person, she is a Nebraskan.

**FOLEY:** One minute.

**M. CAVANAUGH:** It sounds like she ticks two boxes there: person and Nebraskan. Well, she's definitely qualified to be on the Board of Health and based on her work experience. I'm going to extrapolate some assumptions here that she has worked several jobs that are probably hourly. And so her experience with healthcare has probably been more diverse and robust than the seven gentlemen we are moving forward today. So she might really have some very important insights into what healthcare should look like in Nebraska for women, especially women who are working hourly wage jobs. I believe I'm almost out of time, so I will get in the queue to continue speaking. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Machaela Cavanaugh. Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Well, I wasn't rising to speak on the motion to recommit, but I guess I will talk on that as well. I've appreciated the discussion everybody had here this morning. I think this is a really important topic to talk about. I do think being a new person here and observing the process that we go through when we talk about these appointees and we've had a couple of conversations about the value of this body as a coequal branch of the government of the state of Nebraska. And we talked about that when it came to the subpoenas last week. And we talked about how important it is that we make sure we exercise our authority. And in my short time here, it does seem like we have sort of abdicated our authority as it pertains to oversight of some of these appointments. I think a lot of the committee hearings have gone-- everybody has said that that's the

way the process should happen. I wasn't part of this committee hearing. I didn't see this hearing. But a lot of the times we don't ask enough questions. We don't get to the heart of what is going on or why people want to be on these boards or really what-- whether or not they're the right person for that job. We just assume that once they've been-- their name has been put forward, that that's the only choice we have. And that's how we're behaving here, is that we're just meant to be some sort of backstop, I guess, if something terrible comes out after they fill out that two-page form. So I think it is important that we have a bigger discussion about how these appointments happen. And we do need to engage in a bigger effort to find more diverse candidates for these positions. After about the first day of hearings, I started asking everyone that came through the committees that I sat on when they came for appointment, what the board they were being appointed to did and asking them how they came to apply and if anyone asked them to. Most people that actually remembered how they came to apply or who asked them to was asked to by somebody that was in that particular industry or that field or somebody in the political realm. There wasn't anybody who had been brought in from outside of this insular community that we are all a part of. We are probably not the best people to find the candidates for these jobs, though we should make a bigger effort and we should get the list and circulate it to members of our communities. And we should get out there and find people that may be interested and make sure that everybody has an opportunity to apply. Many of these positions do only have one applicant, and that's because nobody knows about it. This particular position is the layperson position on a board, and the purpose of a layperson on a board is to get those outside perspectives. By virtue of the fact that this person already serves on another appointed board means that they are inside of the-- in the know, in the community, in that, the inner circle. They are not an outside perspective just by virtue of that one fact alone, I don't need to know all of the other things that everybody else here said about how great of a guy he is and how many people here know him. That is just we're going to get into a further funk of groupthink when we have people from the same community appointed to be on these boards. The purpose for having these appointed boards of all kinds are to get expertise, outside knowledge to kind of delegate some of this authority and some of this action outside of the Governor's Office, outside of the other executive branch, outside of the legislative branch to get some more people involved and to get those perspectives. If we just take the same people that we all know, who we all talk to anyway, who we all are friends with, that is not serving that-- that function. And especially when we use the layperson position, which is

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

specifically designed to get that outside information. And so I would support the motion to recommit. I think that we need to-- to take a minute and take this opportunity to think about--

**FOLEY:** One minute.

**J. CAVANAUGH:** --all of these board appointees and things, to think more critically about this. And I just want to address the one thing that Senator Kolterman said earlier. If we ask these questions, people are not going to apply to these positions. I think that that is not true. I think that we are giving too little credit to any of these people who apply. They're putting themselves out there for these nonpaying boards, just like we're putting ourselves out there for this low-paying job. They should be willing to be subjected to some level of questioning about what their interest is here and about whether they're the right person for this job. I-- I don't think we should attack people personally or-- but we should ask fair questions about whether this is the right person. I think it's-- it's very fair. I think it's a good discussion. I think we should talk about where we can find more diverse candidates for these jobs, these positions as well. I think that's an important conversation going forward. And thank you, Mr.. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh, Senator Wayne.

**WAYNE:** Thank you, Mr. President. Will Senator Arch, Chairman Arch yield to some questions?

**FOLEY:** Senator Arch, would you yield, please?

**WAYNE:** And in fairness, we try to talk about diversity, inclusion. It seems like it's fallen on deaf ears. So I really kind of want to know a little bit more about the qualifications. What-- what qualifications does this individual, Mr. Synhorst, have for State Board of Health?

**ARCH:** Yes, I'll yield to a question. I-- the-- the qualifications, first of all, the appointment is to the lay-- the lay position on. So there's two lay positions on the Board of Health. Qualifications is-- is desire. Qualifications is interest in helping promote the overall health of Nebraska.

**WAYNE:** Is there a specific community as a layperson he represents?

**ARCH:** That was never part of the discussion. That was never part of the-- of the interview process, the confirmation hearing.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**WAYNE:** Whether-- whether this board or other boards, do you feel it's appropriate for lobbyists to serve on government functions?

**ARCH:** I think that they're private citizens as well, and they have the right to do that.

**WAYNE:** I'm asking you a philo-- I'm asking you a policy question, Senator. Do you think that lobbyists should serve in government-appointed positions?

**ARCH:** OK, let me-- let me put it this way. We all come to this Legislature not as blank pieces of paper, and I'm sure you would agree with that as well.

**WAYNE:** Correct.

**ARCH:** We come with things that have happened in our lives that shape our opinions. We come with perhaps religious understandings. We come with many different perspectives, which is what makes the body rich. And so a lobbyist would come with a perspective. And I don't believe that that would disqualify them any more than-- than what we come with here would disqualify us.

**WAYNE:** So do you think, looking over the overall board and the people you put forward today, you are also bringing that same or this board is bringing that same diverse opinion to different matters?

**ARCH:** Help me understand what you mean by diverse. You mean--

**WAYNE:** Well--

**ARCH:** --diversity of opinion, diversity of--

**WAYNE:** Diversity of opinion.

**ARCH:** Diversity of opinion?

**WAYNE:** Yes.

**ARCH:** Well, I think there's 17 people on that-- on that Board of Health. And yes, they would-- there would be 17 diverse opinions, not totally different from one another, but certainly they would disagree with one another.

**WAYNE:** Do you feel that the people of east Omaha are fairly representative on this committee?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**ARCH:** Do I believe that there could be additional diversity on this committee? Is that-- is that the question--

**WAYNE:** Correct.

**ARCH:** --that you're asking?

**WAYNE:** No, I'm asking specifically about east Omaha. Do you feel that east Omaha, with at least 20 percent of the population, should be somewhat represented on this committee?

**ARCH:** I think that's-- I think that's a debate for another day. But I mean, we're talking about his qualifications. But I think that's a debate for another day and I think it's a valid debate.

**WAYNE:** So we could have that debate if we recommit this individual. And as a committee, you get a list of all who applied and-- and have that conversation. I trust you to have that conversation with the Governor and the Governor's people. Is that something you're willing to do?

**ARCH:** To encourage diversity, to encourage that?

**WAYNE:** No, to reexamine this appointment, to see if we can find diversity and not just diversity. I'm not talking race. I'm talking diversity in communities they represent for the lay position.

**ARCH:** No, I will not vote to support this recommitment to committee.

**WAYNE:** So then-- thank you. Thank you, Senator Arch. The reason why I ask that, guy-- colleagues, is it's easier to keep doing what we're doing, Senator Halloran. It's easier to just keep doing what we've always done. And at some point, we have to get--

**FOLEY:** One minute.

**WAYNE:** --comfortable with being uncomfortable. We have to be intentional about what we're doing. And right now, it doesn't seem that we're that way. There are people in the industry who we actually budget and give money to-- to federal qualified health centers. We as a state give them money. And many of them are diverse and many of them represent people who need it the most, who could be appointed to this board on a professional level, but they haven't been. There are many people as laypeople who could be appointed, but we haven't. And I get it. You-- you often recommend contractors or people that you know. But what I'm telling you is that is the legacy of racism, because many of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

us have not come together until this moment. So it won't be our kids who'll be able to recommend a diverse group unless we start intentionally recommending it today. So that's all I'm asking for, is a recommitment to reevaluate--

**FOLEY:** That's time.

**WAYNE:** --to see if we can get a diverse pool. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Senator McKinney.

**McKINNEY:** Thank you, Mr. President. I rise in support of the motion to recommit. And I'll start with this question. Who is the good life for? The Governor was elected to represent the people of Nebraska, not just the people that voted for him. That needs to be clear. It's time to be intentional and also get used to being uncomfortable in the state. And just because we have horrible laws on the books, that don't make them OK. We just finally got slavery out of our state's Constitution. Was it OK years prior? Systems of historical racism have to fall if we're ever to call this state the good life and to ever get to a place in society where we could be comfortable, especially people in my community. My district has the lowest life expectancy in this whole state and has zero representation on this board. I think that's very important to point out. Poor health intersects many issues. One of those issues is mass incarceration. We have a prison overcrowding problem and we barely address that and are hesitant to address it like we should. We need to open up the process and see who's applying, who's not applying and why. That's important. Honestly, if y'all want black people or people of color to not have equitable representation, just say it. If you want us to leave this state, just say it. If not, get uncomfortable being uncomfortable and do better. The privilege-- the privilege many of you have in the systems that were built on the backs of my enslaved ancestors is-- is a thing. It's not propaganda. This is facts. Still in 2021, there are still hesitancy to right those wrongs. Why is that? I don't know this guy, and I swear, but your comments show that you don't fully understand that there's a need for equitable representation on these boards. I'm not against him. I'm against the system. And while I'm here, I'll be here to dismantle all the oppressive and racist systems that we have in place. And that's all levels of all government and all, everything else that's doing anything to affect any type of change in this state. And I invite you all to join me. And I'll leave you with a quote from Malcolm X, who's a native of Nebraska, of Omaha that we like to forget about. If you stick a knife in my back nine-- nine inches and pull it out six

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

inches, there's no progress. If you pull it all the way out, that's not progress. Progress is healing the wound that the blow made. Thank you. I yield the rest of my time back-- back to the Chair.

**FOLEY:** Thank you, Senator McKinney. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. Bud Synhorst, he's a good man. That's what we're talking about here today. There's no racism in it. He's a good man. He went to UNK in Kearney. He did community service there. He helped the community. He took leadership training and trained with the staff and professors. Were they of all one voting party? No. He worked with them. He was a student manager, an assistant coach for the baseball team, that is no more at UNK. I'm not saying that's Bud's fault that they're not there anymore. It was a budget cut. Bud's a good man. And when I ran the first time, Bud helped me overcome my fears of public speaking. He's a good man. He's not throwing money around special interests. But we should not be talking about race and other things today with this. If you want a position, apply. There's nothing stopping you. I have taken those same pieces of paper that get sent to us with the appointments or what could somebody apply for around to my community. I give it to the radio station, so the radio station can broadcast it, and that's out to everybody, not just my friends. If you wish to be in a position on a board, we invite you to apply. Nebraska needs-- needs good volunteers to working for them. With that, I'd like to yield the rest of my time to Senator Geist.

**FOLEY:** Thank you, Senator Lowe. Senator Geist, 2:25.

**GEIST:** Thank you, Mr. President. Would Senator Cavanaugh yield to a question, please?

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

**M. CAVANAUGH:** Yes.

**GEIST:** Senator Cavanaugh, during the hearing for the confirmation for Mr. Synhorst, did you bring these concerns to him?

**M. CAVANAUGH:** So during the confirmation hearing, unfortunately, I was only able to be present for one question and then I had to go and introduce a bill. I did inform my colleagues on the committee of my concerns. And I know that they also conveyed those concerns to Mr. Synhorst because we spoke about it and I wanted to make sure that he wasn't blindsided by my stance on his appointment.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**GEIST:** OK, thank you.

**M. CAVANAUGH:** Yeah.

**GEIST:** I think this is a frustrating morning because it's been said now that we've swerved to wanting to change the process while in the process of smearing the reputation of a-- of an individual who many of us have good relationships with. And I think we need to really be careful. What is said on this floor and how that affects people who listen, who may in some-- at some point want to apply for a position and then maybe politically people don't agree with that individual--

**FOLEY:** One minute.

**GEIST:** --so we're just going to smear their reputation for three hours, this is shameful. We do need more diversity, but that should not be put at the feet of Mr. Synhorst. He's the nominee. The issues we need to address in this state are different and of a huge variety, but certainly should not be parked at the feet of a nominee for a board. That's a process we need to work through as a body, but that is not a lay volunteer's responsibility to change. I just stand here today again, vouching for the character of the individual that we're talking about.

**FOLEY:** That's time. Thank you, Senator Geist. Senator Vargas.

**VARGAS:** Thank you very much, President. I'm trying to-- so I do appreciate Senator Geist for standing up. And I'm-- and I'm really trying to understand the perspective here, which is, yes, we're talking about a confirmation for an individual person, which I agree we are debating that. And people have differences of opinion. I think that has to be OK. But we're also-- the conversation is-- has come up about race inclusion and diversity in how we're doing these "appointmentships." And I disagree that this is not the right time to do it because I don't know when else we would do it. We don't often have these conversations, colleagues. We just don't. And if we do, we might have them one on one or in conversations. We have these conversations and hearings from time to time when we have bills that have to do with equity. But we just, we don't. And I think that's important for us to do. We keep hearing and I heard this from Senator McKinney, I heard it from Senator Wayne, I heard it from Senator Cavanaugh that we have to be more uncomfortable with, with the uncomfortable. And we've said that before. That's what part of this dialog is. I know it's not uncomf-- I know it's uncomfortable to talk about the fact that it's not good enough to simply just open these

applications open. And that's going to solve the problem of equity. Doing that is not going to lead to more diversity of women or diversity of people of color or diversity from specific areas of our communities where we don't have representation. So if we keep doing that, that's not going to do anything fundamentally different. And I think that's one of the pieces of the conversation that's probably the most important here. It is probably one of the most important conversations we should have here. As somebody previously had brought up, we had these conversations with other aspects professionally on people's backgrounds when we're trying to gauge having experience either on boards or commissions or making sure people are weighing in. And the experiences we have that this part of the conversation is very, very important that we have. It's probably the only times we get to have discussions about this on the mike. And it's really hard because the mean-- the-- the main people talking about this on the mike, with the exception of a few, are people of color. I don't think you understand how difficult that is for the individuals of color standing up and talking about that and for those individuals that are women talking about the discrepancies and-- that we have. I think all we're asking for is we need to have this conversation and then put some intent and changes and we could. I mean, there's some really actionable things we can do. We can require a certain amount of transparency on the applicants that apply to these positions. We can provide some intent or funding so that they reach out to underrepresented groups that tend to work with these, such as, you know, in my community, we have the Metro Young Latino Professionals Association. You know, we-- we-- that's-- that's young professional Latino leaders. Right? I know there's been conversations with the Nebraska Hispanic Chamber. I serve on that board so there's been conversations. But what we're clearly not reaching all these different entities, because if we were and we were trying to dispel any myths or remove barriers, then maybe we would see more applicants from different backgrounds. And I-- and I cannot harp on this enough. It is more important that we have that diversity and we're having these conversations.

**FOLEY:** One minute.

**VARGAS:** I sometimes look around the room and when I'm looking around the room, I have colleagues that look at me and some of them are-- are in adoration that we're having this conversation in the most civil manner. And some people look at this as a waste of time, which is probably the most hurtful part about this because it's not. It's a really good use of our time. We don't have this conversation very much. If we have it once a year, then maybe it'll change what we do

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

when we're putting this legislation forward or any type of legislation forward, because the-- the bills that we put forward are shaped by our experiences. I'm thankful that we have bankers and we have lawyers and we have some former teachers, some former real estate agents, some are business professionals, independent small business professionals, even chiropractors. But the piece of socioeconomic and racial diversity and those experiences that they bring forward are perspectives that we don't normally have in this body.

**FOLEY:** That's time. Senator.

**VARGAS:** Thank you.

**FOLEY:** Thank you, Senator Vargas. Members, we're going to preserve the speaking queue. After lunch, we'll hear from Senator Matt Hansen, Senator Hunt, Geist, Machaela Cavanaugh, and Slama. Items for the record, please.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Enrollment and Review reports LB70A, LB156A, LB320A, LB9, and LB152 as correctly engrossed and placed on Select File, LB152 having E&R amendments. Additionally, your Committee on Revenue, chaired by Senator Linehan, refers LB118 or excuse me, LB18, LR11CA to General File. Amendments to be printed: Senator Slama to LB152. Finally, Mr. President, priority motion. Senator Dorn would move to recess the body until 1:30 p.m.

**FOLEY:** Members, you heard the motion to recess. Those in favor say aye. Those opposed say nay. We are in recess.

[RECESS]

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

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

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

**ASSISTANT CLERK:** I do, Mr. President. Amendments to be printed: Senator Blood to LB100 and Senator Brewer to LB235, as well as LB409. That's all I have this time, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

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

**ASSISTANT CLERK:** Mr. President, when we recessed for-- for the morning, we were on a gubernatorial appointment by the Health and Human Services Committee to the State Board of Health, Robert Synhorst. We are currently on a motion from Senator Machaela Cavanaugh to recommit that report to the Health and Hu-- Health and Human Services Committee.

**HILGERS:** Continuing debate on the motion to recommit to committee, Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. And good afternoon again, colleagues. I rise in continued opposition to the appointment. One of the things that I wanted to say earlier in the day is some of the refrain and justification for this appointment is essentially that it is our duty to give this position away because the Governor has made his call. There's been kind of the expression or the sentiment, you know, elections have consequences, the Governor won, the Governor gets to appoint people, deal with it. And I just want to remind everybody that I do, in fact, agree with the concept that elections have consequences and will remind you all that we, in fact, were elected and our elections have our own consequences as well. My district has sought fit to send me here twice, and knowing where I stand in contrast to the Governor on a number of issues, and certainly does not envision me to just be an automatic rubber stamp, the Governor gets what he wants. Now I'm not opposing this position just to be contrarian or just to be partisan or what have you. I have legitimate concerns that this appointee has a significant conflict of interest and is going to be directed by his board, as proponents have indicated, the board of his employer, to take positions contrary to public health, and I think that is alarming when we're talking about the Board of Health and somebody who is on-- been on the record recently as doing so. So I just wanted to flag that out there. I do think also-- and I want to remind people about the sentiment of this. I think it's appropriate and proper, you know, if you know somebody, to-- know somebody personally, to speak kindly of-- of them and support their appoint-- appointment. I certainly don't begrudge anybody voting for somebody they know or are close to or have a personal connection to. But just as kind of a word of refresher and kindness and-- the appearance, when you talk about campaign donations openly on the floor in the middle of an appointment, is odd and is probably not the candor that we want on the floor of the Legislature. I'm-- I'm-- it's not-- this is not even necessarily meant as a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

criticism of anybody but just as a reminder that we've gotten in the past-- occasionally get pretty casual and I know appreciate some good humor, telling some good stories. But when we're dealing with what is clearly a, at least for some of us, a contentious and-- and stark choice for the Board of Health, talking about campaigns and campaign support is probably not the most appropriate reason for supporting a nominee to any commission or any committee. I certainly don't begrudge Mr. Synhorst for being active in campaigns in the past, certainly don't begrudge him for being a member of a different party. As you see, I've supported a number of con-- confirmations and appointees throughout my time of all parties and nonpartisans and what have you. But I just wanted to flag that out there. I do think there's this frustration for me that in the multiple times my tenure we've had a pretty contentious nominee, and I could think through a handful of them, some of whom got, you know-- I can only think of one that's ever failed, but some of whom have gotten in the-- the mid to high 20s as a-- and-- and in terms of green votes. There's always this frustration that it's not worthy of time, it's not worthy of debate, we always have to get on to the real business of the Legislature. And if we don't think that confirming these appointees are part of the real business of the Legislature, that's something we should probably reconsider and that's probably something we should take off our agenda. It would be easy to change our rules, it'd be easy to change our statutes, one easier than the other, but we could relieve ourselves of this burden. However--

**HILGERS:** One minute.

**M. HANSEN:** Thank you, Mr. President. However, I don't think that's the way we've wanted to trend. In fact, think in the past week we've added more gubernatorial appointments, I believe, by the Brand Commission. So this is something we want to have say; we want to make sure that state agencies, state commissions, state departments don't go rogue or have-- don't go beyond the Legislature's wishes. I think it's important to continue these confirmations, and that does mean occasionally that when a committee is split, when the floor is split, it's going to take a little time. And I think speaking out against this and putting some things on the record are very appropriate, and I kind of disagree with the frustrations that it should be quick and it is taking up time [INAUDIBLE] of our real business, because I do feel, in fact, that this is real business. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hansen. Senator Hunt, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**HUNT:** Thank you, Mr. Speaker. Good afternoon, colleagues. Good afternoon, Nebraskans. To recap the points made by proponents of this appointment, as far as I understand them, this man should be confirmed because: (1) the Governor wants him and the Governor is the Governor and that's who he wants to put there, so we should go along with that; (2) that he's a really good guy; (3) that he donated to some of your campaigns. The point has been made that to not appoint him would be to drag him through the mud, that it's either we appoint him or we do something damaging to him, and also the point that this very conversation and this very debate over the process and the accountability and the oversight that the Legislature has as a branch of government is going to discourage Nebraskans from applying for boards and commissions. Any Nebraskan watching this should not be discouraged from applying. They should be encouraged that there are people in the Legislature who want diversity and want new people appointed to boards who are not from the political class, who are not big donors to the Governor, who are not registered lobbyists who come in, in support or opposition of our bills, here in the Legislature all the time, who don't already hold appointments on other boards. When we talk about the second house, that, to me, is not really what Mr. Synhorst represents. And-- and I also agree that anybody who has a personal relationship with him, I'm sure he is a great guy, I'm sure all of that is true, but when we're talking about the State Board of Health, I think that we have to have a higher threshold of qualification than you knowing somebody or them being a good guy or I trust the Governor and this is what he wants so let's get on to something else or he gave me a campaign donation. To say that on the record is pretty gnarly and doesn't really speak to anything about the qualifications of this appointee. This guy is a lobbyist, he's an anti-masker who is trying to be on the Board of Public Health, and he's an influential political donor to the Governor and to many people in this body. So if a typical Nebraskan would like to give back to the state through volunteer board service, they should watch this and feel encouraged, and they should understand that that is the kind of person that we want to appoint to boards, folks from the second house, and that they should be encouraged so that we can have more diversity and more different types of representation on our boards and commissions. I also want to speak a little bit to the process of the confirmation hearings and the confirmations that we have here in the Legislature. This conversation has exposed a lot of problems that could affect anybody of any political persuasion, of any relationship to any of us. It's a problem that the Legislature doesn't-- isn't given access to or doesn't automatically have access to the full list of people who were nominated for a position. It's a problem that we sometimes have faulty

technology in these confirmation hearings. Colleagues, how many of you, in a confirmation hearing in one of your committees, have you had somebody calling in for the hearing and you couldn't understand anything they said? I see Senator John Cavanaugh raising his hand. It's something Senator Brandt and I talked about earlier. It's a very common problem that we have these appointees, or these candidates, I should say, calling in from other parts of Nebraska, which is wonderful and I totally support and think it's very important that nominees are able to call in and talk to the Legislature instead of driving five or six hours sometimes, but it's-- it's no good if we can't--

**HILGERS:** One minute.

**HUNT:** --understand and hear them. So I'm going to propose an interim study to examine the diversity and representation in our boards and commissions, but then also to examine the process through which we nominate and vet these nominees. It shouldn't take someone like me saying, oh, they've posted some racist stuff on Facebook, for us to start questioning, you know, what the character is of these nominees. It shouldn't take Senator Machaela Cavanaugh saying, oh, well, I see this guy has donated a lot of money to the Governor and to all of you, and we don't have any conflict-of-interest statements filed for us to vet that. And with term limits, I think a lot of the responsibility and the strength and courage to push back and take the responsibility of this role has eroded, so I will be proposing an interim study to examine how we can take some of that power back, take some of that accountability back, which really isn't for us in this body. It's for the people of Nebraska--

**HILGERS:** It's time, Senator.

**HUNT:** --that we represent. Thank you.

**HILGERS:** Thank you, Senator Hunt. Senator Machaela Cavanaugh, you are recognized.

**M. CAVANAUGH:** Thank you. Is this my second time?

**HILGERS:** It's your first time.

**M. CAVANAUGH:** Oh, OK. Thank you. Good afternoon, colleagues. I hope everyone had a nice lunch. I want to speak to some of the things that have been discussed since this morning. First, I want to address-- I did have the pages pass out a potential conflict-of-interest statement to the body. It is up to you whether or not you feel so-- feel

inclined to fill this out. I've had several of you come up and ask me some questions about why I did this, especially because our donations to our campaigns are part of a public record of disclosure already. And I will say, for the record, any donation of \$250 and above is public record; \$249 and below is not. And if somebody makes a donation of \$249 in mul-- over a couple of years, then you-- that can lead to a significant amount of a donation that is not actually publicly disclosed. However, I don't-- I wouldn't have even suggested this, except for numerous senators stood on the microphone and talked about receiving a financial contribution from Mr. Synhorst, and that is why I passed this out, because I think in making that statement you made this about the exchange of money to your campaign, and I think that that is a conflict of interest if that's the lens, as-- as Senator Hunt already went through, if that's the lens that you're using to determine whether or not this person is a valid fit for this appointment, then I think that that's worthy of further discussion. I was not going to bring it up. I do know that he had given money to several people in this body, and I had no intention of bringing that up until you all brought it up yourselves. So that's why I have had the form distributed. I also want to speak to this maligning of character. I, in my beginning statements, talked about statements that Mr. Synhorst has made very publicly that are part of a public record that I think speak to his lack of ability to be unprejudiced in serving on the Board of Health. I don't believe that that is maligning a gentleman's character if I am just discussing things that he has said. I do not know Mr. Synhorst personally. Several people in this body have spoken about-- about his character, his fine character, and I am not here to dispute that. I am here to dispute his ability to be the best person for the job that we are appointing him to. Additionally, he sits on another board. He was actually appointed to both boards in December of 2020. I did not know that he was appointed to another board. I would have brought that up to my committee before we voted on this in committee. That is very disappointing. It is a consolidation of power with one person that I think is very inappropriate and should not even be tolerated or allowed. Then there is the question about him being a lobbyist. This Governor has set the precedent that he does not believe that lobbyists should be appointed to gubernatorial appointments. He did not reappoint a gentleman to the EPA Board when that gentleman became a paid lobbyist because of that very reason: He became a paid lobbyist. So this Governor has already built that record that he doesn't think that that's appropriate. And finally, I have no idea if he likes babies or not, Senator Groene. I don't know how you would extrapolate that I stated that he doesn't like babies because I talked about health disparities of women of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

color in the delivery room. That is a word I won't even use on this floor. My point is that people of color are not represented and women are not represented--

**HILGERS:** One minute.

**M. CAVANAUGH:** --and this is an opportunity to do something about it. And I'm not saying that anyone dislikes children or even dislikes people of color. I'm saying they don't represent that. That's not who he represents. He represents what most of the gentlemen in this body represent, which is the status quo for men in power, and he is the definition of a man in power, so much so that we are giving him the power to sit on two very significant boards in this state, two. We are enabling a lobbyist, a paid lobbyist who advocates against other health officials, to sit on two--

**HILGERS:** Time, Senator.

**M. CAVANAUGH:** --significant boards. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. Speaker, colleagues. It's an honor and a privilege to serve the state of Nebraska and it's a great responsibility that we bear. And some of the conversation here, I think, has been uncomfortable and difficult for some people. And I think that some people have been too cavalier about what it is that we are meant to do every day and in this role. And so when I hear people say things like this conversation is shameful, that, I guess, perked up my ears because I honestly did not know we were having this conversation today. I didn't know who this person was before today. I know some people probably don't believe that, but I was not privy to the fact that we were having this conversation. And so everything I know, I've learned today on the floor in this conversation, and I haven't heard anybody disparage someone overtly. I've heard people make factual statements about what they-- positions they've held, statements they've made, biographical information. If you think that's disparaging, I think that maybe is a reason not to vote for this person because that means you're assuming those are bad qualities. But I haven't heard anyone make a-- really a statement that was untrue or off the mark, but I think it's important that we have these conversations and that we have a factual, substantive conversation about what our role is. I think that we have been too cavalier in the past and continue to strive for that cavalierness about how we do

these appointments and that we should spend more time about-- having that conversation. I appreciate Senator Hunt's statement. And I did raise my hand because I have a-- a recollection of one particular hearing where I could not understand anything that the appointee was saying and I couldn't ask any questions, and they were questions I wanted to ask and have answered. And so I-- and I think that we should have probably taken a step back and figured out how to do that, but because of our attitude about these appointments being so perfunctory, we didn't take any additional steps, and I didn't call for it, so that's my fault. But we should be taking this-- this more seriously. I heard another person talk about how we shouldn't be talking about racial issues or diversity here, that's not what this is about and it's not thi-- this person's fault, and it's not. But the conversation, it is important. When the-- when the subject matter brings itself to an issue, we should discuss that issue and we should give it its due. We have a problem in our society where we continue to be insular and we continue to focus on the people we know, and that creates the cycle and perpetuates a cycle of discrimination and disparity. And so when we have opportunities to correct that, we should take them. And that's what this conversation is fundamentally about, is that we are missing opportunities to make-- take corrective action and to make progress. So that is, I think, an important point when we are talking about appointees, especially when the appointees become so homogenous, that we should be able to say, well, maybe we-- we are doing something wrong. And I appreciate, again, Senator Hunt's willingness to take a look at this, a critical look going forward, and that's what we should do. We should take a step back and say, why are the outcomes so different than what they should be? And we should have that conversation and look forward to that. And I just want to touch on the conversation about the money. I think that you-- we all have run for office. We've all raised a bunch of money. I think you can take money from people and you can vote against them. However, when you speak in defense of somebody, that makes me wonder whether you are thinking about--

**HILGERS:** One minute.

**J. CAVANAUGH:** --that money while you're voting. I'm sorry, was that one minute?

**HUNT:** Yeah.

**J. CAVANAUGH:** So I think it-- I think it is important that if the best thing we can say about somebody is that they're a nice person and that they gave us money, that gives pause to everybody else out there to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

say, are they voting for this person because they think they're the best person for the job or is it just about the money? And money in politics is a much bigger issue-- and again, it's one that maybe this conversation has inadvertently touched on-- but I do think it's an issue we should talk about and whether people are buying their way into power or not is a problem and that it is a valid subject matter for this conversation. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. Speaker. I think this is my last time on the mike with this. I have just a few marks-- a few more remarks because I've spent, excuse me, most of my time responding to things other people have said and talking about process. As these thoughts kind of came to me while we were discussing, like, yeah, it is kind of bad, the process that we go through to-- to confirm these people. There isn't a lot of oversight, which is our job to do. And Nebraska is technologically a little behind when it comes to the way we run our hearings, the way we have remote testimony, the way we hear these confirmations, and whether we're allowed to ask them questions and how that works. Of course, we're allowed, but as Senator John Cavanaugh said, it can be difficult when we have technological problems. And then, you know, kind of leading around this bigger issue of Nebraska is one of the only state legislatures that didn't figure out how to vote remotely and convene remotely during the pandemic. And even in many, many other very red, conservative states, they are able to do that. And so I think that a look at the technology in the Legislature is warranted and I might be the right person to lead that, so that's something that I'll look at doing in the next few months. As Senator Arch said, the Nebraska-- the State Board of Health does things of substance, and this isn't something that can be a popularity contest or a friends club, because this is a board of people who are making substantive decisions. And I would also raise the question, that I may submit an Attorney General Opinion on, which is, is Mr. Synhorst constitutionally eligible to serve? As many people have mentioned, Mr. Synhorst is already serving on a commission in the judicial branch, which is the Judicial Nominating Commission for the Third District-- District Court. And what this commission does is it forwards judicial applicants to the Governor for appointments to judicial vacancies. The State Board of Health, which we're discussing today, is an executive branch commission. The Judicial Nominating Commission, which he also sits on, is a judicial branch commission. So I would ask how we can have a person on a commission for both the judicial branch and the executive branch. There was a 1991 Nebraska Supreme Court case, State

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

ex rel spire v. Conway, which held that a state senator could not hold a position at Wayne State College while serving as a member of the Legislature because the college was technically operating under the auspices of the Board of Regents of the University of Nebraska. And so what the court decided was that the-- the board of Wayne State College was an executive agency and thus was part of the executive branch. And so the court reasoned that our own State Constitution's separation-of-powers provision would prohibit that person from serving in two branches of government concurrently. And that's, you know, a reason why a lot of us in the Legislature, why we can't work at universities or we can't adjunct at UNL or UNO or things like that, because then technically we would be working in the legislative branch and also the executive branch. So I would ask, how is Bud Synhorst's appointment on both of these boards consistent with this ruling? This is a-- a question that I think deserves some scrutiny and some examination. It also makes me wonder how many appointees we have on our boards and commissions who are serving on multiple commissions concurrently across branches of state government. Are there any other people who are doing this? And if so, why is that? Don't we want diversity in our boards?

**HILGERS:** One minute.

**HUNT:** Isn't that what we've all been standing up and saying that we want people from across the spectrum of diversity in Nebraska to serve on these boards? Finally, the layperson who is going to be appointed on this committee, which is the position we're filling here, is supposed to be somebody who's interested in public health. That's kind of the only parameters that are really stated in our statute. And I cannot support someone who is an anti-masker. I cannot support someone who has not stood for public health over the last year of this public health crisis and emergency that we have had. And in light of all of the concerns around this person's appointment, I would urge you, colleagues, to either vote no, like I am, or maybe you need to go take a phone call or maybe you have a meeting. This might be one to sit out and let go because this is not good governance in the interest of the people of Nebraska. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Senator Cavanaugh, you're recognized to close.

**M. CAVANAUGH:** To-- to close? I'm in the queue.

**FOLEY:** Well, I'm-- I'm-- I apologize. It's your third time.

**M. CAVANAUGH:** Thank you. Senator Hunt, would you yield to a question?

**FOLEY:** Senator Hunt, would you yield, please?

**HUNT:** Sure.

**M. CAVANAUGH:** I just wanted to clarify. You want people to vote green on the committee-- the recommit motion.

**HUNT:** I want people to do what they want, but I'll be-- I will be voting green on the recommit-to-committee motion.

**M. CAVANAUGH:** And red on--

**HUNT:** I--

**M. CAVANAUGH:** --the mot--

**HUNT:** Yes.

**M. CAVANAUGH:** --the motion to confirm?

**HUNT:** Yes.

**M. CAVANAUGH:** OK. I just wanted to make sure we were right.

**HUNT:** But I think people should do what they want to do.

**M. CAVANAUGH:** Well, people should do what they want to do. That's true. I-- I agree with that wholeheartedly. People should do what they want to do. I hope that-- and thank you, Senator Hunt. I hope that people are listening to this conversation that we're having today. I hope that people in this body are listening to this conversation. I-- it would appear, by the lack of anyone else running to the defense of Mr. Synhorst, that we have come to an agreement that we are not maligning his character any longer, so I appreciate that we've made headway on that. But the conversation still needs to happen about what we are prioritizing as a Legislature and what our duties are. And I firmly believe that it is our duty to ensure that the depart-- the board of public-- or the Board of Health in Nebraska represents all Nebraskans, not just a very small slice of Nebraskans. I have here from the University of Nebraska-Lincoln, the Department of History, Arts and Science, Department of History, it is Diedre Cooper Owens and she is the Charles and Linda Wilson Professor of History in history of medicine and doctor of the Humanities in Medicine Program. She's also an Organization of American Historians distinguished lecturer. A

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

popular public speaker, she has published essays, books, book chapters, blog pieces on a number of issues that concern African American experience. Her first book, *Medical Bondage: Race, Gender, and the Origins of American Gynecology*, won the 2018 Darlene Clark Hine Book Award from the OAH as the best-written book-- book written in African American, women's and gender history. Professor Cooper Owens is also the director of the program in African American History at the Library Company in Philadelphia, the country's oldest cultural institution. Currently, she's working on a second book project that examines mental health illness during the era of the United-- of United States slavery and is also writing a popular biography of Harriet Tubman that examines her through the lens of disability. She primarily teaches classes on the history of medicine. Perhaps we should ask her to come give this body a briefing on how medicine impacts different cultures in America and specifically in Nebraska. She is an impressive, to say the least, individual, and she is a person and she is a Nebraska resident, so she's qualified. Diedre Cooper Owens is a human being and a resident of Nebraska, which makes her qualified by the standards set forth to be on the Board of Health. In my mind, she is beyond qualified, and we should be so lucky as to have her wish to participate in the Board of Health. There is no shortage of individuals to fill this position, but we as a body have an obligation to elevate this conversation, to make sure that those individuals are getting seats at the table. And--

**FOLEY:** One minute.

**M. CAVANAUGH:** Thank you. And at the start of this conversation, several of you made the comment that if people of color aren't applying, then how are we going to get people of color, it's up to them to apply. But not a one of you can say with 100 percent certainty that that is the case because we don't know who applies for these positions, because it is not transparent. We are handed the list of people that the Governor has appointed, and that's fine. I-- I think the Governor should put forward whoever he wants to put forward. But we can't make an informed decision if this is the best possible applicant that we are moving on if we don't know who applied, if we don't know who was overlooked for political reasons or for discriminatory reasons. And I-- I find it very hard to believe that we had seven open positions on the Board of Health and no qualified woman and no qualified person of color applied for those positions, I find that very hard to believe, and I welcome the Governor proving me wrong.

**FOLEY:** Sen-- Senator Cavanaugh, you may continue now on your closing.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**M. CAVANAUGH:** Thank you. So I'm closing now on the motion to recommit to committee. And, Mr. Lieutenant Governor, how much time do I have for closing?

**FOLEY:** Five minutes.

**M. CAVANAUGH:** OK, thank you. I am closing on this motion to recommit to committee. I hope that you all will join me, at least 24 of you will join me in voting green on this motion, and we can move forward with the agenda. If we don't vote green on this motion and-- and move forward with the agenda, I am going to take a lesson from our former colleague, Senator Ernie Chambers, and I'm going to make a motion to reconsider the vote, and then we can continue this conversation. I think this is too important of a conversation to move forward from without taking concrete action. We have an opportunity to show the people of Nebraska, to show the people that work in meatpacking plants across the state that are not white, to show the people in north Omaha who are not white, to show 50 percent of the population who are not male, that we take their representation seriously. I'm not holding out a lot of hope that we'll do that, but I would love to be pleasantly surprised. I'll even go so far as to say that it's my Easter wish that this body has the courage to stand up and say we can do better. We can do better. We can make sure that all voices are represented. And when it comes to healthcare, all voices absolutely should be represented, especially those that suffer the greatest disparities in healthcare. We can do better, and I encourage everyone to vote green to recommit. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh. Members, you've heard the debate on the motion to recommit the bill to committee. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**ASSISTANT CLERK:** 15 ayes, 7 nays to place the house under call.

**FOLEY:** House is under call. All senators please return to the Chamber and check in. The house is under call. Senator Bostelman, if you can check in. Senator Walz, Senator Bostelman, if you could check in, please. All unexcused members are now present. The question for the body is whether or not to recommit the confirmation report to committee. A roll call vote in reverse order has been requested. Mr. Clerk.

**ASSISTANT CLERK:** Senator Wishart not voting. Senator Williams voting no. Senator Wayne. Senator Walz not voting. Senator Vargas not voting, Senator Stinner voting no. Senator Slama voting no. Senator Sanders voting no. Senator Pansing Brooks. Senator Pahls voting no. Senator Murman voting no. Senator Moser voting no. Senator Morfeld not voting. Senator McKinney not voting. Senator McDonnell voting no. Senator McCollister. Senator Lowe voting no. Senator Linehan voting no. Senator Lindstrom voting no. Senator Lathrop not voting, Senator Kolterman voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann voting no. Senator Hilgers voting no. Senator Matt Hansen voting yes. Senator Ben Hansen voting no. Senator Halloran voting no. Senator Groene voting no. Senator Gragert voting no. Senator Geist voting no. Senator Friesen voting no. Senator Flood voting no. Senator Erdman voting no. Senator Dorn voting no. Senator DeBoer voting no. Senator Day voting no. Senator Clements voting no. Senator Machaela Cavanaugh not voting. Senator John Cavanaugh voting yes. Senator Briese voting no. Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar. Senator Blood not voting. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting no. The vote is 3 ayes, 34 nays, Mr. President.

**FOLEY:** The motion is not adopted. I raise the call. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Machaela Cavanaugh would move to reconsider the vote just taken.

**FOLEY:** Senator Machaela Cavanaugh, you're recognized to open on your recommit motion reconsideration.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor, colleagues. Well, it looks like there's probably going to be a resounding yes at the end of this for Mr. Synhorst, so he should rest easy that he gets to be on two boards, and to Senator Hunt's point, two boards on two different branches of the government, which is kind of fascinating to me that the Governor gets to appoint people to the judicial branch nominating committee. It's another thing we probably should be talking about that's problematic. But, yeah-- so for the-- the people of Nebraska, the citizens that we're here to serve, we are considering-- well, I made a motion to reconsider the vote that we just took to recommit to committee the nomination of Bud Synhorst. Mr. Synhorst is being put forth for the appointment to the Board of Health. He's already been elected the vice chair to the Board of Health. He-- he's being put forward as the layperson representative in Nebraska, which means the requirements or qualifications, as has been stated today-- I would say more requirements than qualifications, but the qualifications are that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

you are a person living in Nebraska. And Mr. Synhorst is those things, so is everyone in this room, I believe, maybe not all of the pages. But for the most part, everyone in this room is a person living in Nebraska. He is also a lobbyist and, as has been discussed robustly today, a contributor to many senators in this body who felt that that was a warranted conversation to have when discussing an appointment to the Board of Health, one of the most important boards, citizen boards that we have in this state. So, again, I would caution that being a precedent. If it's so important to you that he donated to your campaign that you talk about it on the floor as a reason why he should be appointed, that is upsetting. But I don't want to get away from what really is important here, and it's the representation and the makeup of the Board of Health. The Board of Health has one woman on the board currently. And we, the-- the-- today we are voting on seven candidates for the Board of Health. All of them are white men, and that's fine to have white men be appointed to anything. The issue is that we have no diversity on this board and we're voting on a slate of vacancies for various positions, pharmacy, audiology, just a layperson, and we don't have any diverse representation in that. I would also like to note that the Board of Health does not have-- and this is for future discussion. We should add representation for an OB/GYN. There's no OB/GYN on the board of health, which is, again, not helpful when we're talking about health disparities and outcomes and maternal and infant mortality in this state, which is a problem that we need to be addressing. So Deidre Cooper Owens is a-- a woman who is a professor at the university, who has an extremely impressive background. She is a layperson, but her background is in the history of medicine. And to have someone that looks like Ms. Cooper Owens and has the background and the résumé of Ms. Cooper Owens, we should be actively recruiting her to apply for the Board of Health. We should be actively blowing up her email. It-- it's on the university Web page. I'm not going to put it out here publicly. But people, if they want to encourage her to apply, I would say go to the university Web page and look her up and send her an email. She should definitely apply. And we really don't have to look that far to find diverse candidates. And also, to Senator Wayne's point, we don't even have to look that far to find candidates that serve east of 72nd in Omaha. The Nebraska Medical Center is east of 72nd in Omaha. How-- I mean, how? Creighton University Medical School is east of 72nd in Omaha. How do we not have medical providers who serve east of 72nd in Omaha? That is not complicated. That is not hard. We have two federally qualified health centers east of 72nd in Omaha. We have Charles Drew in north Omaha and we have the OneWorld Health Center in south Omaha. It's not that hard to get people to do this. We just have to ask them. We have to let

them know. We have to be diligent and purposeful and intentional in what we are doing. Andrea Jones, M.D., medical school, University of Nebraska Medical Center, 2012, professional areas of interest: underserved communities, preventative medicine, childhood obesity, adolescent health. Well, my mind is just blown. This seems like a qualified person: As a family medicine physician, I am committed to practicing evidence-based medicine and serving a board-- broad population, particularly underserved communities. I strive to be a patient advocate and work towards equal access to healthcare. Dr. Andrea Jones, where have you been all my life? Please apply to be on this board. You are exactly what this board needs: a qualified doctor who has a-- a purposeful interest, professional area of interest in underserved communities, preventative medicine, childhood obesity, and adolescent health. I mean, that's like-- a magical unicorn is what she is. And I don't think that we should say she shouldn't apply because it might be hard to go through the vetting process, which I would like to speak to the vetting process for this. So the vetting process for me on the seven individuals that we were confirming was Google, good old Google, got on the-- the computers and typed in their names and looked them up and found out that one of them was a former mayor of a town and owned the soda shop in town and didn't have anything on social media. With Mr. Synhorst, his social media was locked down, so I have no idea what he does or doesn't post. I assume most of you would know that he-- that-- those of you that have received contributions from him, so maybe you can vet that for us, because we couldn't-- I couldn't vet whether or not he had posted anything inappropriate. I assume he didn't, but I can't confirm that, so that's unfortunate. But Google, Google was my vetting process, and now I have a binder full of qualified women, with their résumés and their backgrounds and their areas of interest, that would really serve well on this board. And if you Google them, these are the things that come up. How interesting-- their professional qualifications are what come up. Oh, here's one. I really like this one: Jennifer Liu. I know Jennifer. Her husband is-- I believe he's now the chair of the psychology department in-- or not psychology, psychiatry department at the University of Nebraska Medicine. But his real claim to fame is that he's married to Jennifer Liu and she is phenomenal. She is a mom to four. Her youngest are twins and she works full-time as a physician. I'm sorry, did you-- how much time do I have left?

**FOLEY:** 1:06.

**M. CAVANAUGH:** OK, thank you. Her areas of interest are family medicine, health prevention, public health, population health, health behavior and education. Her philosophy of care: I believe in healthy

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

people, families and communities. Jennifer-- Dr. Liu is an amazing human being and an amazing doctor and is well regarded in the medical community, and she would be a welcome voice, I would think, to the board, a welcome voice. I believe that I'm getting close to my time on my opening, so I hope that the 33 people that voted against my motion to reconsider will reconsider their vote. And with that, I will get in the queue. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Cavanaugh, you're recognized, Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Wonderful. Oh, I thought maybe a different Senator Cavanaugh was getting in the mix here. No. OK, I'm going to continue reading some résumés. And I probably-- if nobody else is going to get in the queue to talk about this, then I probably will just let us go to a vote on this motion after this. But I want to make sure-- my staff did such an amazing job, wasn't really-- I mean, it was hard. It was a lot of work for my staff member. She did an amazing job, but it wasn't like it was, you know, a soul-crushing amount of work for her to find qualified, competent candidates for the Board of Health. She did this while-- while doing all of the other duties that she does on a daily basis, so it's almost like it's not that hard to find qualified people to fill these positions. OK. So I've got-- I think I talked about Anitra Warrior, Freedom Thompson, Donna Polk, Urban Indian Health Coalition. Donna Polk is currently the chief executive officer of the Nebraska Urban Indian Health Coalition with locations in Omaha and Lincoln. She provides oversight to a management team responsible for primary care, behavioral health, transportation, elder programs, and intermediary services. She contracts-- oh, this is from the-- sorry-- the Region 6 Behavioral Health and the Omaha Tribe, Nebraska Department of Health and Human Services, and the Eastern Nebraska Office on Aging, which always has a special place in my heart because my grandmother worked for the Eastern Nebraska Office on Aging when I was growing up. Dr.-- during Dr. Polk's tenure, the NUIHC special diabetes program for Indians has been recognized by the Indian Health Services as one of the best in the United States. She currently serves in the following capacities: board member of the Ne-- on the Nebraska-- Na-- or the National Council of Urban Indian Health, representing North Dakota, South Dakota, Iowa, and Nebraska; treasurer of the Aberdeen Area Alcohol Program Directors Association; chair, Congressional District Two Office of the Health Disparities Advisory Group; chair, UNMC Center for Reducing Health Disparities Community Advisory Group; and Nebraska State Co-Occurring Task Force. Her areas of interest are American Indian adults and people who are in recovery from alcohol and substance abuse/addiction. Dr. Donna Polk has worked

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

to improve the lives of people for over 45 years as a paid staff and as a volunteer. In the '60s and '70s, she was a union steward in the International Brotherhood of Electrical-- Electrical Workers and the Communication Workers of America Local 7400. As a Department of Labor-- as a Department of Labor employee, she helped organize the American Federation of State, County and Municipal Employees. From 1985 to 1991, Dr. Polk directed the counseling center at the Lincoln Center-- Lincoln Indian Center. During her employment there, she developed the Nebraska Department of the Military's first employment assistance program. Subsequently, she was awarded a Nebraska Department of Military Commendation Medal. For those watching at home-- I'm pretty sure almost no one is listening at this point. But for those that are listening, Donna Polk is an extraordinarily accomplished individual. Again, we should be so lucky to have someone like this serving on the Board of Health, someone who's dedicated their life to working to address health disparities.

**FOLEY:** One minute.

**M. CAVANAUGH:** Dr. Polk has been the chief executive officer of the Nebraska Urban Indian Health Coalition since 1991. The NUIHC's service area includes Omaha and Lincoln, Nebraska, and Sioux City, Iowa. Programs and services include Nebraska Urban Indian Medical Center in Omaha; in Omaha, Inter-- the-- in Omaha, Intertribunal-- Tribal Treatment Center for substance abuse disorder and outpatient behavior disorder-- behavioral disorder, transitional housing, suicide and meth prevention, Tired Moccasins Elders, and transportation. Frustrated by the slow and inadequate response of the COVID-19 pandemic spread in the American Indian/Alaska Native community, Dr. Polk teamed with the Great Plains Area Office of the Indian Health Service to provide COVID-19 testing and vaccine events in Omaha and Lincoln. What a treasure to this state. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Cavanaugh, you're recognized to close on the motion.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Well, colleagues, I clearly have worn out your attention span on this issue of racial and gender equity within the Board of Health, so I will let you get on with your day and the things that you think are important to the people of Nebraska that are more important than having representation in the board that makes health decisions for everyone. I've been impressed by a lot of the conversation today and also very disappointed by a lot of the conversation today, and I've been very dis-- I was very disappointed that 33 people in this body didn't think

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

that this was serious enough to reconsider, to recommit. That says a lot to the people of Nebraska. But I'm disappointed a lot in this body, so this isn't really new for me. With that, I'll just call of the house, roll call vote, regular order. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Re-- record, please.

**ASSISTANT CLERK:** Six-- 16 ayes, 17 nays to place the house under call.

**FOLEY:** The house is now under call. The question for the body is whether or not to reconsider the prior vote, and a roll call vote has been requested in regular order. Mr. Clerk.

**ASSISTANT CLERK:** Senator Aguilar voting no, Senator Albrecht voting no. Senator Arch voting no. Senator Blood. Senator Bostar. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer voting no. Senator Briese voting no. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Day. Senator DeBoer. Senator Dorn voting no. Senator Erdman voting no. Senator Flood voting no. Senator Friesen voting no. Senator Geist voting no. Senator Gragert voting no. Senator Groene voting no. Senator Halloran voting no. Senator Ben Hansen voting no. Senator Matt Hansen voting no. Senator Hilgers voting no. Senator Hilkemann voting no. Senator Hughes voting no. Senator Hunt. Senator Kolterman-- excuse me. Senator Hunt voting yes. Senator Kolterman voting no. Senator Lathrop not voting. Senator Lindstrom voting no. Senator Linehan voting no. Senator Lowe voting no. Senator McCollister. Senator McDonnell voting no. Senator McKinney not voting. Senator Morfeld voting no. Senator Moser voting no. Senator Murman voting no. Senator Pahls voting no. Senator Pansing Brooks. Senator Sanders voting no. Excuse me. Senator Sanders voting no. Senator Slama voting no. Senator Stinner voting no. Senator Vargas voting no--

**CLERK:** No, not voting.

**ASSISTANT CLERK:** Not voting, excuse me. Senator Vargas not voting. Senator Walz not voting. Senator Wayne voting yes. Senator Williams voting no. Senator Wishart not voting. Vote is-- vote is 4 ayes, 35 nays, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** The motion to reconsider is not successful. Senator Arch, you're recognized to close on the-- excuse me, Senator Hunt has her light on. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. Lieutenant Governor. That's something you never see, right? The request to place the house under call has always been traditionally recognized as something we do to-- to honor process and honor norms and our colleagues who are going through the process under our rules to have debate and discussion. And where were all of you who are always Mr. and Mrs. lord and lady process and institutional respect? I thought that vote was chilling, and I hope that in the future we will honor requests to place the house under call. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hunt. Senator Machaela Cavanaugh, your light is on, but I'm-- I'm informed by the page that you've spoken three times on the motion. So, Senator Arch-- no, excuse me, Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President. I yield my time to Senator Machaela Cavanaugh.

**FOLEY:** Senator Machaela Cavanaugh, you're recognized for five minutes.

**M. CAVANAUGH:** Thank you, Senator Hansen, Matt Hansen. And thank you, Senator Hunt. That was-- ouch. Ouch, colleagues. I am actually wounded by that. I had a request to place the house under call and you actively ran in here to vote no on it. You all still voted. That won't be forgotten. That is insulting and rude and the least collegial thing you have ever done to me, and a lot of uncollegial things have been done to me, but ouch. I know a few people here and there generally vote to not put the house under call, but it's like five, maybe. But every time somebody hit a green light, somebody hit a red light. That is so wildly inappropriate. I served for two years with Senator Chambers and he did calls of the house constantly. And no matter how much you disagreed with him, you always, always voted to call the house. You don't have to agree with me, but clearly I've hit a nerve talking about racism and sexism today that you can't even do me the civility of a call of the house. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Machaela Cavanaugh. Senator Arch, you're now recognized to close on your confirmation report. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**ASSISTANT CLERK:** 18 ayes, 7 nays to place the house under call.

**FOLEY:** House is under call. All senators please return to the Chamber and check in. The house is under call. Senator Arch, you may proceed, if you care to, or you can wait for the conclusion of the-- go ahead. We'll wait. Senator Morfeld, could you check in, please. Senator Morfeld, if you can check in. Senator Wayne, Senator Blood, Senator Day, please return to the Chamber and check in. The house is under call. Senator Arch, we're waiting for three senators and the clock is running, so you may care to-- you may wish to begin. All unexcused members are now present. Senator Arch, you're recognized.

**ARCH:** Thank you, and I'll be brief. Just a reminder, we are voting on the gubernatorial appointment of Robert "Bud" Synhorst, who came before us, the committee, the HHS Committee. The material that was presented to us, as well as the-- the interview that we conducted with Bud Synhorst, led the committee to vote for confirmation of the gubernatorial appointment 6-1. And with that, I would recommend a green vote on Robert "Bud" Synhorst.

**FOLEY:** Thank you, Senator Arch. Members, you've heard the debate on the confirmation report. The question is, shall the confirmation report re-- be adopted? Those in favor vote aye; those opposed vote-- excuse me. Roll call vote has been requested. Mr. Clerk.

**ASSISTANT CLERK:** Senator Aguilar voting yes. Senator Albrecht--

**FOLEY:** Senator Pansing Brooks, was that your request for roll-- who-- who requested roll call, please? Senator Hunt, thank you.

**ASSISTANT CLERK:** Senator Aguilar voting yes. Senator Albrecht voting yes. Senator Arch voting yes. Senator Blood voting no. Senator Bostar. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator Dorn voting yes. Senator Erdman voting yes. Senator Flood voting yes. Senator Friesen voting yes. Senator Geist voting yes. Senator Gragert voting yes. Senator Groene voting yes. Senator Halloran voting yes. Senator Ben Hansen voting yes. Senator Matt Hansen voting no. Senator Hilgers voting yes. Senator Hilkemann voting yes. Senator Hughes voting yes. Senator Hunt voting no. Senator Kolterman voting yes. Senator Lathrop not voting. Senator Lindstrom voting yes. Senator Linehan voting yes. Senator Lowe voting yes. Senator McCollister. Senator McDonnell voting yes. Senator McKinney voting no. Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

Morfeld voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Pahls voting yes. Senator Pansing Brooks not voting. Senator Sanders voting yes. Senator Slama voting yes. Senator Stinner voting yes. Senator Vargas not voting. Senator Walz voting yes. Senator Wayne voting no. Senator Williams voting yes. Senator Wishart voting yes. Vote is 37 ayes, 7 nays, Mr. President.

**FOLEY:** Confirmation report has been adopted. Raise the call. Items for the record, please.

**ASSISTANT CLERK:** Thank you, Mr. President. Committee report: Your Committee on Revenue, chaired by Senator Linehan, reports LB542 to General File with committee amendments. Additionally, your Committee on Enrollment Review reports LB583, LB500, LB411, and LB247 to Select File, some having E&R amendments. Amendments to be printed: Senator Slama to LB250. That's all I have at this time, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. We'll proceed on the agenda, General File 2021 senator priority bills. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB338, introduced by Senator Bostelman. It's a bill for an act relating to telecommunications technologies; change provisions relating to Universal Service Funding for unserved and underserved exchanges, provides for community-based plans as prescribed, provides duties for the Public Service Commission, harmonize provisions, repeals the original section. Bill was read for the first time on January 13 of this year and referred to the Transportation Committee. There are committee amendments pending, as well as an amendment from Senator Bostelman.

**FOLEY:** Senators Bostelman and Friesen, perhaps you could just take a minute or two each just to refresh us, and then we'll get into the details of the amendments and so forth. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. President. On LB338, the current statutes allow for the PSC to withdraw and NUSF funding from telecommunications companies who fail to meet their obligations to serve the area they are receiving funding for. The PSC is then allowed to hold a reverse auction to award the funding to another ETC. This bill does not remove those provisions but simply allows the PS-- the Public Service Commission to consider a rural-based plan that has been created with the input of local businesses, hospitals, schools, residents, and agricultural-- agriculture producers in and outside of a-- of the city or village limits on which the ETC they think will best serve their

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

needs. The PSC shall then consider the rural-based plan on the set of scoring criteria which can be found listed in the bill. This bill in 2018, LB994, was a similar-- was-- was a bill that was passed by the Legislature which allowed the PSC to adopt rules and regs to establish standards governing the withholding of funding from the NUSF from any recipient. The PSC had attempted to adopt rules that allowed them to consider rural-based plans, but the Attorney General rejected the plan because it wasn't expressly allowed in LB994. This bill simply gives the PSC that authority. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Bostelman. Senator Friesen, would you like a couple minutes?

**FRIESEN:** Thank you, Mr. President. The committee amendment was AM110 and it just made it clear that we had a-- that the rural-based plan that was established in LB338 does not eliminate the existing reverse auction system that was available to the Public Service Commission. This rural-based plan will simply allow rural residents-- residential and business users to get together, voice their opinion on how best to redirect NUSF funding. It gives these affected stakeholders a chance to be involved in the decision-making process. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Mr. Clerk.

**CLERK:** Mr. President, Senator Bostelman, you had offered AM8-- I'm sorry, AM-- yeah AM803. I have a note you want to withdraw that, Senator. And, Senator, let me-- do you want to go through the others, through the-- or do you want to offer as a substitute the new one you gave me? What would you prefer? Do you care? OK.

**BOSTELMAN:** Doesn't matter.

**CLERK:** OK, then, Senator Friesen, I have AM828 with a note you wish to withdraw.

**FRIESEN:** That's correct.

**CLERK:** Senator Wayne, AM834-- AM834, Senator, do you want to withdraw or are you going to offer it?

**WAYNE:** No, I-- I'm going to withdraw it, but I want to-- I'll-- I'll come up there. I'll withdraw right now, but I'll come up and tell you what I'm doing.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**CLERK:** Senator Friesen, AM836, a similar note to withdraw, is that right, Senator?

**FRIESEN:** That's correct.

**CLERK:** OK, thank you. Mr. President, Senator Bostelman, I now have AM845.

**FOLEY:** Senator Bostelman, you're recognized to open on AM845.

**BOSTELMAN:** Thank you, Mr. President, and good-- good afternoon, colleagues. AM845 is a compromise amendment that includes portions of LB338 and adds important guardrails and accountability to the Nebraska Uni-- Universal Service Fund. The amendment will raise the speed standard used by the PSC when considering boundary changes and reverse auctions from 25/3 to 100/20. This will protect existing high-quality infrastructure from subsidized overbuild but enhances competition in areas that have slower service. The amendment requires new construction projects that are funded by the Nebraska Universal Service Fund to be built to speeds of at least 100/100-- 100/100. This will ensure state money is not spent on inferior technology that will age poorly. It requires any provider receiving high-cost NUSF support submit-- to submit to PSC speed testings which will hold providers accountable if they do not deliver speeds they claim to. The-- the amendment includes rural-based plans proposed in LB338. Finally, AM845 directs counties and municipalities directly receiving federal money and using money for broadband projects to construct at least 100/100. This is important as cities and counties will soon be receiving money from the American Rescue Plan Act. They may be an-- there may be an additional tweak on Select File, but this amendment is an excellent foundation. I would appreciate your green vote on AM845.

**FOLEY:** Thank you, Senator Bostelman. Debate is now open on the bill and the amendments. Senator Friesen.

**FRIESEN:** Thank you, Mr. President. So this was-- this was the result of a meeting that we had last night and an agreement that was kind of reached between most parties. And what I would like to do is just kind of spell out some of the highlights of-- of how this bill is going to treat different areas of the state and how we might keep things in mind as we move forward with this bill and so that people do understand it. This-- this whole process with broadband and telecommunications industry has been very complex. There's a lot of moving parts to it. And we've got federal dollars involved, we've got state dollars involved, and so I-- I want people to know as we move

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

forward how this affects certain areas. One thing I find very interesting is in an email that I received from the League of Municipalities that I think for the first time in my history, the League is asking the Legislature to help-- tell them how to spend their money wisely, so I find that kind of unusual. One thing I think people need to keep in mind is that when we do some of the things we do and we change some numbers here and there, the impact that it has on some companies is different than others, and one of these is when we talk about boundary changes. And by changing the definition to 100/20 as being unserved, we have now opened up areas of the state where people may have been trying. They may have 25/3, they could have had 50/25 service, and-- and now they can be overbuilt with a boundary change because we've now raised the bar to service for 100/20. What I think this could lead to, and I'm-- I'm-- I have fiber to my house, so I'm-- I'm-- it doesn't affect me. It doesn't affect a lot of people. But if you're in an area that maybe has 10/1 service now and with the reason you have 10/1 service is your area is hard to serve, and so by changing the definition of the boundary changes and saying it has to be 100/20, you're now opening it up that other areas can be cherry-picked. So if you're in a tough area to serve, you might be one of the last ones to receive service. If somebody comes to the PSC and wants to ask for a build-out of some sort of wireless, in-- in the past they could get service for that. That will no longer be available. But I-- I do think the fiber to the home is where we want to end up. It provides that secure high-speed broadband that in the end we want. But everyone needs to realize there's going to be some pushback on this from some companies. But again, and if we're going to reach fiber to the home everywhere, these are the standards that we're going to have to use to go forward. But you're going to be getting some emails from different companies that says this bar is too high. So we need to realize that going into this and we need to realize that we cannot provide high-speed broadband to all areas of the state in the short amount of time. This is an expensive proposal. Some of the estimates we've seen is \$3-5 billion. So when we look at those dollar amounts, we know it's going to take time. This isn't going to happen overnight. And we have to have a plan going forward to where we hit those areas that need it the most. And I think that's where LB388 will help in those-- those areas that are served with the least, and we prioritize those areas. So I think by using LB388, we do serve those with the lowest speeds first. And I think that might complement what this bill here is doing. So if we can continue to fund LB388 and with federal dollars coming in, it might be just the perfect match that--

**FOLEY:** One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FRIESEN:** --accomplishes what we're after. With that, I look forward to the discussion if others have any. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Geist.

**GEIST:** Yes, thank you, Mr. President. And I, too, rise with some questions. I'm not quite sure yet where I'm at on this amendment, though I do know that there are some concerns. And-- and my basic concern is, like I mentioned yesterday, changing the rules in the middle of the game. However, with this, I-- as Senator Friesen said, very eloquently, I might add, that I am concerned about the small unserved or drastically underserved individual, possibly, or small group of individuals who it is a very difficult return on investment to serve. And in making the standard of speed so high where currently they may have nothing or they may be served with 10/1, the gap between what the standard is considered unserved right now and them is so great that the cost, even subsidized to a company, may not be worth a return on investment. And that is the concern that I have with making the standard so high. If the standard is scalable to that, I think that's a-- a better maybe way to approach this. But I am listening to the debate. I'm curious where the body is on this and I will keep an open mind. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist. Senator DeBoer.

**DeBOER:** Thank you, Mr. President. Colleagues, one of the things that I hear in the argument when we're trying to decide how to go forward on broadband speeds is that companies crave certainty, and that makes a lot of sense to me. Changing things midstream, I could see how that would be very difficult. And one of the reasons that perhaps we haven't had certainty in the past is because we thought we don't want to-- we don't want to make this big leap to 100/100 as our standard, and it is a big leap. Make no mistake, what we're doing here is indicating that in this state, 100/100 is what we want, and that is a big leap. But I think it also gives us certainty, so saying to these companies, we're going to give you some stretch goals, we're going to tell you this is what we want to do in this state. And it really is a close question in many ways, because what I've been saying for a while now is we really have two paths. We can either buy everybody the Cadillac service or we can buy them a service that maybe-- maybe isn't going to be able to support their needs. That's going to be the cheaper service. Or we can go for something that is really going to be what they call future-proof. Now I don't know it's 100 percent future-proof. We don't know what technology's going to do. But if we make this decision today, and I'm going to vote for this amendment,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

then we're saying-- we are saying in Nebraska, we want to serve everyone, it is our position, we want to serve everyone with 100/100. Now our Governor said the same thing when he brought a bill that said we're going to-- we're going to provide grants that provide 100/100. So I think we're speaking now, today, with one voice if this body adopts this amendment and says, we're going to say what we pay for with tax dollars is 100 by 100. And it isn't a perfect change. Senator Friesen is right. If there is somewhere out there that is not served at all and there are other places that are served with something like 25/3 and you can make a better business case for the 25/3 upgrade to a different kind of service up to 100, you might make that choice instead of putting in something where there's nothing. I mean, that's-- that's the real consequences we're facing. But at some point, we have to make the transition because we know that in the future there will be a point at which 25/3 is just very clearly not enough. So we are deciding today whether or not we want to put some money into something that in the future won't be enough or whether we want to put some money into things which will probably be OK for a long time into the future. And technology is changing. We don't have a crystal ball. There is no hard-and-fast-- fast or ideological answer here. The question is, which way are we going to go? For me, 100/100, going for everyone, it's a stretch goal. It's going to cost a lot of money. There's no question. It's a close case. But for me, I'm going to vote for the amendment and I'm going to say let's go for 100/100 throughout the state. Thank you, Mr. President.

**FOLEY:** Thank you, Senator DeBoer. Senator Hughes.

**HUGHES:** Thank you, Mr. President. Good afternoon, colleagues. I just wanted to take a brief moment to thank Senator Bostelman and Senator Friesen for their hard work to get us to this point. Is it a perfect bill? I-- time will tell. The telecommunications-- the fiber build-out is a very complicated-- there's a lot of moving parts. And with the COVID, we discovered we've got some real need in some underserved areas and unserved areas that we've got to get higher speeds and, quite frankly, just some speed to them. And I think this is a good compromise. As we move forward through our process, this is the only first-- only the first round. There will be more input, I'm sure, between now and Select, and if there's something needs to be tweaked or changed, we can do it then. But I want to again thank Senator Bostelman and Senator Friesen for spending a lot of time negotiating with the telecom companies to get us to this point, and I certainly encourage a green vote on AM845, AM110, and LB338. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** Thank you, Senator Hughes. Senator Kolterman. Senator Kolterman.

**KOLTERMAN:** Good afternoon, colleagues. I rise in support of AM845. I just have one question for Senator Bostelman if he would take the question.

**FOLEY:** Senator Bostelman, would you yield, please?

**BOSTELMAN:** Yes.

**KOLTERMAN:** Senator, we talk about 100/100. What-- and whether that's the norm or that's too high. I-- I don't think it's too high. But you've been working on this for several years. What-- what's the norm in most states? Are you aware of that?

**BOSTELMAN:** I can tell you when I-- when I-- on BroadbandUSA, everybody's building out to 100/100, so I think that is the standard, what we're seeing across the states that where we're starting-- where-- where everyone's building out to.

**KOLTERMAN:** All right. Thank you. Well, hearing that and-- and-- and knowing that the Governor's requesting 100/100 in the stuff that he's been doing with COVID monies, I don't-- I don't think we're out of line in requesting that. And-- and, yeah, maybe there's a chance that some people won't get it. That's probably pretty remote. If we're going to build out our state and-- and grow our state, we've got to have very good broadband, and I support this. I'd like to thank Senator Bostelman, Senator Friesen for working out a compromise and look forward to voting and advancing LB338 with AM845. Thank you very much.

**FOLEY:** Thank you, Senator Kolterman. Senator Brandt.

**BRANDT:** Thank you, Mr. Lieutenant Governor. I'd like to thank Senator Bostelman and Senator Friesen for bringing the amendments. I support both amendments and the bill. I'd wanted to talk a little bit on the repeal of the dark fiber statutes that's not included in here. COVID-19 has highlighted the gaps in broadband coverage in Nebraska that need to be closed. The homework gap, telehealth, economic development opportunities, and precision farming are some of the areas looking for expanded broadband capabilities. I introduced a bill, LB460. This is still in committee and will still be there next year, and that would seek to repeal the dark fiber statutes and enable public power to be part of the solution to the expansion of high-speed broadband service to all Nebraskans. All options need to be on the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

table to ensure proper broadband development to all Nebraskans that want it, and this is a great way to get started. It is a complement to LB338 and utilizes existing infrastructure that currently serves rural areas of Nebraska. If you want to close the homework gap, if you want to better access telehealth, if you want better economic development opportunities, if you want Nebraska to have precision farming, then you would support LB460. Public power utilities have an extensive network of communications infrastructure, such as fiberoptic cable, that they use to operate their electric system. To be clear, public power utilities are not in the commercial broadband business nor wish to get into this business. They just want to help and partner with others. The dark fiber statutes were passed by the Legislature in 2001 to restrict public power districts from leasing communications infrastructure. In the ensuing years, broadband deployment continues to lag, but still remains a high-priority need for Nebraska that must be addressed. The Public Service Commission has had three dark fiber leases in the 20 years these statutes have been on the books, and only one is currently active. Further, the PSC is neutral on LB460. The dark fiber statutes are antiquated and need to be repealed. It is obvious that these are a hindrance to better-deployed broadband. One of the arguments we always hear against repealing dark fiber statutes is that letting public power help in deploying broadband will stifle private investment. After 20 years of private investment. I would think that more of the state would have adequate broadband by now, but obviously we do not. The incumbent providers have had 20 years to get broadband deployed in Nebraska. They have had minimal oversight, have fought any and all others trying to help deploy broadband, have consistently fought standards and testing to ensure that adequate broadband is deployed. Basically, they have made sure they are not held accountable. How long are we going to allow these incumbent providers to dictate terms? We are not asking them for outrageous things. We just want them to honor the promises they made long ago to get proper broadband deployed. They have had their chance to do it on-- on their own, their way. Now is the time to let others help. We will be back again if we miss this opportunity to push Nebraska forward. This is the type of policy change that makes a difference. We cannot wait any longer. Nebraska needs broadband deployment to all parts of the state and we need it sooner rather than later. This is not just a rural problem either. Parts of north and south Omaha are still underserved. And after 20 years of spotty deployment, every option needs to be considered. Let's stop putting up roadblocks to deployment and make some real progress. Thank you. And I would encourage your green vote on both amendments and LB338.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** Thank you, Senator Brandt. Senator Bostelman, you're recognized to close on AM845.

**BOSTELMAN:** Thank you, Mr. President. Thank you for the discussion from Senator Friesen, Senator DeBoer, and Senator Brandt. The PSC does play a big role in-- in what we're doing as far as providing for those lower service areas, ensuring that those are getting bailed out in a timely manner, when they should. You can always request to have a provider change. And LB338 also gives us a rural-based plan, which also helps out and does a lot for our areas that-- that may have a lower, a 10/1 or-- or 25/3 if it's changing. But this bill really moves us into the right direction. Technologywise, our cities, our counties, our schools, our hospitals, people across the state are-- are in need of-- of increased speeds for technology, for business, and for health. And so I would ask for your green vote on AM845, AM110, and the underlying bill, LB338. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Bostelman. Members, you heard the debate on AM845. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 38 ayes, 1 nay on the adoption of the amendment.

**FOLEY:** AM845 has been adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, next motion, AM834 by Senator Wayne.

**FOLEY:** Senator Wayne, you're recognized to open on your amendment.

**WAYNE:** Thank you, Mr. President, colleagues. I hope we just take a minute here and just listen and-- and again, I started yesterday before we stopped so everybody could take a break. But the question I have for everybody in this body is, what is the purpose of broadband? And is broadband what we consider a utility or is it just a service that we get? And when you think about critical infrastructures that go to education, economic development, broadband is a utility. Yesterday, the Chairman of TNT said that he never got a real answer of how long or how much it will take to build out rural Nebraska, guesstimates that it'll be around \$5 billion, but there's no real clear answer. And the reason there's no real clear answer is because private corporations are in this business for one reason and one reason only, and that is to make a profit. These corporations answer to their shareholders, not to this body. And in fact, broadband isn't really regulated at all in this state. So the question I have for everybody

is, if this is a utility, which when I hear Senator Brandt talk, he speaks of it as a utility, when I hear, quite frankly, every senator in here talk about the importance of broadband, we talk in sense of it being a utility. But when it comes to the state of Nebraska and how we treat our utilities, oftentimes, more than anything, they are public. And I know that's difficult for you to understand coming from my mouth when I've been the one against public power, but there's something that changed in me over the last two years, particularly last year, and that was the pandemic. The pandemic stressed the importance, not just in rural Nebraska but also in Omaha. In Omaha, in my street, I have one choice: Cox Cable. CenturyLink is actually a half a mile from me. It is truly a utility, but I have to use a private corporation who cares more about profits than they do the service they necessarily provide. So I have to ask this body, why are we not treating this as a utility? And every argument we have for why this should stay in private hands are the exact same arguments this body struggled with from the 1800s to 19-- really, 1970, and that is when it comes to electricity. The people who will stand up here and vote down this amendment are the same ones who will stand up here and say how great public power is, how our rates are cheaper, are better, our service are better. But when it comes to Internet, we want to treat it differently. When it comes to broadband, we want to treat it differently. The issues against broadband, Senator Groene said it yesterday in the back room, which was it's hard to make a business case to run that fiber down to the end farmer. That was the exact same excuse that was used in 1800s and in 1930 when we were talking about removing the privatization of our public power-- or turning them into public power. And it actually started with a small step, and it was a small step around the Loup River, where we decided to try hydroelectric power. And it wasn't until around 1925 with Nebraska Senator George Norris, where he tried unsuccessfully to promote a federal financing program for irrigation and hydraulic projects. But like the pandemic, in 1930s, when the Depression hit, it made us all think. We'll never have a business case, when the markets continue to go up and down, to provide consistency if the provider is-- cares more about profits than the service. So in 1932, we started moving into a public power district. And in 1933, Loup River Public Power District was formed. Now why is that important? It didn't start off with creating, as Senator Brandt was trying to do with his bill, allowing public power to provide broadband immediately. I'm not saying I'm against that, Senator Brandt. I'm probably for that. But I know at that time, as I look at the history, we take small steps. So we started with a city or a municipality or a speci-- specific area and said, let's try public there. And that's all this amendment does. This

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

amendment removes the prohibition against municipalities to provide broadband services to their constituents. If nothing else-- if nothing else, colleagues, I ask you to vote green on this, to send a message, to send a message to our providers that we are serious about building broadband, not just in rural but in parts of Omaha that don't have broadband. I'm asking you to vote green on this because there isn't a city council right now who could go through the process of building out broadband in their community. But it does signal to the industry we are willing to move that way, that we are willing to make this public if you don't make moves. Now why do I not have faith in \$40 million? Well, because over the last ten years, we gave private companies over \$94 million in cash-- \$94 million in cash. But we also provided them with over a hundred million dollars in tax breaks on how they get their taxes through, labor costs and other tax savings to build out, whether it's wire, whether it's towers. We gave them substantial amount of money, but yet nothing has changed. I've heard this for four years down here, and prior to those four years, in OPS, when I would meet with other school districts, I kept hearing the same thing. So it's been ten years and the needle hasn't moved. So this is an opportunity for us to take a shot across the bow, to let them know we're serious. The prohibition against allowing municipalities to do this started in 1990s. And actually this was a campaign across the entire country which Nebraska fell victim to by saying no municipalities can provide this type of service. Nineteen other states actually outright repeal-- or pro-- prohibit municipalities from providing broadband. But states are changing. Tennessee, Arkansas, Connecticut, last year, Texas, Louisiana, North Carolina Legislatures are not only commissioning task force, but passing legislation to give a public option. You can look no farther than some of the cities like Bristol, Tennessee, of 20,000-- 20,000 residents-- 27,000 residents. They have a municipally provided network that starts at just \$16 a month. Morrison, Tennessee-- see, these are rural towns, not Memphis, but the reason they passed in the Legislature was to give their local control the option to do something. Morristown, Tennessee, 29,000 residents, public option. P-u-l-a-s-k-i, Tennessee-- I didn't want to say it wrong-- 7,500 residents. These are rural conservative towns that are taking action because they're tired of sending money to private corporations that aren't getting the job done. If this model is working and if this model works for public power, why aren't we having the same conversation about broadband? And again, there's COVID dollars right now that can be used for infrastructure, and some of these communities might get that COVID dollars. Let them maybe send a RFP out or RFQ out to figure out how to do it. But right now, their hands are tied and you have city councils and villages across--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** One minute.

**WAYNE:** --the state who are begging for the opportunity to find an answer for their constituents. And this is just one tool to show that we are serious about broadband. And what is very interesting is Tennessee, Chattanooga, has the fastest broadband in the world, publicly owned by their city. And again, this is coming from the person who tried to privatize public power because COVID changed the dynamics, not just in my community but across the state, when many businesses and communities and kids were left behind by the lack of broadband in their area. I recognize this vote will require 30-- requires 30 because this bill was IPPed.

**FOLEY:** That's time, Senator. Thank you, Senator Wayne. Senator Friesen.

**FRIESEN:** Thank you, Mr. President. Thank you, Senator Wayne. You know, public power, back in the day on the farm, started out with a single phase, kind of a-- a really light line that you could barely light the lights in the house with. And it took I don't know how many years. We still don't have areas that have three-phase where we can hook up an irrigation motor with a 50 or 60 horsepower requirement. So let's just say that public power maybe isn't totally working yet quite the way it is-- or should. And so we still got a ways to go, and yet we started back in-- how far? I'm-- I was impressed with your-- your data there. But again, we started small and we've just been slowly adding and we're still not done. We still don't have three-phase power wherever we need it. And in fact, sometimes we as individuals have to pay for a line build-out to get it there. We pay it ourselves. So again, I-- I see where Senator Wayne is going. But at the same time, we sit here and we all complain about property taxes. And so now you're going to have communities or counties use property taxes to build out a fiber network when they don't know how to run one. I will stick up for the communities to-- or the-- the businesses here in some extent. I mean, they've invested \$262 million over the last three-and-a-half years. That's a huge investment. Are they doing it fast enough? Maybe not. Some areas of the state have done really well. I've got companies in my area that have been building fiber to the home. We've-- I've had fiber to the home for six, seven years. So some companies are doing a great job. Some are not. Let's punish those companies maybe that haven't been doing a good job, but others have been doing it and they-- they make good partners. And right now there is a path where public power and private industry can partner and get it out to those rural areas. There's nothing to stop that process. I-- I think we have slowly worked to create this pathway and we're there. We just need

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

companies now to step up and start working together after that battle 10, 15 years ago. We've got-- the dark fiber statutes have been revised. Right now, the process is very simple compared to what it was, and yet no one has even tried it because there's really no dark fiber out there where somebody needs it. Are there opportunities to get dark fiber out there with the power industry? Yes, and I-- I think there's companies right now pursuing it. There's RFPs out there looking for partnerships. I think the possibility is there. The two have finally started talking after years of not talking to each other at all. So in order to get this done faster, I think we need the public-private partnership just because of the huge investment that needs to be made. We just have to come up with a more consistent, solid plan that lets these companies plan how much they're going to spend on infrastructure and how much they're going to get when they're building out to these areas that no one can make a case to build out to. I don't care if, you-- you know, power industry wants to build out there. They can't make a case for it any better than anyone else. And I, for one, do not want my electric rates to be subsidizing broadband expansion into areas. So with that, I-- I do support the bill, not the AM834. I support AM110 and AM830-- and LB8-- LB338. But I do not support letting municipalities get into this. Again, we have created a pathway for municipalities and counties to partner with industry to build in their communities. The path is going to be set. Some of it's in this bill. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Wayne.

**WAYNE:** Thank you, Mr. President. Colleagues, I want to be clear about what we just heard. What we just heard is we created a pathway for you get this done and this is the pathway. We are going to give private industry tax breaks and more taxpayers' money so they can turn around and charge us money to-- to use it. That's what we just heard. We're going to build it out with our money so they can charge us to use it. That's amazing to me. I'm not even asking for public power to take over, I'm not even asking for the-- the state to take over. I'm saying this is the opportunity for us to take a shot and let them know, if we give you \$40 million every year for the next three years, \$120 million is what I'm hearing, it needs to get built out. Otherwise, Schuyler, Nebraska, may take a vote to their voters to decide to build out their own and find a provider to provide the services themselves. We always want to stand up and say we got to give more options for-- as Urban Affairs Chair, I've always heard for four years, we got to give more options for economic development and more options for our communities to do things, except for around broadband, because we want to protect the industry. But we're not just protecting the industry, Sen--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

Senator Friesen. We are giving them money. We are subsidizing them to charge us on what we build. Where-- only in Nebraska, but the-- but the motto, we have to look no farther. If I ask Senator Friesen, does he believe in public power, and if I brought a bill to privatize it, would he fight against it? Yes, he would. How do I know? Because I did it and I watched it happen. But when it comes to broadband, we're part of-- this isn't a rural and urban thing no more. This used to be rural really needs it, rural really needs it. The pandemic showed us when I have kids in my community going to McDonald's to study because they can't go to school and they can't get it from where it's in their homes, this is no longer urban and rural. We need broadband across this state. And as long as a business reports to their shareholders their profits, the citizens of Nebraska are going to continue to be second. And when it comes to our roads, we don't allow that; when it comes to our electricity, we don't allow that; and when it comes to-- but when it comes to this critical infrastructure of broadband, we're not only going to protect them, we're not only going to give them tax breaks, we're going to take COVID dollars and our own budget and say, build out a network, and by the way, Schuyler, you don't even get the option to maybe do your own. By the way, Columbus, I know you're struggling with broadband and maybe your voters might approve some kind of vote to fund a new broadband infrastructure and an RFP process to hire whoever, you don't get that option as a voter because us, the Legislature, are going to protect big business; us as a Legislature are going to make sure you can build it out on our dime and then turn around and charge us. This bill will do absolutely nothing for the next year, year and a half, but it sends a clear message to everybody in the industry that broadband is a utility in the state of Nebraska and we take it serious, whether you live in north Omaha, Bellevue--

**FOLEY:** One minute.

**WAYNE:** --or rural Nebraska, Scottsbluff, Gering. Every one of them are struggling with this same issue. And the corporations for the last ten years have failed. I read a report. It was \$364 million combined tax credits and federal dollars they received in the last five years, yet we're still talking about how much we should get up and down on-- on-- there are places in Africa I'm going that has better broadband, that we're going to go in third-world countries. I'm going in September. I'll send you a picture using their broadband. But we're going to pay them to build out and charge us. That's the pathway we're talking about, with no public option at the local level. We're better and it's time to change that today. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Senator Brandt.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**BRANDT:** Thank you, Mr. Lieutenant Governor. I wonder if Senator Friesen would answer a question.

**FOLEY:** Senator Friesen, would you yield, please?

**FRIESEN:** Yes, I would.

**BRANDT:** Senator Friesen, you stated that the telecom spent \$262 million, I believe, in the last three years. Is that their money or is that a combination of public and private money?

**FRIESEN:** I think this is their money. They-- they said they have matched two to one for every dollar that they receive.

**BRANDT:** So if that was the case and we divide by three, it's about \$80-some million that they got in public money. Would that be sort of a fair statement?

**FRIESEN:** That's-- that's hard to say because there might be federal dollars involved, there's some US-- NUSF. I-- yeah, I don't know that. I'm just going off their-- what they said was their investment and they said that they were investing two to one for every dollar  
[RECORDER MALFUNCTION]

**BRANDT:** All right, thank you. I wonder if Senator Wayne would answer a question.

**WAYNE:** Yes.

**FOLEY:** Senator Wayne, would you yield, please?

**BRANDT:** Senator Wayne, this interests me. First question, can a municipality use revenue bonds to finance this?

**WAYNE:** If they choose to, yes, that'll be a vote to the people.

**BRANDT:** It's pretty vague in the amendment, but I would assume any incorporated town, village, or city in Nebraska could utilize this.

**WAYNE:** Any municipality that's incorporated, correct.

**BRANDT:** Could that municipal-- municipality build outside of its incorporated city limits? Could they serve the rural areas around the municipality?

**WAYNE:** If they enter into a contract, a joint agreement with the county, they sure could, underneath this bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**BRANDT:** When you say the county, I guess, could you explain that a little bit?

**WAYNE:** They could-- so underneath the interlocal agreement, they-- the city-- a municipality could enter into a county agreement or they could enter into, I guess, any agreement. I guess they could. I haven't really thought that far ahead.

**BRANDT:** So as far as you know, there would be no restriction in laying cable by a municipality outside of its incorporated city limits.

**WAYNE:** No, that would be a vote of the people. If they didn't like that idea, they would be voted out of the city council.

**BRANDT:** OK, and so then that-- that's sort of the final question here. That would be governed by the elected officials in that city whether to participate in this or not or possibly put it to a vote of the people--

**WAYNE:** Correct.

**BRANDT:** --so they can make the best decision for themselves.

**WAYNE:** Correct.

**BRANDT:** All right. Thank you, Senator Wayne. I believe I'm going to support AM834 and I would encourage others to take a hard look at this. Thank you.

**FOLEY:** Thank you, Senator Brandt. Senator Friesen.

**FRIESEN:** Thank you, Mr. President. You know, I find it interesting, we have counties in this state that can't even keep their bridges up. I think we pay for building them too. We've got cities who use our dollars to build sewer and water and then they charge us to use it. You can use that rhetoric if you want. But again, without private industry development and how they have built this web that we use, without those dollars in profit, we wouldn't have an Internet that we can use today. If it was just run by public entities, what would it look like? Maybe like some of our bridges. I fail to see how you can say that you can just with public dollars and having public entities run this. After all we've been through in trying to maintain our infrastructure and say we're overtaxed, we're going to hand over more duties to the public sector. So I think it's been a good discussion. I think some of the ideas that are thrown out here, I mean, I know there's other countries that have way more sophisticated Internet

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

system because they never built out a landline telephone system, ever. That's why you see everyone with a cell phone. They didn't have to go through that expensive step that we did and that we're still paying to maintain. So let's just-- maybe we ditch the landline, get rid of it. We don't have to subsidize companies to keep it up, and everybody goes with cell phone service. There's-- there's options there. Let's look at them. But I-- to say that-- right now that we can have communities or power districts competing with private industry when they're operating under different tax laws, I think is kind of ludicrous to even think they could-- should be able to compete. Now, if you want to-- you know, right now, when you buy fiber, you pay sales tax. They pay personal property tax on that fiber that's in the ground. They are paying taxes that we collect at that local level and use to fund our schools and everything else. The telephone ind-- or the electric industry doesn't pay any of those taxes and help us support the schools. So when we look at this, there's a lot more to this than just saying it's simple, let the communities do it. So I-- I-- I know there's bad actors out there, but also I think we need to push them to go in the right direction. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Groene.

**GROENE:** This is one of them quand-- thank you, Mr. President. This is one of them quandaries that you look at when you look at the history of the United States, free enterprise, laissez faire. But then you look at how we got the railroads. The government stepped in, gave them every other quarter-section of ground so they could build the railroads and they had a captive audience and they started selling everything. And then farmers started co-ops so they could bid-- buy stuff cheaper. And then highways were-- and then semis were invented, then the railroads finally had free enterprise and freights went down. You could go over and over again. You look at the phone system when AT&T owned it all and "comportionately" what we paid for phone service, our forefathers, was very high, and then we deregulated and the prices came down. Look at the cell phone. If you guys remember your first cell phones, every one of your minutes you got charged for, and the price was pretty steep. And then we deregulated and we got competition. So where are we with broadband? About like we were with the railroads where we had to-- public-private cooperation to get the system in place. Quite frankly, I have one by one of my places. I have broadband right by me, less than 100 yards from my cabin. I'm not going to sign up. And when I heard from-- I won't say the company-- a lot of people aren't. They want \$150 a month. They don't give me a choice of what I want and what I want to pay for and the competition is either you do without or you pay their price. I don't like that.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

That isn't America. But without the government grants and the exclusiveness we gave these companies, they wouldn't have built it, so we're in that quandary again, like America was and Abe Lincoln was with the railroads to get them to build. So I swallow my pride as a free-market person and says, we've got to get the infrastructure out there, and then after we get the infrastructure out there, maybe then we can throw some deregulation and get some competition in there. But first, there's got to be a profit for those to build it, so I agree with Senator Wayne, but I disagree with him. So it's not a good situation we're in. But we are going to stay up with the 21st century. We need broadband in rural Nebraska. And will-- there be some individual companies make a pretty good profit off of this whole thing because there's no competition and they are aided and abetted by the government. But that rancher will have broadband; that small town will have broadband. And the COVID money, I got a town in my county, a little-- was one of the towns chosen by the state to put broadband into that community with COVID money and now they have broadband. So if I said this and that and didn't make any sense and disagreed with myself, I do, because I-- I'm going to not vote for AM834 [INAUDIBLE] you know-- I know it's right because we need to advance, we need to go ahead, and we need to get the infrastructure. And if this is where we're at to get the infrastructure out there for everybody, I guess, then I'll swallow my free-market pride and vote for it. Thank you.

**FOLEY:** Thank you, Senator Groene. Senator Wayne, you're recognized to close on AM834.

**WAYNE:** So, colleagues, I really want to vote on this. But I also respect Senator Bostelman enough to say he worked really hard last night on an amendment that I know if this bill gets attached to, it's going to draw fire from a lot of places. But let me be clear here. At the request of a Governor, there is a bill coming to this floor, Senator Friesen, that deals with broadband, that is germane. I will put this amendment on there. We will get an up-or-down vote. If we are going to spend \$40 million to build out broadband, the least we can do for Columbus, Schuyler, Gering, north and south Omaha, is to allow those elected local officials to have an option. And I think, as those who are watching, the support for this idea is growing because the dollars we continue to put into this doesn't make sense. You want to talk about a cost-benefit analysis? What is the cost-benefit analysis to the state when our kids can't go to school and can't log in and look at the online library no matter where they are? What's the cost to the farmer who can't upload the data he's supposed to upload, or she's supposed to upload, because they're still on copper? And what's the cost to the family unit when they want to stay at home and watch a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

movie but it's raining and the satellites don't work? What's the cost that we continue to dump into private companies who refuse to build out? Now, if this would have been Chairman Hughes, I would take it to a vote. But, Senator Bostelman, I'm going to withdraw my amendment, but, please, colleagues, let's keep this conversation going. And when the bill comes from the Governor to put \$40 million aside for broadband, let's put the local option on there for local elected officials to decide whether or not they choose to build out. Please withdraw AM834 at this time. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. AM834 has been withdrawn. Continuing discussion, Senator Moser.

**MOSER:** Thank you, Mr. Lieutenant Governor. As much as I appreciate Senator Wayne looking out for my district, in defense of my district, we do have broadband in Columbus. We've got Spectrum. We have Great Plains, Eagle Communications. Those companies are all running either coaxial or fiber. We also have Frontier that has DSL and we also have Megavision, which is former Senator Schumacher's ISP, and he has a bunch of wireless options, as well as some DSL options. So we have high-speed Internet in Columbus. And the-- to me, the problem with broadband is that it's expensive to build out and a lot of these companies aren't willing to invest a lot of money to get a small return. It's-- it's economics. And so we as governmental entities have seen fit to subsidize these private companies to get them to build out here and there. And the problem that we've found is that we've given a lot of money and haven't had as much improvement as we'd like to see. And I think that's behind some of the frustration that you hear from some senators about the current state of broadband availability in the state. I was wondering if Senator Wayne would respond to a question.

**FOLEY:** Senator Wayne, would you yield, please?

**MOSER:** I don't know if he's here. Oh, here he comes.

**WAYNE:** Yes. Yes. Yes.

**MOSER:** I got permission to continue?

**FOLEY:** Yes.

**MOSER:** Thank you. So in your district, you were saying kids had to go to McDonald's to get Internet to do their homework. The broadband is available in your district and people can't afford it or it's not even available?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**WAYNE:** There are some areas where it's dark. There are some areas where it's not affordable, so OPS ended up providing a contract with AT&T to provide iPads with broadband to make sure students can provide-- get access to school material.

**MOSER:** Well, doesn't Cox Cable have Internet?

**WAYNE:** Yes, but sometimes it's too expensive or sometimes, if you owe money, you can, you know, get shut off; sometimes, in some areas, no, it's not-- it's not available everywhere.

**MOSER:** So what's the guarantee that the municipality-- municipal-owned Internet service would be any more-- I don't want to say benevolent, but less likely to shut you off if you can't afford to pay for your-- your Internet?

**WAYNE:** Well, the theory is, whoever I call to fix the pothole in my street would be the same person I would call to fix my Internet: my elected official.

**MOSER:** Well, it might be the same elected official, but I'm sure it'll be a different guy that comes out, or gal comes out. Thank you, Senator Wayne.

**WAYNE:** Yeah. Thank you.

**MOSER:** I just put in fiber in my business and I had to sign a multiyear agreement to do it because the buildout, even though the line went right through the alley next to my little downtown store, it was going to be somewhere between \$700 and \$1,000 for the equipment, then plus the manpower. They sent three people out and they spent a half a day putting it in. And it's expensive, you know, it's expensive. But anyway, I just had to stand up for my district as long as Senator Wayne was using us as a-- as a cause to advance his theories on broadband. Thank you.

**FOLEY:** Thank you, Senator Moser. Senator Flood.

**FLOOD:** Thank you, Mr. President. Members, I was going to-- not going to say anything. I was going to express myself with a green vote on that last amendment, Senator Wayne's proposal. And I-- you know, he pulled it, which I understand. And I respect Senator Bostelman, Senator Friesen, and everything that all of the people have put together. And it isn't that-- you know, we're blessed in my community of Norfolk. ALLO Communications came and they are doing wonderful things, and I look at a provider like that and I think there's no way

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

I'd ever want the government to get in between them and their customer. But when I was here last time, let me tell you, I'm proud to be in this Legislature because when I was here before, we were fed the baby food. We couldn't get enough of it. They kept feeding us the baby food-- oh, private business, private business. I didn't know that millions of dollars were being shuttled from taxpayers into the coffers of CenturyLink and Windstream and a bunch of other companies. And we have 36-hour outages in Norfolk and we try to get through on the 800 number and nothing happens. Banks are shut down; school kids don't go to school. A line's cut somewhere. It's not our fault. Somebody cut it. There's no redundancy. And so the reality is that Senator Wayne is on to something. And what I see now from this Legislature with the telecom lobby is a telecom lobby that actually fears something because the people are smart, are far smarter today than they were when I was here before and you've got their attention. You've got their attention, and we're going to walk them like the dogs that they've walked us like for a long time, because Senator Brandt knows what's going on. Senator Bostelman has written the Bible on what they've done to us. And they haven't had so much as one question-- you know, to the time I was there, nobody seemed to really put them up against a wall and say, shake them down, what are you doing for the citizens? But the citizens know. The mayor of Valentine knows. The mayor of Valentine wanted this power until ALLO decided to come there. And there is a-- there is a problem with what Senator Wayne suggested, and that is a government taking. I have a friend that's a provider in a town in Colorado and the mayor said, nope, you're out of here, we're doing it ourselves, and it's hard to say that to an existing business that's trying to do it and make a profit. But some of these unaccountable telephone companies that have had their way for way too long, they need to understand the citizens of Nebraska know what you're up to and we're coming for you. And if you want to continue to suck the money out of the taxpayer's pocket and give us the same old routine, you're out of here. And I don't know how to do it, I don't know what the right vehicle is, but we've got some real bad actors in this business and we need to find them, we need to track them down, and we need to kick them out of this state. I could give you a story that would curl your toes about the awful service that we get in parts of rural Nebraska. And just to be a part of a Legislature that finally has seen its voice and is taking its fist and squeezing the life out of some of these blood-sucking telephone companies that are sitting us in the back seat and telling us where we're going to go, when we're going to get there and when we're going to get our Internet, they don't deserve that and we don't deserve them. So I hope they are watching on that bill with the \$40 million because there is a balance

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

between private business and government. But when you are taking advantage of the-- of the process and you're not following through with the commitment, you're on the radar and we're going to take you down. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Flood. Senator Pahls.

**PAHLS:** Thank you, Mr. President. I just received a map of the Nebraska Broadband Mapping Project. If-- I know a number of you probably have already seen it if you sit on that committee, but the rest of you, I would suggest you take a look at this. You would really be surprised of what we have to offer the state of Nebraska. Senator Wayne really has got some attention from me, so I started looking up some things. And this is one of the things I've found out, because I'd not been involved in this in the past, so the \$40 million that we spent per year, \$24 million is dedicated to projects that carriers must do to provide broadband; \$16 million of that is allocated for the maintenance and ongoing cost of the existing networks. Another thing I looked up, just to see why we may still want the state to put tax dollars in it, want you to follow me on this. What I did is took a look at six of the least-populated counties and-- or three of them and three of the most populated counties just to-- just to demonstrate why there's an issue here and why we have to look at this as a state project, not a-- as a rural-urban thing. What it is, take a look at Douglas, Sarpy, and Lancaster Counties by population. Douglas is 571,000-plus. Sarpy is 187,000-plus. Lancaster is 319,000-plus. Then I looked at three of the counties have some of the least population. That was Banner. It's 745. Frontier-- and I'm saying this loud because there's people talking around the sides, so I'm trying to think. Frontier is 2,640 people. Thomas is 645. Now I took a look at the sales tax, just so you get a comparison why we have to work together if we're going to spend sales tax dollars for this particular issue. Banner, their sales tax, Nebraska sales tax in 2019-- for that senator who's in charge of that, I'd just like to point it out because I have several in here-- Banner, they contribute a little over \$8,000 in sales tax. Frontier contributes \$546,000 in sales tax. Thomas, in the year 2019, Nebraska sales tax, contributed \$433,000-plus. That is the total taxes, sales taxes collected from those three counties. Now I'm going to talk to Douglas County: \$558,316,851.13 sales tax from Douglas County. Now I'm going to talk about Sarpy County: \$120,232-- 232,000-- excuse me, \$120,232-- 712 plus 74 cents; Lancaster, over \$22,000. The point I'm trying to get across, we have parts of the state, that's why the urban and rural need to work together, but we need to take a look at what the--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** One minute.

**PAHLS:** Thank you-- what Senator Wayne has come up with because, if not, most of those tax dollars collected are collected from a few counties and they need to be distributed throughout the state. So if you're sitting out in a smaller community and you're not thinking about maybe going public on this, what you're doing is you're actually hurting those people who are the sales tax from the larger counties. We need to work on this together, so don't shut the door on Wayne's idea. We need to start looking at different things, different ways of doing it, because you cannot always depend on the larger counties on the sales tax. We are a state. I'm not taking away from anyone. But I find it very interesting some of the people who are fighting some of these issues are coming from counties that do not provide a lot of sales tax. I'm not talking about property tax. I'm talking about sales tax. You have to look at the whole ballgame. We need to quit thinking about this and this. It's us. It--

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

**PAHLS:** Thank you.

**FOLEY:** Thank you, Senator Pahls. Senator Moser.

**MOSER:** Thank you, Mr. Lieutenant Governor. Listening to Senator Flood's passionate comments there reminded me of something that I neglected in my comment-- comments, and that was that ALLO communications is doing a fiber buildout in Columbus. At least that's their intention, to start that soon. And I mentioned other providers in Columbus and I overlooked them, and so I wanted to correct that. Thank you.

**FOLEY:** Thank you, Senator Moser. Senator Friesen, you're recognized to close on AM110.

**FRIESEN:** Thank you, Mr. President. Again, this just contains the amendment that we've just been discussing, so with that, I'd urge your green vote on AM110.

**FOLEY:** Thank you, Senator Friesen. You've heard the discussion on AM110. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 40 ayes, 0 nays on the adoption of the committee amendments.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**FOLEY:** Committee amendments have been adopted. Any further discussion on the bill? I see none. Senator Bostelman, you're recognized to close on the advance of the bill.

**BOSTELMAN:** Thank you, Mr. President. There is one thing I want to talk about real briefly here. As we were working on this compromise last night and this morning, in AM845, we did-- we were-- we did miss a line or two that we needed to have in there. So I just want to assure those who are listening at-- at their business and that and it will apply to Section 8 on page 7. And basically-- basically what we'll be doing, going to Select File is add language preventing a city or county from using federal funds to build out areas that are-- that already have 120. And with that, Senator Friesen has agreed with me on this. This is what we had talked about last night, and those within the group, and that will be in an amendment as we go to Select File. With that, I-- I really appreciate the spirited debate this afternoon for this little while that we've had. I do encourage you to vote-- green vote on LB338. Thank you.

**FOLEY:** Thank you, Senator Bostelman. Members, you've heard the debate on LB338. The question before the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 42 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB338 advances. Members, we're going to proceed to Select File, which is going to involve a number of voice votes. Please be attentive to Senator McKinney's motions. First of those bills, Mr. Clerk.

**CLERK:** Mr. President, Senator McKinney, LB400. I have no amendments to the bill.

**FOLEY:** Senator McKinney.

**McKINNEY:** Mr. President, I move that LB400 be advanced to E&R for engrossing.

**FOLEY:** Members, you've heard the motion to advance LB400. Those in favor say aye; those opposed say nay. LB400 advances. Mr. Clerk.

**CLERK:** Mr. President, LB274, I have Enrollment and Review, first of all, Senator.

**FOLEY:** Senator McKinney.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**McKINNEY:** Mr. President, I move that the E&R amendments to LB274 be adopted.

**FOLEY:** Motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. E&R amendments have been adopted. Mr. Clerk.

**CLERK:** Senator Geist would move to amend, AM668.

**FOLEY:** Senator Geist, you're recognized to open on AM668.

**GEIST:** Thank you, Mr. President and members of the Legislature. AM668 was a compromise amendment that I worked on with Senators John Cavanaugh, Senator Lowe, and Senator Briese to address Senator Cavanaugh's concerns regarding local control on Class C, Y, and I liquor license, serve mixed to-go drinks. This amendment would require C-- Class C, Y, and I liquor license holders to notify the Liquor Control Commission, during the init-- initial licensure or when they renew their license, that they will be serving mixed to-go drinks. There is a process, a pretty detailed renewal process, and, Senator Lowe, I-- would you yield just to briefly touch on that so the body--

**FOLEY:** Senator Lowe, would you yield--

**GEIST:** --understands?

**FOLEY:** --would you yield, please?

**LOWE:** Yes, I will.

**GEIST:** Senator Lowe, would you just briefly let us know how the renewal process works?

**LOWE:** Basically the Liquor Commission will send a notice out to you, and it comes at two different times of the year because of the licenses, and-- and your license will come out at that appropriate time, at which time you can either file electronically on your computer or you can fill out the paperwork and send it back. They will then send notification to the local governing authority on it, and at that time they will publish a notice in the paper, local paper on-- on your renewal of license or on the change of license.

**GEIST:** That's great. Thank you. I'll also add that in-- in our amendment, what the licensee would request or let the Liquor Control Commission know by the form of a-- sending a letter that they would like to serve mixed to-go drinks. So it is in addition to their licensing, but it is a-- it is a no-charge and it will be publicized

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

in a public forum just exactly like it is when a license is renewed, just as Senator Lowe spoke. So I would just ask for a green vote on AM668 and-- and then also on LB274 so we can move this bill forward. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist. Debate on the amendment? Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. And I rise in support of AM668, just to kind of reiterate what Senator Geist said and to remind everybody about the conversation we had originally. And I first off want to say I appreciate Senator Geist and Senator Lowe and Senator Briese working with me about-- to address my concerns on this bill and the amendments. And we had an amendment originally that addressed some of my concerns, and Senator Geist and some folks had some concerns about that. And so then we went and we talked with, among other people, the Liquor Control Commission about how that would work. And so my concerns ultimately were that when-- if we were to adopt this without an amendment, that the C, Y, and I licenses would be expanded-- effectively expanded without any public comment at the local level, which means every entity, every possessor of a liquor license would have a broader liquor license than they would have had originally before the adoption of this. And that didn't seem fair to me, that local entities, people who may have objected to the liquor licenses or the scope of the liquor license originally wouldn't have had the opportunity to at least comment on that. And so we went and we talked through basically addressing those concerns. And I-- and I wanted to make sure that they-- that (1) the expansion wasn't automatic and (2) that people had an opportunity to be heard. And that is what this amendment does. It-- it requires that any establishment that wants to undertake this expansion service will have to check that box on the renewal or on the new application saying they want to do this. And then the-- the cities, as Senator Lowe pointed out, will publish the notice of hearing. And then they-- they would be-- people would have the opportunity to comment on that. Ultimately, to make some of the things that maybe would have been more robust, we would have had to actually change the Liquor Control Act in a way that would probably not have been good. I hear a lot of people around here say unintended consequences. That's exactly what it would have done. So this is a very concise, elegant way to solve these two problems that I saw with this bill. I think it addresses them. I think it allows for that comment, for the-- for the nonautomatic expansion and for that public comment, an opportunity to be heard. And so I'd ask for your vote on AM668 and the underlying bill, LB274. I appreciate, again, everyone working with me on this. I think this is how-- a good way

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

that we should legislate. We had a hearing. We identified a problem. We worked together to fix it. And of course, I told Senator Lowe when he brought LB274, the underlying bill, that I was wildly in favor of that bill and then I ended up voting against it, I think, out of committee. And so I appreciate him working with me to get to the point where I can vote for the underlying bill, which I-- I am in favor of, and the amended bill. And with that, I yield the remainder of my time.

**FOLEY:** Thank you, Senator John Cavanaugh. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor, and thank you, John Cavanaugh, for working with us. It has been an experience and I'd like to thank Senator Hilgers for giving us the time to work this out. This is a friendly amendment, AM668, so I'd like to have everybody have a green vote on LB668 and the other amendment that will follow this. Thank you very much, Lieutenant Governor.

**FOLEY:** Thank you, Senator Lowe. Seeing no other members wishing to speak, Senator Geist, you're recognized to close. She waives closing. The question before the body is the adoption of AM668. Those in favor vote aye; those opposed vote nay. Have you all voted? Record.

**CLERK:** 41 ayes, 0 nays on the adoption of Senator Geist's amendment.

**FOLEY:** AM668 has been adopted.

**CLERK:** Senator Lowe would move to amend with AM667.

**FOLEY:** Senator Lowe, you're recognized to open on your amendment.

**LOWE:** Thank you, Lieutenant Governor. AM667 is a compromise amendment for Senator Wishart's LB295. L-- LB295 would have stricken all of 53-178.01 of Nebraska Statutes. Due to my concerns, LB295 was not added to the committee amendment. Senator Wishart introduced a floor amendment-- amendment on General File to attempt to add LB295, but withdrew that amendment before the vote. She did this in order for us to continue a conversation on a possible amendment. And thank you, Senator Wishart, for allowing me to work with you. AM667 adds that compromise language. Instead of striking all of 53-178.01, this amendment adds language that allows liquor sales to a person in a vehicle under certain circumstances. Those circumstances include the selling of food, the car being in park, the alcohol being placed in the trunk or in an area behind the last upright seat of a motor vehicle if an area is not normally occupied by the driver or passenger and the motor vehicle is not equipped with a trunk. Let me be clear on what curbside alcohol sales would look like. An example would be

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

picking up groceries at a store which included a case of beer or a bottle of wine. Under this amendment, the employee at the store could simply put the alcohol in the trunk of the car. Without this bill, and once the state of emergency is over, the car-- driver of the car would have to get out of the car and have the case of beer handed to them and put back in-- and he would then put it in the trunk himself. AM667 also contains the compromise language between Senator Geist and Senator John Cavanaugh to ensure local control and oversight by appropriate regulatory bodies is maintained. AM667 is a compromise amendment between myself and Senator Wishart. Thank you, Senator Wishart. And I urge you to vote yes on this amendment.

**FOLEY:** Thank you, Senator Lowe. Debate on the amendment? Senator Wishart.

**WISHART:** Thank you, Mr. President. I won't take long since Senator Lowe did a good job of explaining this, but I did want to get up and thank him and thank Chairman Briese and Senator Geist and Senator Cavanaugh for working with me on this legislation. I think this allows a lot of businesses to continue doing what they needed to do during the pandemic and offering a good consumer experience to Nebraskans. Thank you.

**FOLEY:** Thank you, Senator Wishart. Senator Briese.

**BRIESE:** Thank you-- thank you, Mr. President, and good afternoon, colleagues, I rise in support of AM667. Again, I want to-- I want to thank the committee for its work on this issue and I want to thank Senator Lowe, Senator Geist, Senator Wishart, and Senator Cavanaugh for working together to put the final piece in place here. LB274 was a package put together to help our business community, in particular, our small businesses, and it addresses the local control issue brought up by Senator Cavanaugh, this amendment does, and I think this amendment incorporating part of Senator Wishart's LB295 is the final piece of what I think is a good package and it improves the package, and I would urge your support. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Briese. Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. And again, I rise in support of AM667, and I appreciate the work of everyone on this, and I appreciate Senator Lowe in particular on this amendment, making those other changes that are different than the other amendment that also addressed some other concerns I had, but-- and I just want to make sure that-- point out the-- the local control aspect of this that this

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

is-- allows for notice and the opportunity for comment. It does not-- going to guarantee comment. People are going to have to take the initiative themselves and I just wanted to make sure. I talked with the Liquor Control Commission about these two amendments. They're going to require on the renewals, the application will have a box that will be checked, then the Liquor Control Commission will be notified and they will notify the cities, and then they will-- the cities will be required to follow their statutory obligation for notice. And cities can go beyond the-- that publication requirement that Senator Lowe discussed, which the city of Omaha does on new applications, not necessarily renewals, but there will be maybe some required effort, a little extra effort by individuals in the community to make sure they stay on top of this. I've talked with some of the stakeholders who have these concerns, at least as it pertains to Omaha, and told them that I will help them work through that in Omaha. And I just wanted to make sure that we understand this is-- is a good solution because it actually solves those problems. It is not a free pass to the companies and it's not a-- or to the businesses and it's not a free pass to the-- the community members. People do have to take some additional effort, but this is a very nice solution, solves the problems, and will allow people to participate in this program. And so I ask for your-- your green vote on AM667 and the underlying LB274.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. Good afternoon. I seen this-- this is similar to what Senator Wishart had earlier and I was wondering if Senator Lowe would yield to a question or two.

**FOLEY:** Senator Lowe, would you yield, please?

**LOWE:** Yes, I would.

**ERDMAN:** Senator Lowe, I read the amendment. It said that the alcohol can be purchased by someone 20 years-- 21 years or older, placed in the most rear seat or in the trunk of the vehicle. Is that correct?

**LOWE:** That's correct.

**ERDMAN:** So when that alcohol is placed in the car, it has to be placed there by somebody 21 years old?

**LOWE:** As I recall, with the laws of the Liquor Commission, you must be 21 years of age to serve, so, yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**ERDMAN:** So is-- is there a provision for the person placing the alcohol in the vehicle to check the ID of that person driving to make sure they're 21?

**LOWE:** It would be-- yes, at the time the alcohol is given to somebody, that person must check the ID if they have any thought that they may be a minor, and that goes along with all liquor sales.

**ERDMAN:** OK, I've been at some of those grocery stores where they place food in cars, and several times I've seen young people that I would guess weren't 21 years old placing the groceries in the vehicle, so that would eliminate those young people from placing that order in the car, if it had alcohol in it?

**LOWE:** That-- that should eliminate those people, that it should be done by somebody 21 years of age or older.

**ERDMAN:** So then this very well could eliminate a young person from being a person that works to put groceries in a vehicle. Would you agree?

**LOWE:** It may reduce his workload--

**ERDMAN:** OK.

**LOWE:** --or her.

**ERDMAN:** OK, I understand that. Yeah, you know, it-- it's amazing. That's all I have, John. Thank you, Senator Lowe. It's-- it's amazing to see what lengths we will go to, to make sure people can purchase alcohol on the go. So you put it behind the furthest back seat or in the trunk and the person driving can sure stop and move it to the front seat, and so I-- I don't understand the necessity to do this. This looks peculiar to me. I will not be supporting AM667. Thank you.

**HILGERS:** Thank you, Senator Lowe and Senator Erdman. Senator Groene, you are recognized.

**GROENE:** Thank you. I supported LB274 as written, but I-- if AM667 is adopted, I-- I can no longer support it. Senator Lowe, since this is in your name, would you answer a question?

**HILGERS:** Senator Lowe, would you yield?

**LOWE:** Yes, I will.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**GROENE:** Can you define what "the alcohol liquor is sold along with food" implies?

**LOWE:** Well, it could be anything from driving up to a Casey's gas station and you've ordered a pizza and you get a six-pack to go.

**GROENE:** All right. Thank you. Thank you. So that's kind of funny language because I don't know of a liquor store that doesn't sell a candy bar or a bag of chips. So really, it's just a catch-all. It's basically Senator Wishart's bill. So do you have to, if you buy-- go buy a jug of vodka, do you have to buy a bag of chips when you buy it, or-- or can you just buy the vodka or do you have to-- or does the store just have to sell a-- have a bag of chips for sale in the front end of it? I don't-- this, to me, is just-- you can go up through a driver-- liquor store and you can buy whatever you want and they're going to put it in the trunk. I-- I just don't agree with drive-up purchases of liquor. If this said grocery store, yeah, I'd probably went along with it. But this is just a way around to say that a liquor store in Gordon, Nebraska, where we ran them out of Whiteclay, can now sell liquor in the trunk, somebody who has a drinking problem. I just absolutely can't support this. So as long as this-- if this amendment is adopted, I-- I'm sorry, Senator Geist and Senator Lowe, I-- I can't support the bill. But prior to that, I supported everything you did. Thank you.

**HILGERS:** Thank you, Senator Lowe and Senator Groene. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. Speaker. To respond to the conversation and the questions that Senator Erdman has, in Nebraska, of course, you have to be 19 to serve alcohol, and that also applies when you're in a restaurant or in a grocery store. I'm sure many of us have been in the grocery store before where we were buying some beer, some wine, and the checker, who is maybe 16 or 17 or 18 years old, had to call someone else to come and complete the checkout so that you could buy the alcohol that you're purchasing, and that's just according to our-- our state law here and federal law. I appreciate this amendment and I appreciate Senator Lowe working with Senator Wishart so that we can take this policy that we've basically tested in Nebraska over the last year of having sealed-container, carry-away alcohol and cocktails, along with take-out food that we get from our local businesses. This is certainly something that I've taken advantage of in my district and throughout Omaha and Lincoln over the past year, because, as many people know who know me, I do not cook. And so this last year has been really, really hard on me, and especially my daughter, who has had to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

eat a lot of my cooking in the last year. So being able to get carry-out and then also pick up a cocktail has been a really nice thing. And we also saw over the past year that in the time we had to kind of test this policy out, we did not see an increase in fatalities from drunk driving, that kind of thing. And I appreciate that this amendment has specific protections in it to prevent intoxicated driving, which, of course, is still illegal under this amendment and under this law, by making sure that those alcohol purchases are put in the trunk or in the back seat when there's not other passengers in the car. To me, this is operationally, practically, no different from going inside a liquor store and getting your six-pack and putting it in your trunk, which we would do before the pandemic. But over the past year with the pandemic, we've seen that getting sealed-container alcoholic beverages, putting them in your car and taking them home, it hasn't had a detrimental effect to Nebraskans or to motorists, and it has had a great impact on our local businesses. And we want to support those businesses that have been hit so hard in the past year. This is obviously a business model that's been working for them and when we pass this bill, I will also continue to patronize these businesses and get my sealed-container cocktails to go because they're great. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Hunt. Senator Geist, you're recognized.

**GEIST:** Yes, Mr. Speaker, I was just going to stand up and let Senator Erdman know-- I believe he's already been informed about 15 times-- that it is the age of 19 to-- for a young person to put groceries in a car and serve the alcohol in the trunk of the car, 21 if you want to purchase, but 19 to sell. So that's all I had, Mr. President. Thank you.

**HILGERS:** Thank you, Senator Geist. Senator Erdman, you are recognized.

**ERDMAN:** Thank you, Mr. Speaker. I just want to make sure that everyone is clear on this. I got the message. Yeah, you can be 19 and serve alcohol. I got it. Thank you.

**HILGERS:** Thank you, Senator Erdman. Senator Lowe, you are recognized.

**LOWE:** Thank you, Mr. Speaker. This has been a good communication on this. I appreciate everybody's help on this. Senator Wishart's original bill had it so that the alcohol could be delivered through a window and directly to the driver, so this takes it away from that and places it behind the last seat that-- in the vehicle. It makes it safer. The driver has to make a-- an effort in order to get that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

alcohol, so it-- it-- it is about as safe as you can get. It would be basically no different than carrying that six-pack out of the store and placing it in the seat behind. So I appreciate this discussion. This is a good amendment. So thank you very much, Mr. Speaker.

**HILGERS:** Thank you, Senator Lowe. Seeing no one else in the queue, Senator Lowe, you're recognized to close. Senator Lowe waives closing. Question before the body is the adoption of AM667. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 36 ayes, 1 nay, Mr. President, on the adoption of Senator Lowe's amendment.

**HILGERS:** AM667 is adopted. Mr. Clerk for an amendment.

**CLERK:** Senator Hilkemann would move to amend, AM646.

**HILGERS:** Senate Hilkemann, you are recognized to open on AM646.

**HILKEMANN:** Thank you, Mr. Speaker. This is a simple amendment. It restores to the current rate taxation for liquor and spirits, instead of the proposal in this bill which is actually lowering the rate on liquor and spirits. We're simply changing the language, substitute the production of these ready-to-drink cocktails, which-- which was at \$3.75 per gallon. We turned it to a preferred rate of \$0.95 cents per gallon. Lower alcohol taxes lead to more excessive drinking and the associated harms with that. Our state does not tax alcohol based on the amount of alcohol in a drink but, instead, on the type of alcohol. Based on the fiscal note for a similar provision that would have reduced this rate to \$0.31, this has a substantial \$5 million loss in revenue to the state of Nebraska. If anything, we ought to be increasing the rate on alcohol, not decreasing the tax on alcohol. Every year, we have a bill that's brought into this Legislature to raise the cost of the tax on cigarettes. It's often-- it's oftentimes brought in behest of the Cancer Society. We don't bring that bill, or it hasn't it been brought, in order to increase revenue. It is brought to try to reduce the number of people from smoking. Well, this is a very similar situation. We are lowering the cost on-- on alcohol. I think that's a bad public health policy, and so I offer this amendment which would simply restore the rate that we normally charge for alcohol. I don't know how long this debate is going on. There's a lot of information that I am going to be sharing with you this afternoon. I'd ask you to keep an open mind about this. Over the entire last year, we were told that we needed to listen to the science regarding

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

COVID. Yesterday in this body, we were told to listen to the science about global warming. Today, I want to ask you to listen about the science of the effect of lowering the tax on alcohol. All of the data that I will be sharing with you today comes directly from the CDC or the National Institutes of Health or the American Journal of Public Health. I ask that you support returning the-- this amendment, which keeps the tax rate on alcohol at its present levels, and not reduce the cost of alcohol, the-- the tax on alcohol. Thank you, Mr. Speaker.

**HILGERS:** Thank you-- thank you, Senator Hilkemann. Debate is now open on AM646. Senator Briese, you're recognized.

**BRIESE:** Thank you, Mr. President, and good afternoon, colleagues. I-- I rise in opposition to AM646 to LB274, which is a committee priority bill. But I first want to thank Senator Hilkemann for sharing his thoughts and his concerns with us. And, you know, I appreciate the conversation and appreciate him sharing some of those thoughts with us. But I want to thank the-- first thank the committee for putting together the original package. This package, LB274, is a combination of about four bills put together as a pro-growth, pro-small business package. And I note that there was no opposition testimony to this portion of the bill, save for, I believe, one-- maybe one letter in opposition. And I do note that the committee, after considerable discussion and considerable back-and-forth, put this tax at \$0.95 cents. The bill was introduced at \$0.31 cents. We thought \$0.95 was probably more appropriate. There was testimony here that the ready-to-drink cocktail market is the fastest-growing market in the industry. We heard testimony that this bill could help jump-start this industry in Nebraska. We heard from a Nebraska business that they wanted to expand their opposit-- operation to include manufacture of these types of drinks, but that the current tax on these drinks, which is \$3.75 a gallon, was holding them back. We heard testimony that much of this product would be produced at 5 to 6 percent alcohol by volume. The underlying bill would have reduced the tax to \$0.31 cents on these products, up to 12.5 percent alcohol by volume. Again, we as a committee raised it to \$0.95. Senator Hilkemann's AM646 would have us tax these drinks, many of which would be produced at 5 to 6 percent alcohol on up to 12.5 percent alcohol, at the same rate as something that's 40 percent alcohol. And that doesn't really make sense to me, and I don't think it made much sense to the committee. And that's probably why we put it at \$0.95. And we voted 8 to 0, voted unanimously to attach it to this bill. And again, I want to thank Senator Hilkemann for expressing his concerns here, and I appreciate him sharing his thoughts with us on this, but I need to disagree with him on this amendment. This amendment, AM646, would hurt some of our

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

small businesses, and I would urge your opposition. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese. Senator Kolterman, you're recognized.

**KOLTERMAN:** Thank you, Mr. President. Senator Hilkemann had asked me for some time, so I'll yield my time to him. Thank you.

**HILGERS:** Senator Hilkemann, 4:50.

**HILKEMANN:** Thank you, Senator Kolterman. Again, I want to emphasize that we are lowering the cost by lowering the tax on alcohol, and I would actually say we should be doing exactly the opposite. Every public health organization recommend-- should-- is recommending that we should be increasing the tax on alcohol, not reducing it. And I am talking about organizations such as the American Medical Association, American Public Health Association, the American Society of Clinical Oncology, the Community Preventive Services Task Force, the National Academies of Science, Engineering and Medicine, the Non-Communicable Diseases Alliance and the World Health Organizations. Alcohol abuse is a huge public health issue. And whether you're getting it in a little can or whether you're getting it in a-- in a-- in a large-- when you-- a container, we have lowered the cost of hard liquor by lowering this-- the tax on hard liquor. You know, Nebraska does not do real well when you look at its national standards. For example, Nebraska ranks as the fifth worst state in terms of binge drinking, with 20, almost 21 percent of the adults binge drinking. In two of our communities, Lincoln and Omaha, they ranked in the top 25 of the worst drinking cities in the-- in the country. That's according to the CDC. Nebraska ranks as the second worst in terms of self-reported drinking and driving, with nearly 1,000 episodes per 1,000 population; during a period of 2015 to 2019, an average of 69 alcohol-related traffic fatalities occurred each year due to a drunk driver. What is the cost of drunk driving to Nebraskans? I would say to you that it is a cost to absolutely every member here in this body. Every drunk-driving accident causes an increase in your automobile insurance. Every alcohol-related health issue that comes is figured in and it's a cost-- increased cost to your insurance, health insurance premium. And I doubt that any senator here has not had some personal loss of people drunk-- driving while intoxicated. It's a huge cost to society. There have been studies done--

**HILGERS:** One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**HILKEMANN:** --published in the American Public Health Journal, that have concluded that if we were to actually double the alcohol tax, it would reduce alcohol-related mortality by as much as 35 percent, our traffic-crash deaths by 11 percent, STDs by 6 percent, and violence by 2 percent. It is a huge issue. Is this just a study? I can tell you that after the alcohol tax was increased in Illinois in 2009, fatal alcohol-related motorcycle-- or motor vehicle crashes decreased by 9.9 per month, a 26 percent reduction.

**HILGERS:** Time, Senator. That's time.

**HILKEMANN:** Thank you.

**HILGERS:** Thank you, Senator Hilkemann and Senator Kolterman. Senator Vargas, you're recognized.

**VARGAS:** Thank you very much, and I'll be brief. And I-- I appreciate the dialogue and thank-- thank you, Senator Hilkemann. I know we had-- you brought some of these points up in the first round, and I just wanted to react. I didn't get to do that in the first round. I do not support AM646. It would repeal my bill, LB578. I do want to thank Senator Lowe, Chairman Briese, and members of the General Affairs Committee for including this as a part of the priority and a part of this package. This is a very simple bill. It is meant to spur and support our small and emerging businesses. To answer just a few of the questions that were brought up, there were some questions about the revenue loss. The original revenue loss was based off of the original bill. This bill is at \$0.95, not the original, which was lower. As a result, it's going to be less revenue loss. The other aspect of revenue gained, which is not in the fiscal note, is going to be from this market of these mixed ready-to-drink cocktails in a can. This market is an emerging market and other states have done what we're doing right now to make it a larger market for people to be able to get into. Right now, the ready-to-drink cocktail market size worth is about \$1.63 billion by 2027. And so we're trying to get ahead of the game here and be supportive of small and emerging businesses, which is why the fiscal note does not rec-- you know, recognize that additional growth that we're going to see in the coming years. So I ask you to vote against AM646 and to vote the underlying bill, LB674-- or LB274. It is a bill that came out of the committee unanimous and had no opposition testimony and will be good for small businesses and also provide some parity and fairness with the other different taxing alcohols that exist in statute. Thank you very much.

**HILGERS:** Thank you, Senator Vargas. Senator Dorn, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**DORN:** Thank you, Mr. Speaker. When-- when this bill was up before, there was some discussion on this a little bit. I didn't think it got discussed, or I-- at least, I didn't understand it the best of the difference in the tax and the revenue. I do very much appreciate Senator Briese, his explanation, and Senator Vargas, his explanation also. But would Senator Vargas yield to a question?

**HILGERS:** Senator Vargas, would you yield?

**VARGAS:** Yes, I would.

**DORN:** I think you just said-- I talked to you a little bit earlier about, I guess, the loss of revenue. And you said the original fiscal bill then now is not as large of a revenue decrease as it showed because they changed the rate.

**VARGAS:** Correct, yes. Since we changed it to \$0.95, it's actually not an accurate fiscal note, but it is some revenue that's going to be lost, but it will be made up in this new market being expanded into, like other states have seen.

**DORN:** Well, and if you look further down on the revenue note, it shows that the first year it does decrease it by the-- kind of the amount talked. But in year three and four, a lot of this will be made back up. But explain the ready-to-drink part a little bit. I think part of this bill has incorporated in it, I call it, the take-home, ready-to-drink part of it. Explain that and between the-- what-- you mentioned spirits or whatever. Explain that part of what is actually being taxed here, what-- what-- I call it the container, maybe, even.

**VARGAS:** Yeah. Yeah. The best way I can explain it, and I don't like using props, but I do have a can in my hand. So essentially this can, if this were filled with vodka, is going to be taxed at the same rate as this can if it was filled with a mixed cocktail drink, let's say like a Moscow Mule. And so this creates a new category that creates fairness and parity with how we tax other entities. So this is probably-- a mixed cocktail drink in a can is going to be taxed at the same rate as wine, and wine has a very similar alcohol-by-volume content. And so that's the reason why we-- this was made out of committee this way with the \$0.95. And so that's the easiest way I can think about it. We wouldn't want to tax a can full of vodka the same way we tax a can full of a mixed-- mixed drink with a significantly less percentage of alcohol in that drink.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**DORN:** Thank you for that. Thank you for the explanation, Senator Vargas, and I will yield my time.

**HILGERS:** Thank you, Senator Vargas and Senator Dorn. Senator Hilkemann, you're recognized.

**HILKEMANN:** Thank you, Mr. Speaker. I wanted-- I want to address just this issue itself. I'm-- I am going to be using data that was provided by Dr. Timothy Naimi, who is a physician who graduated from Harvard University and he has his master's in public health from Boston University, presently is at the University of Victoria. And under our current rate of \$3.75 per gallon, the cost of a single serving of spirits, or like 1.5 ounces which would be in a can like that, would include about \$0.04 of taxes, which means for a 12-ounce can, we're looking at about \$0.35 cents of taxes for-- for that particular can. With this particular rate that we are-- that is in this bill, we're changing that tax so that we would only be getting about \$0.09 of tax from that, rather than the \$0.35, so that's about a \$0.26 difference. And so there's definitely a difference in what this is going to-- what this is going to cost. Let me-- let me-- let me re-- share with you data from the Brookings Institute. They did a report, and this-- this is not one of these issues that has not been done before. Our federal government actually lowered the excise tax back in 2017, 2018. And there's some studies that have been done regarding this. The fact-- this legislation that was passed caused between 280 to 600 additional motor vehicle deaths each year, alcohol-related deaths annually. Despite this bill, what they call the craft beverage producers bill, and they talked about the benefits that we're going to have for the small craft brewers, do you know who got the biggest benefit out of this tax decrease that the federal government did? It was the large industry of spirits. They were the ones who got the biggest tax break of this. I'm all-- I understand trying to give the small brewers an opportunity. But I also believe it is poor-- it is bad public policy for us to be lowering the tax on spirits and alcohol, and that's what this bill in its present form does. I am simply asking us to amend it so that it does not. We're not raising the tax on alcohol. We are simply going to maintain our present rate and not be lowering the tax on alcohol. What is the right tax rate on alcohol? What is the right rate on alcohol? One of the things that they do-- the-- the Brookings Institute brought out was that we need--

**HILGERS:** One minute.

**HILKEMANN:** --to consider all of the-- did you say one minute?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**HILGERS:** One minute, yes, sir.

**HILKEMANN:** OK. I think I'll-- I-- I will wait to finish up this Brookings Institute until the next time on-- I'm on the mike. Thank you.

**HILGERS:** Thank you, Senator Hilkemann. Senator McDonnell, you're recognized.

**McDONNELL:** Thank you, Mr. President. I rise in support of LB274 and yield the remainder of my time to Senator Hilkemann. Thank you.

**HILGERS:** Senator Hilkemann, 4:52.

**HILKEMANN:** Thank you, Senator McDonnell. Let me continue on with this report. The biggest problem, and I refer to these as externalities-- in other words, what are the-- when-- when-- this report is talking about, what are the things-- the-- the-- basically, the unintended consequences that happen when we make some of our laws? How does this affect things down the line? There's more to it than just the cost of the tax itself. It's, what does it do to the other goods and services that we have here? By lowering the cost of alcohol, the tax on alcohol, consumption will increase. If we increase the consumption, we are going to be finding an increase in the number of people driving while intoxicated. We're going to-- there is a huge cost to society for alcohol. It is certainly the-- it is the third number-one preventable healthcare issue, the-- the-- the use of--abuse of alcohol. I really-- I can't emphasize enough the-- the-- the-- the cost, the human cost to it, certainly of our health, liver problems, cancer problems, the-- again, the number of falls, the injuries that cause from people who are intoxicated, driving while intoxicated. A few years ago there was a-- there was a move to increase the-- the alcohol tax here in the state of Nebraska and that, of course, did not go. We have not increased the cost of alcohol, the tax on alcohol. I think 1991 was the last time. Just from 1991 till today, if you just take the-- the-- the cost of inflation, that tax should probably be 30 or 40 percent higher than it is at the present time if we were to keep it even at the-- at the cost of-- of the inflationary cost of it. Underage drinking in the state of Nebraska alone cost the citizens of Nebraska about \$324 million in 2013 alone. A C-- a CDC study reports that in 2010, Nebraska's cost due to excessive alcohol consumption was \$1.16 billion, \$491 million of that which was paid for by the government. In contrast-- that's what the government's cost was, was 491. Do you know what we got in excise tax? Twenty-seven million dollars.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**HILGERS:** One minute.

**HILKEMANN:** More than 95,000 deaths are caused by the excessive alcohol use each year Twenty percent-- this is an interesting-- 20 percent of the drinkers consume 85 percent of all the alcoholic beverages. The alcohol tax increase impact on the excessive drinkers alone would make a tremendous change in the socioeconomic cost to our communities. One of the things that we need to take into consideration is how the alcohol tax--

**HILGERS:** Time, Senator. Thank you, Senator Hilkemann and Senator McDonnell. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. Would Senator Briese yield to a question?

**HILGERS:** Senator Briese, would you yield?

**BRIESE:** Yes.

**CLEMENTS:** On-- this amendment is-- excuse me-- referring to line 22 on page 1, and it-- which says the taxes imposed on the privilege of engaging in business as a manufacturer or as a wholesaler of ready-to-drink cocktails at a rate of \$0.95 cents per gallon. Is that the number of gallons of just alcohol or number of gallons in the whole drink?

**BRIESE:** We tax alcohol based on the entire product, based on the mix itself. For example, we tax beer at \$0.31 per gallon of the beer itself, and that might range from 3 percent to 10 percent alcohol by volume. Regardless of that, we tax it at \$0.31, wine at \$0.95 cents, regardless of the amount of alcohol in there, and distilled spirits at \$3.75, which typically are 40 percent alcohol by volume. And what we're referring to there on these products, this would be the entire mix, regardless of how much alcohol is in there, which is oftentimes going to be 5 to 6 percent, up to 12 percent. So we're talking about per gallon of mixture, yes.

**CLEMENTS:** Thank you. I was confused about that earlier. I thought we were only going to tax the small amount, maybe 2 ounces of real alcohol in it, but the orange juice or other mixer, soda, is going to be-- the soda in that drink is being taxed at the \$0.95 rate per gallon. Is that correct?

**BRIESE:** What was that again, sir?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**CLEMENTS:** The-- say they're mixing it with soda, 2 ounces of soda in 10 ounces-- or 10 ounces of soda, 2 ounces of alcohol. Is the soda being taxed at \$0.95?

**BRIESE:** Yes, if it's part of that ready to-- ready-to-drink cocktail, yes.

**CLEMENTS:** Thank you. I was figuring a gallon has 128 ounces in it and a 12-ounce drink-- 12 ounces in a drink would give you 10 drinks in a gallon. And if you're at \$3.75 cents a gallon, divide by ten, you're going to have 37.5 per drink. And if it's \$0.95 cents per gallon, it's \$0.09 per drink. Now one more question, Senator Briese: at a bar, how-- what is being taxed and the alcohol in a mixed drink?

**BRIESE:** In a mix-- there, the alcohol itself or the distilled spirit that's put into that drink would be subject to that tax, be taxed, attributable to the man-- or paid by the manufacturer/distributor-- distributor, excuse me.

**CLEMENTS:** Right. They only pay on the actual spirits--

**BRIESE:** Right.

**CLEMENTS:** --and in the bar do not--

**BRIESE:** Right.

**CLEMENTS:** --pay on the soda that's in it.

**BRIESE:** Correct, yes, yes.

**CLEMENTS:** So therefore, if they're \$3.75 for the hard liquor and it's 2 ounces of liquor, that's-- you could get 64 drinks in a gallon and at \$3.75 divided by 64, it would give you \$0.06 per drink is what it is at the bar. And these ready-to-drink are going to be about \$0.09 per drink of tax with the \$0.95 rate, so I think it-- the tax actually is a little higher when you figure--

**HILGERS:** One minute.

**CLEMENTS:** --that they are paying on the entire mixture of the entire 12 ounces, instead of in the bar just 2 ounces. And so I had been in support of the amendment, but now I do not support the amendment, especially when you say that if the alcohol content goes over 12.5 percent, that it is going to be a \$3.75 rate. Is that correct?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

**BRIESE:** [RECORDER MALFUNCTION]

**CLEMENTS:** Oh, Senator Briese-- well, he said yes.

**BRIESE:** Yes.

**CLEMENTS:** Thank you, Senator Briese. So I do not support AM646. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese and Senator Clements. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Mr. President. Thank you, Senator Hilkemann, for bringing the amendment. I appreciate what you're trying to do here, but I stand opposed to the amendment. And I serve on the General Affairs Committee, as do seven other senators here, and we spent a lot of time discussing this. What this is part of was an effort to grow the distilled, mixed-drink spirits industry in the state of Nebraska. Right now, they're at a tremendous disadvantage. So let's go back to that can of Coke. And if you want to mix Jack and Coke, you would use 1.45 ounces of Jack and the balance would be Coke. Today, if you manufacture that in Nebraska, you would get taxed \$3.75 a gallon, making us very uncompetitive. When Senator Vargas and these other industries came before us, they wanted that dropped to \$0.31, which was the beer rate. We discussed that and we came to an agreement and decided to use the \$0.95, which is the wine rate. It-- it didn't satisfy everybody, but we thought it was a very good compromise because such a large part of the product they were going to manufacture is nonalcoholic in nature. And-- and I appreciate Senator Clements, all the math that he did. If you want further clarification, you can go back and talk to him on specifically what we tax and at-- at what rate and figure it out on a per-gallon basis. It-- it does get a little-- a little mixed up in there. But I think that the committee did a good job on a compromise. It's more than the industry wanted and I think it's-- it's low enough now that this industry will start to thrive in Nebraska. You're seeing articles in the paper every week about distilleries. We've got some very good distilleries in the state and this is the next logical step for them. So once again, I am opposed to AM646 and I am for LB274. Thank you.

**HILGERS:** Thank you, Senator Brandt. Mr. Clerk for items.

**CLERK:** Yes, Mr. President, I do. Thank you. Amendments to be printed: Senator Groene to LB154; Senator Lowe-- Lowe to LB274A; Senator Arch to LB428. Mr. President, Senator Halloran would move the legislative

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 31, 2021

bill, LR14 be placed on General File pursuant to Rule 3, Section 20(b). That'll be laid over. Communication from the Governor to the Clerk: Engrossed LB14, LB35, LB66, LB93, LB94, LB113, LB113A, LB148, LB163, LB177, LB337, LB368, LB369, and LB509, as well as LB297 and LB389, were received in my office on March 25. These bills were signed and delivered to the Secretary of State on March 31. Mr. President, Senator Brandt would like to add his name to LB366 as cointroducer. Senator Groene would move to adjourn the body until Thursday, April 1, 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.