

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

**WALZ:** Thank you and good morning. You are the good shepherd who leaves the 99 to go after the one lost sheep. Lord, I am humbled that you would pursue me, that you never give up on me, and that you are able to extend grace again and again and again. I know I don't deserve the unconditional love and forgiveness that you freely give me. After all the mistakes I made in my life you continue to pursue me, to save me, and to forgive me. Our world is filled with people who are afraid to receive forgiveness, feeling that they can never be worthy enough of your love, that they could never do enough. And at the same time, our world is filled with people who are eager and ready to receive the gift of forgiveness but are reluctant to extend that forgiveness to others. It's bitterness that becomes a barrier and it's destructive. This Easter season, I want to thank you for your gift of forgiveness. Thank you for loving all of us enough to send your son to earth to experience the most unimaginable pain so that we could be forgiven and learn to forgive. Your grace comes in spite of our faults and our failures. Lord, help me demonstrate unconditional love to others, even those who hurt me, and help me to see others through your eyes. Amen.

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

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

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

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

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

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

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

**CLERK:** I have no messages, reports, nor announcements this morning, Mr. President.

**KELLY:** Senator Lowe would like to recognize the physician of the day, Dr. John Jacobsen of Kearney. Please stand and be recognized by your Nebraska Legislature. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR76 and LR77. Mr. Clerk, for items.

**CLERK:** Mr. President, first item on the agenda, LB276 on Select File. First of all, Senator, I have E&R amendments.

**KELLY:** Senator Ballard, you're recognized for a motion.

**BALLARD:** Mr. President, I move the amendments to LB276 be adopted.

**KELLY:** You've heard the motion. All those in favor say aye. Those opposed nay. They are adopted. Mr. Clerk for motions.

**CLERK:** Mr. President, Senator Hunt would move to bracket LB276. Senator Machaela Cavanaugh, I have the understanding that you are authorized to open on that motion.

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

**M. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. LB276 is Senator Wishart's bill, the Community Behavioral Health Clinic Act and I'm wondering if she would like to speak on it? Would Senator Wishart yield to a question?

**KELLY:** Senator Wishart, will you yield?

**WISHART:** Yes, I'd be happy to.

**M. CAVANAUGH:** Would you like to tell us what your bill is?

**WISHART:** Sure. I can give everybody an update on my legislation. So LB276, as you recall, is a bill that has wide support, it would put in place CCBHC system. So it's basically a holistic approach to supporting behavioral and, and mental healthcare in the state. This is

not a new system, it has been piloted in Nebraska and across the country and had seen great effect in terms of reduced emergency room visits, reduced incarceration rates, and so this is a much needed program for the state of Nebraska. And I feel very grateful that it has the support from the Department of Health and Human Services, from the Governor's Office, and had the unanimous support from this legislative body on first round of debate. So I encourage you to vote in, in support of LB276. Thank you.

**M. CAVANAUGH:** Thank you, Senator Hunt. Thank you, Senator Hunt, for the time. Thank you, Senator Wishart, for the reminder of what this important piece of legislation does. So, yeah, LB276 increases access to mental health treatment, expands capacity for comprehensive mental health services, and I think this is a really, really important subject for us as a body to be discussing. And it moved on General File with, I don't remember the vote, but I think it was pretty well-received, not sure that anybody voted in opposition to it. I do remember this hearing. It was in late February and I was not feeling well, but the Governor had shown up to testify in support of the bill and so I wanted to make sure that I showed up to the committee hearing. And I had a, I had a good conversation with the Governor at that time about comprehensive approach to mental health and I really appreciate that this administration has made mental health a priority. And I think as it relates to transgendered youth and their mental health, bills like this are really, really important. So I want to talk about mental health and youth and adolescence. As a parent of a teen or preteen knows the most common challenges that you have with mental health are generalized anxiety, which is excessive worry about everyday matters or previously routine situations, social phobias like severe feelings of self-consciousness, insecurity in social settings, depression which persistent feelings of sadness, anxiety, anger, or emptiness. Some of these experiences are standard and typical for youth, but when they begin to significantly impact children's lives and result in things like poor grades, missing school, absence of friends, and other developments, parents can help. They can do so by consulting with doctors or therapists. Generally, there are a range of options for treating mental illness in teens that include simplifying identifying stressors-- simply identifying stressors such as not getting enough sleep, skipping meals, universal school meals plug here, generally lacking a day-to-day routine and helping to remedy

them, professional counseling which can be paired with medications, prescribing psychiatric medications typically used for depression, anxiety, and social phobias. I will say that when it comes to just the, the very basic, the day-to-day routine-- now I don't have teenagers yet, though it does feel like my kids are teenagers since they were toddlers, but, but routine is what I have found, what my husband and I have found to be really important for especially our middle kid and as most people can imagine the schedule of being in the Legislature does not lend itself greatly to routine so we have to work really hard on maintaining a routine. And when we don't have a routine, it is very stressful for her and, and we-- her behavior reflects that. She really has more outbursts and clear anxiety and so maintaining a routine is really important. My kids are on spring break this week and so it has become-- my, my husband is a single parent all week and maintaining their routine and also creating a routine when they're out of school so I'm very, very grateful to him for everything he is doing this week and it is way harder than standing up here and talking for hours on end. Parenting, I think, is a very rewarding but also a very difficult job and he is doing it on his own and it means the world to me that he is. Mental illness in teens is more common than people think, but it's also very treatable. Mental illness is preventable. I want to suggest to those who are listening that you should talk to your teen if you're concerned. One group of teens who experience-- one group of teens who experience this is transgender teens. Some studies show that transgender children are at least three times as likely as their cisgender peers to experience depression, anxiety, and neurodevelopmental disorders, including ADHD. This might be due to stigma, familial rejection, discrimination, or gender dysphoria. Mental health experts all agree that providing appropriate mental health supports to this vulnerable group is paramount. A 2022 study from Stanford University School of Medicine showed that starting gender-affirming hormone treatment is linked to improved mental health for trans youth rather than waiting for adulthood. I have an article-- how much time do I have, Mr. President?

**KELLY:** 2:30.

**M. CAVANAUGH:** OK. I have an article here that I will share on my next time. It is called "Better mental health found among transgender people who started hormones as teens" and it's from Stanford Medicine. I think as we could pretty fairly extrapolate, living as your

authentic self at a younger age is going to lead to better mental well-being no matter what. Living as your authentic self and knowing who your authentic self is and living that way is going to yield better mental health results. So it's not surprising to find an article "Better mental health found among transgender people who started hormones as teens," because clearly living as your authentic self as a teen means that you started living who you are to the world at a younger age than as an adult. And I think that's a really important distinction because those teen years are when you are going out in the world, leaving home, and really developing--

**KELLY:** One minute.

**M. CAVANAUGH:** --thank you-- developing who you are to the community around you so having that opportunity to be fully embraced as who you are is going to yield to better mental health. I think that's true even if you're not transgendered, living, being accepted for who you are and living as you are is going to lead to better mental health. So I will dig into this article a little bit on my next time on the microphone. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Clements has a guest under the south balcony, Larry Peters of Lincoln. Please stand and be recognized by your Nebraska Legislature. Senator John Cavanaugh, you are recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. So I rise in support of LB276 and opposed to the bracket motion and just want to use this opportunity to talk about mental health as some more as well. I appreciate Senator Wishart's work on this bill and what this bill is intending to do. And when we talked about it on General File, talked a little bit about how individuals find themselves in the criminal justice system in a lot of different ways as a result of things they've done, either in service of their mental health issue or as a result of. And but one of the things didn't talk about last time was the issue of competency. So there's a lot of people who commit crimes for any number of reasons, but there are some who commit crimes because of an underlying mental health issue. And some of those mental health issues do not affect someone's competency and some of them do. And so what we say by competency we mean in the criminal justice system means that they are able, competent to aid in their own defense

and that they're able to understand and comprehend the charges against them. And so you have a lot of people who are mentally ill and that leads to them doing something often of some very serious crimes and they don't understand what the process is. They don't know understand who the lawyer is or their lawyer is, what their role is. They don't understand what the judge's role is or who the judge is or the prosecutor. They don't understand what the consequences could be of the trial. And so as a result of a lot of those things rooted from their mental health issue, they're unable to aid in their own defense and can often be found not competent to stand trial and so then they go through a process of attempting to restore competence and often get sent to the Lincoln Regional Center where they get evaluated and get treated. As I'm sure everybody here remembers, have quite a backlog at Lincoln Regional Center. We passed a bill last year that requires the state to reimburse the counties on a daily basis after someone's been on the waitlist for the Regional Center for more than, if I remember right, 100 days but might be 50. I should remember this it was Senator Matt Hansen's bill that then got integrated into one of my bills. And so we have such a backlog that the counties are basically housing people and our county jails end up becoming our biggest mental health provider in the county and in the state. And so all of these things are connected and a lot of them can be addressed more effectively with this type of early intervention that this bill is proposing that we undertake. And I think it's just good to kind of have that understanding of where that, that goes down the system and so when we have people who are on the waitlist to get into the Regional Center to be evaluated and treated, they're sitting in our county jails, which are taking up space and there may be a more higher cost to house there, they obviously are delaying their trial, which is meaning that they're being detained for longer and additionally ultimately putting off the justice that would be afforded by a resolution to a case and so we have all of those parts are a result of not investing enough in mental healthcare and access to mental health treatment, both long-term treatment and crisis treatments. So I think--

**KELLY:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President. So it's, it's really important to-- this bill is important because it's going to improve access to healthcare. It's going to get more services available on those earlier ends. And if we get earlier intervention for folks, maybe fewer people

would have issues. I don't know, maybe, Senator-- I see Senator Fredrickson, I think he's in the queue and maybe he can explain some of these issues better than I could. But you don't have exacerbated, exacerbated issues that then lead to needing even more intervention later. So just wanted to add that to the conversation. So, again, I'm in support of LB276. Thank you, Mr. President.

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

**FREDRICKSON:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. I rise today in continued very strong support of LB276. I'm grateful to Senator Wishart for all the work that she's done on this bill. I'm also really grateful to the behavioral health community. I know NABHO has been really involved in this and been strong proponents of this. And also grateful to the Governor for really prioritizing the behavioral health infrastructure in our state and especially in a way that I think could be really transformational and, of course, to the Speaker for prioritizing this. You know, just to kind of underscore what Senator Wishart was saying earlier, you know, as I will say, I think that having this type of infrastructure and this type of model in our state really, truly does have the potential to transform how we deliver behavioral health, really from like a payment and reimbursement perspective, but also from just a delivery perspective. So, you know, the CCBHC model is really, it's coordinated services, it's comprehensive services. And these are really, you know, evidence-based interventions. These are the ways that you can really have an impact on folks' lives and, and truly move the needle on, on people, on folks', you know, journey with, with, with, with their, with their treatment. So FQHCs have been extraordinarily transformational in our state from a, a physical health perspective, you know, you get affordable, high-quality primary care in those settings, really targeting underserved communities. So communities that are typically not getting the services that they need and that's really what we're going to be seeing with the CCBHCs from a behavioral health perspective. And I also wanted just to underscore, Senator Wishart briefly mentioned this when she was introducing the bill, but one of the most expensive aspects of mental health treatment that we see is emergency room visits and hospitalization. So we see that this really drives costs up. So if we are looking at this not just from a what's most effective clinically speaking, if we actually

look at this from a fiscal perspective, it's, it's really economically prudent for us to have this type of infrastructure in our state to reduce hospitalizations and to reduce ER visits. And actually, frankly, you know, there's certainly a time when hospitalization is indicated from a clinical perspective with behavioral health but hospitalization can oftentimes be over utilized in the mental health field. And part of that is perhaps due to, you know, I, I feel comfortable saying this as a clinician myself, but sometimes there's clinician anxiety about the safety of a patient and whether or not they would be safe outside of the hospital. And so to be clear, there are absolutely times when hospitalization is indicated and needed but, you know, sometimes that can be not the most therapeutic environment for a patient depending on what they're, what they're experiencing and what they're feeling so I really think that this has the potential to significantly improve mental health outcomes in our state. I am a strong, strong, strong supporter of this. I really encourage my colleagues to vote green on this bill to continue to get it over the finish line. And, again, want to express my gratitude to Senator Wishart for all of her work on this, to the Governor for his, his interest in this, and as well as the Speaker for making this a priority. Thank you, Mr. President.

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

**CONRAD:** Thank you, Mr. President. And good morning, colleagues. I rise in support of the underlying measure LB276 and in opposition to the bracket motion. I just wanted to add my voice to the chorus of thoughtful deliberation and debate this morning in regards to the importance of centering mental and behavioral healthcare in our state and embracing policies that help us to leverage additional funds and increase access to care all across the state. It was definitely a high point in terms of our wide-ranging and robust debate yesterday on a host of different topics but when Senator Fredrickson and Senator Brewer worked together to advance a, a critical piece about telehealth parity, I, I think that ties in as well. So I think along with Senator Wishart's bill, we're continuing to see progress in the right direction when it comes to elevating behavioral health and mental health, destigmatizing behavioral health and mental health, and recognizing the intersectionality of how untreated behavioral health and mental health impacts our workforce, impacts our schools, impacts



our families, impacts both rural and urban Nebraska is tied in with criminal justice issues and gun violence issues. So this seems to be such an important thread that flows through so many different policy areas that it's definitely worthy of additional debate and attention and advancing this measure and even more robust measures to ensure that our network of care is as robust as our citizens need it to be. And, you know, sometimes it's hard to get our head around how broad this issue or problem might be but according to the NAMI Nebraska, the National Association on Mental Illness, about one in five adults experience a mental illness each year. And in Nebraska, that equates to about 257-- 257,000 adults in Nebraska experiencing a mental health condition. They note for context that that's more than five times the population of Grand Island. So think about how many of our Nebraska neighbors in each of our districts across the state are in need of access to care. And we know that there are particularly acute needs for young Nebraskans who are experiencing increased anxiety and depression and mental health crises. The other thing that I wanted to make sure to point out at this opportunity was not only do we have our committee statements available to us for particularly for those of us who are not on the committee of jurisdiction to get kind of a quick thumbnail sketch about who the supporters are, who their opponents are, any committee amendments, kind of a, a nice rundown as we prepare for floor debate. And, again, I think it was particularly striking and important that Governor Pillen took time from his schedule to come and lend his support for Senator Wishart's bill. And along with the Department of Health and Human Services, a host of trusted mental health providers and community providers from Community Alliance, Lutheran Family Services, South Central Behavioral Sciences, CenterPointe, and the Nebraska Catholic Conference so that definitely tells you a lot at the outset about what a important bill this is, what an important bill this is and how broad and diverse the support is. Another facet that we have available to us in the Legislature, of course, is the new component for public comments for those that may not be able to come to the public hearing for a host of different--

**KELLY:** One minute.

**CONRAD:** --thank you, Mr. President-- for a host of different reasons, but they can still add their point of view and perspective. And I worked with my staff to print off the public comments for LB276 and I'd encourage you to take a peek at these as well. It is really

striking to see incredible advocacy from individual mental health providers, everyday citizens, members of our second house, and an incredibly broad and diverse set of stakeholders who usually don't find a lot of things to agree on coming together and saying the state should do more on mental health from the ACLU of Nebraska, to the Douglas County Sheriff's Office, to the Veterans Coalition, to the Nebraska Medical Association, to the Nebraska Counseling Association, former teachers. It is really an impressive set of advocates and individuals that have come together to support this commonsense measure and I just--

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

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

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

**DUNGAN:** Thank you, Mr. President. Good morning, colleagues. I rise today in favor of LB276 and I guess opposed to the, the bracket motion under the motion 436. I also want to thank Senator Wishart for her hard work on this. And, and I actually think that of all the bills we've been talking about thus far, this bill is probably going to have the closest correlation to some actual real effect on our criminal justice system in an immediate way. I, I know Senators Cavanaugh and Conrad were already talking about that, but I kind of wanted to pick up on where, where they left off with regards to how this is going to have a direct effect on our criminal justice system. When we had spoke on General File, I talked a little bit about my personal experiences as a public defender, having represented folks dealing with mental health issues or substance use disorder. And one of the things that we can, I think, all agree on is that those are major issues in our state that need to be addressed in, in an urgent and efficient way. Pretty much every single person that I represented and that others have represented who are in the criminal justice system are dealing with substantial mental health or substance use issues. And what this bill seeks to do, as I understand it, is create incentives and create this network, essentially, of these community behavioral health clinics that are going to better serve our populations. And in doing so, I think they're going to do a real number on reducing some of the criminal justice issues we're seeing. You know, one of the major

priorities that a lot of folks in our neighborhoods talk about is keeping our streets safe. Obviously, we think that's incredibly important. But I think oftentimes what that actually means is taking care of issues before they start. So when you're dealing with folks dealing with mental health issues, if we can provide resources prior to things hitting a crisis point, I spoke on General File about if people remember this person who was actually literally making a cry for help and would not actually get the services he needed until he was involved in the criminal justice system and that's a huge problem. So these centers will do a really good job, I think, of addressing a lot of those problems ahead of time. Senator Cavanaugh was speaking about competency, and it's something that we deal a lot with in the criminal justice system. And you have to differentiate competency from the legal definition of insanity and I think he's going to get more into that here in a little bit. But competency is literally just whether or not a defendant is legally competent to stand trial. And there's various factors that are, that are looked at in determining whether or not a client is competent to stand trial. A case called Guatney here in Nebraska is the, the case that oftentimes we look to for those various factors as to whether or not somebody is competent and it includes things like whether or not defendant has the sufficient mental capacity to appreciate the presence in relation to time, place, and things, whether or not they're able to assist in their defense, whether or not they understand the role of the parties involved, as in do they even understand whether or not a judge is a judge or is what's a prosecutor do? What's your defense attorney do? And if it's determined that a defendant is not sufficiently competent to stand trial, it's not just that the case goes away. What happens, which we've talked about here already, is that person gets put on a list to go to the Lincoln Regional Center in order to be restored to competency. Colleagues, I have personally represented people who have sat on that list waiting to go to the Regional Center for over 180 days. So that's 180 days that somebody has sat in the Lancaster County Jail. In this particular case, they were in solitary confinement, or seg, the entire time based on the severity of the mental health issues they were dealing with. So that's six months in segregation because the waiting list was too long. One thing that's been talked about is this idea of creating facilities that can actually do in-patient, or I'm sorry, out-- out-of-custody restoration so restoration of competency in the community. My belief is that if we support LB276,

we're going to create more facilities that potentially could speed up this process of restoration of competency by creating more facilities that can effectively help restore people in the community and provide the services they need to find themselves once again competent. And that's going to benefit us all in a number of ways. First of all, it's going to create people who are actually having their mental health and substance use disorder issues addressed, and that should always be our number one concern making sure--

**KELLY:** One minute.

**DUNGAN:** --thank you, Mr. President-- making sure people are safe, making sure people are dealing with their problems. That should always be our number one concern. But in addition to that, if we speed up this restoration process by encouraging more community-based restoration, what we're going to do is we're going to see reduced times on that waiting list. We're going to see reduced amount of people sitting in jails. We're going to see reduced cost to the state, we're going to see reduced cost to the county. And so there's sort of this outward rippling effect of LB276 on the criminal justice system that I think I'm probably going to talk about a little bit more because I think it's really important we highlight this. But I do support LB276 and I would encourage my colleagues to take a look at how this can affect our society as a larger whole and ensure that folks with mental health problems address their issues. Thank you, Mr. President.

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

**CONRAD:** Thank you, Mr. President, and good morning again, colleagues. I think I got a, a note from the Clerk that I wasn't quite close enough to the mike so hopefully we've, we've remedied that situation here so it's a little bit easier for the transcribers. But I just wanted to continue, I ran out of time in my last comments and really appreciate Senator John Cavanaugh and Senator Dungan's comments in regards to helping to connect the dot with some of the acute mental health needs and behavioral health needs that end up in the criminal justice system and how our existing infrastructure for care between the criminal justice system and the mental health system is inadequate and causing not only a great deal of headache and heartache and

challenge for frontline Corrections workers, but it's also causing, I think, significant human rights abuses for those that are incarcerated and suffering mental health conditions and unable to access treatment. But I just wanted to also continue to, to note some of the incredible comments that are on this bill from citizens across the state and I would be remiss if I didn't also note, of course, that AARP had weighed in on this in, in response to their members needs all across Nebraska with some incredible statistics, the Women's Health Initiative Advisory Council for Nebraska had weighed in, the OpenSky Institute, and then again medical professionals in their individual capacity from all across Nebraska providing really thoughtful commentary about their experiences teaching mental health professionals in Nebraska, treating Nebraskans with mental health conditions and it is no less than a treasure trove of incredible advocacy and information in this public comments component on this measure. So I know that it definitely helped to inform my preparation for taking up the bill and was a good reminder to in addition to all the streams of information we have coming in the text and the notes and the emails and the calls are all valuable and important and appreciated but the public comment component is something that's also accessible that has a, a significant amount of information and I'm glad to see the Legislature continually update some of its opportunities for the public to weigh in. I know that we're going to have hopefully some time this session in our remaining time together to talk about some criminal justice reform measures that may be emanating from the Judiciary Committee that Senator Wayne and Senator McKinney and, and others have been providing significant leadership on hearing those measures and moving them forward. And, of course, I think will have a significant amount of our debate in relation to the budget surrounding criminal justice policy and what that means for the bottom line. And I just want to forecast some of those connections in regards to this mental and behavioral health bill as well because any dollar that we can invest outside of a carceral system is going to improve our shared public safety goals, have a better return on investment for taxpayers, and have better outcomes for people that are in those systems. And as we start to think about the budget debates that are ahead of us, we know a couple of things to be true. Some recent reports have come back that show that Nebraska continues to be in such an exigent crisis when it comes to prison overcrowding, usually number one or number two in the country and has been for some

time with this significant overcrowding crisis in our state prison system that we're probably going to need to build at least one new massive new prison, if not two, if not two, colleagues. And the price tag on those measures are astounding just for the facilities. And when you look at the budget implications as well for the programs and services to support those facility expenditures you can--

**KELLY:** One minute.

**CONRAD:** --also-- thank you, Mr. President-- you can also see the Department of Corrections' budget just ballooning, just exploding at a rate higher than we see education and human services and infrastructure. And we have to chart a better course when it comes to addressing our shared public safety goals and investing in behavioral health and mental health and alternatives to incarceration is a key piece of that puzzle. Every single dollar, every single step we can take in that regard is going to save taxpayer money, is going to have better public safety outcomes, and is going to advance human rights and racial justice. So we really need to continue our collaborative approach, as evidenced in a Senator Wishart's bill that we've been talking about this session, and we need to, to carry that forward even into more robust solutions to address behavioral and mental health. Thank you, Mr. President.

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

**J. CAVANAUGH:** Thank you, Mr. President. So, again, I rise in support of LB276 and I just wanted to kind of piggyback on what Senator Conrad and Senator Dungan have been saying. And I did appreciate Senator Dungan's comments, you know, I think he put a fine point on some of the things I was talking about, about when somebody is not competent in the legal sense to stand trial and the, the point that he brought up that I don't think I addressed quite clearly was that when somebody is not competent, it doesn't mean that the case goes away, it means that it just sits out there until they can be restored to competency. And so that causes to have these cases that are just sort of hanging out there in limbo and they have check-in dates with the court and, and so the sooner we can get people into services, the sooner we can start making progress to the ultimate resolution of that case. And so that sort of allocation of resources to mental health programs is part

of judicial efficiency, is part of that part about, about justice and it's about resolution. But the other point that he brought up that I thought was particularly interesting and ties directly to this case is the opportunity for out-of-custody restoration. And so, you know, a lot of us immediately when we think about people who are mentally ill in the criminal justice system, we do think about people being detained at the Regional Center until they are restored to competency or are detained there until they can be safely released to the general population. And there's a lot of people who from every level of case and one of the stories Senator Dungan told on General File that sounded very similar to a case I recall from my career about individuals who were doing what we would consider lower-level offenses, misdemeanor-type shoplifting things, and they were mentally ill to the point where they would be found not competent. And that's somebody who potentially faces, you know, a misdemeanor shoplifting, somebody-- that person might not even end up getting any kind of sentence of jail time, they might get a sentence for a fine or probation and but you can't resolve the case while they're not competent because they can't enter a plea, they can't participate in their own defense. And so if we don't have an out-of-custody way to restore somebody to competence, that person may end up sitting in the county jail for longer than the sentence for which they could be imposed because we don't really know what to do with them. And so it is really important that we invest in these sort of services that will allow for individuals to get mental health services outside of a locked facility and allow people to be in community-based mental health restoration services but-- and I think that's part of what LB276 will help us build that sort of infrastructure of these community-based mental health centers. And so it really is part of a broader system that will help us address the number of people who are in our criminal justice system, the, the number of crimes that are being committed, and the just amount of resources that we're allocating to that. And so sometimes we talk about--

**KELLY:** One minute.

**J. CAVANAUGH:** --thank you, Mr. President-- we talk about the criminal justice system is obviously a necessary system but there are potential ways to find efficiencies in that system and incarcerating fewer people is one of them and if we can find ways to not incarcerate people we don't need to incarcerate and finding more constructive ways

to deal with those individuals and their underlying issues we can save money, we can decrease recidivism, we can improve outcomes. We can ultimately have fewer people be the victims of crimes. And that's one of the reasons we need to invest in broader access to mental health services and one of the reasons LB276 is a good bill. Thank you, Mr. President.

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

**DUNGAN:** Thank you, Mr. President, and I, I really genuinely appreciate this conversation and my colleagues who are listening. We talk so much about criminal justice issues in this body and in these committees, but when we actually have bills like this before us I do think it's important to take just a, a moment and have these conversations about the way that these things affect our society as a whole so this is meant to be a substantive conversation. I've made it very clear to my colleagues, I only really get up on the mike and talk about these things when they seem to directly affect the things that are important to me and so I want to make sure that folks understand we're talking about these issues because they, they really do help our community both remain safe as well as help the members of our community who are suffering from mental health issues and substance use disorder. One of the things we've been talking about, too, is competency but I think I differentiated that last time I was on the mike from insanity and I'm not going to go through a whole CLE right now of what insanity counts as in the criminal system. But long story short there is a difference between being not competent to stand trial and being found not responsible by reason of insanity. Essentially, you've heard on TV or movies the insanity defense and I think there's a lot of misnomers around that but long story short if you are able to prove by a preponderance of the evidence that you are, in fact, not responsible by reason of insanity it's not a get out of jail free card. And what that means is it's not as though your found, oh, he was insane or they were insane when this happened, therefore, you get to go walk free on the streets. What happens is you essentially are committed to the Lincoln Regional Center for an indefinite period of time. And during that indefinite period of time they essentially put you under the, the review of a board who has to determine whether or not you are, and I'm simplifying this, but safe to put back into the community. And so these folks who are found not responsible by reason of insanity spend



years at the Regional Center, and I have represented clients who have spent years at the Regional Center and ultimately are released for short periods of time. And because they are not able to adequately address their mental health needs, occasionally run into issues out in the community where they then have to go back to the Regional Center. And so, yes, that matters for those individuals and it matters for their families and it matters for them that they have to go back into, essentially, custody at the Regional Center for years but it also affects us as a state and it affects our bottom line, it affects our pocketbook, and it affects the waitlist at the Regional Center. And so how does this all correlate? Well, I think what other senators have been talking about is the more behavioral health needs that are met ahead of time the less likely we are to need these immense amounts of state resources on the back end to try to put out these fires that have essentially been started by virtue of us not addressing the underlying issues in the first place. And so it's not always, I think, the, the easiest thing to see the financial benefit from but I can tell you firsthand that if we address these problems, whether it's behavioral health problems or the substance use disorders, if we address these problems early on and if we as a state get together and say we are going to place a priority on providing resources for folks who need them, I can almost assure you that we're going to see a decrease in crime, we're going to see a decrease in people who are asking for help, and we're also going to see a decrease in the burden that's being placed on the, the, the Regional Center and the few sort of high-needs behavioral health centers we currently have. And what I think we should be interested in as a Legislature is finding ways to spend our money effectively, excuse me, spend our, our taxpayers' dollars effectively, try to do it in a way that's going to prevent--

**KELLY:** One minute.

**DUNGAN:** --thank you, Mr. President-- prevent further problems and do that in a way that's going to best help the people who need the help the most. And so I can tell you when I have sat in these rooms across from people who have spent years at the Regional Center, who are good people, who are trying really hard to get back to their families, they're trying incredibly hard to get back to their communities, but they just simply don't have the means or the ability to access the services they need it hits home. And when you actually have those conversations with those people and you realize that they're just

regular, everyday people who have some really high needs it, it makes a difference. And so I would just, again, encourage my colleagues to support LB276. I think this is a commonsense way to provide those community resources and prevent problems before they happen and I think we should be in the business of, of helping folks in a way that helps the entire society. Thank you, Mr. President.

**KELLY:** Thank you, Senator Dungan. Speaker Arch, you're recognized to speak.

**ARCH:** Thank you, Mr. President. I, I spoke on General File on LB276 in support of that and I, and I, I am in support of that. I, I appreciate very much this bill and as I mentioned on General File that this, that this idea and this concept has been, has been out there for some time and other states are doing this and it is an opportunity to, to do this and, and, and leverage some federal dollars in the process. But I know that this is not an immediate throwing a switch and suddenly we have CCBHC in our state and so I, I-- if Senator Wishart would yield to a question, I'd appreciate that.

**KELLY:** Senator Wishart, will you yield?

**WISHART:** Yes, I will.

**ARCH:** Thank you, Senator Wishart. You and I had a conversation that, that there's a date of 2026, but I know before we get to there, there's a state plan amendment that has to be drafted. There's, there's quite a bit involved in actually moving to a CCBHC model. Could you just give us that high-level perspective of, of what that process will be?

**WISHART:** Yes, absolutely, and thank you for the question. So the reason that we anticipate 2026 is going to be when this program is fully ramped up is, is a couple of items. First, is the department needs to submit a state plan amendment. That will probably take about six months to do so depending on the length of time and working with CMS and responses there. But where the real work in time commitment comes into play is in internally getting organized at the department and then with the, with the clinics and then with stakeholders in terms of setting up the payment system, getting stakeholder input. As you can see in the legislation, we do want to make sure that this is

done with a really comprehensive, diligent approach because it is a big change that we're doing to this system. So that's why we're looking at a methodical two-year ramp up and, and we anticipate that's what's going to happen. We're not reinventing the wheel here, Speaker, this has been done in other states and so that's the estimate.

**ARCH:** Thank you. Yeah, my understanding is that private, private providers will, will need to form some type of relationship with these, these centers and, and that'll take some time to form that, understand what the payment mechanism is through the centers to those private providers and so this is, yeah, I just, I, I guess I just, I, I just wanted to understand better and I, and I really appreciate that, Senator Wishart.

**WISHART:** Thank you.

**ARCH:** So with that, I, I'll yield the rest of my time to the Chair. Thank you.

**KELLY:** Thank you, Speaker Arch and Senator Wishart. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. I tried to stay out of the queue for a little bit because I didn't want to disrupt the interesting conversation that was happening with Senators John Cavanaugh, George Dungan, and Danielle Conrad. So LB276 is a bill about mental health, behavioral health clinics. And so because of that, I wanted to take more time to talk about mental health and our trans youth. But I am looking at some of the testimony from the hearing itself and there's a little fact sheet from NABHO, NABHO is Nebraska Association of Behavioral Health Organizations. We have so many acronyms in this building, sometimes it's hard to keep track. Actually, my freshman year, there was-- it's when I learned about why YRTC and, and that's when I was, like, OK, YRTC, what is that? And everybody was just saying, YRTC, YRTC, like that meant something to me. And I was, like, that doesn't mean anything. I did come to realize that is the youth rehabilitation and treatment center. And that is a lot to say over and over again, hence, YRTC. So NABHO, Nebraska Association of Behavioral Health Organizations. Why support CCBHCs, which is another acronym for community behavioral health clinics? I don't know what the first-- it's two Cs, certified community

behavioral health clinics. OK. So why support certified community behavioral health clinics? Offers person, family, and community-centered care design criteria, is intentionally designed with community-needs assessment as the driver for staffing and service array, increases access to mental health and substance use disorder treatment, expands capacity through holistic approach that responds to local needs and builds community partnerships with law enforcement, schools, hospitals, primary care providers, and public-private service organizations to improve care, fills gaps in service, allows for expansion of services in previously underserved areas, provides at-cost reimbursement through perspective payment system, invests in workforce, reduces health disparities, and improves access to care for marginalized populations. So then we have-- Nebraska has three certified community behavioral health clinics, CCBHCs, providing services across 24 counties. And this is from October 2022. Two additional organizations in Nebraska were recently funded to become CCBHCs. These CCBHCs aim to improve access, quality, and outcomes for Nebraska's-- Nebraskans needing outpatient behavioral health services by adhering to service criteria. This holistic and coordinated services CCBHCs provide must be person and family centered, recovery oriented, and trauma informed. CCBHCs must serve people with serious mental illness and substance use conditions as well as children with serious emotional disturbance. Quote, It's like a home for me. I like all the people, the groups, the doctor, my therapist. The program is really good. I'm getting better every day, end quote. From consumer--

**KELLY:** One minute.

**M. CAVANAUGH:** --served by Community Alliance. Data from the first, from the first three Nebraska CCBHCs, Community Alliance, CenterPointe, and Lutheran Family Services show promising findings. The sites conducted national outcomes measures, or NOMs, interviews as required by the Substance Abuse and Mental Health Services Administration between July 2020 and September 2022, from a total of 1,307 adults and 53 children. The findings reflect baseline data from all enrollees and outcomes, outcomes data for 343 adults who had been in the program for at least six months. Not all adults had data on every outcome measure preventing and managing chronic, preventing and managing chronic health conditions. CCBHCs are uniquely positioned to provide holistic and coordinated care. People with serious mental illness have--

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

**M. CAVANAUGH:** Thank you.

**KELLY:** Thank you, Senator Cavanaugh. Senator Conrad announces some guests in the north balcony. Students from Lincoln Northeast High School, please stand and be recognized by your Nebraska Legislature. Senator Hughes has some guests in the north balcony, fourth graders from Milford Elementary, Milford, Nebraska. Senator Machaela Cavanaugh, you're recognized to speak and then you'll have your close.

**M. CAVANAUGH:** Thank you, Mr. President. I was on preventing and managing chronic health conditions. Again, we were talking about LB276, a, a bill about community behavioral health clinics. And this is the fact sheet from NABHO, Nebraska Behavioral Health Association [SIC]. And so they have preventing and managing chronic health conditions. CCBHCs are uniquely positioned to provide holistic and coordinated care. People with serious mental illness have greatly reduced life expectancies as much as 25 years compared to general population. Much of the disparities results from preventable and unmanageable chronic health conditions such as diabetes and hypertension. Adults with elevated blood pressure readings at baseline show-- showed improvement after six months and many reached normal blood pressure levels. Of those enrollees with hypertension, 49 percent experienced a clinically significant reduction in either systolic or diastolic blood pressure after six months in the programs. I did not go into medicine for many reasons, one of them is pronouncing medical terms. Psychological distress increases the risk of poor health outcomes and mortality. On average, the 341 adult enrollees with both baseline and reassessment data reported moderate to high levels of psychological distress. After six months, these adults had a statistically significant reduction in psychological distress, suggesting that the CCBHC program had reduced their suffering. This is another quote from a consumer served by Lutheran Family Services: The sessions I received gave me the power and strength to move past my trauma. Work and relationships were difficult for me in the past, and my health suffered. What I learned with treatment I continue to use and apply to my life. I couldn't find a doctor either and didn't want to go. My case manager helped me find one and went with me. I can't thank you enough for all you have done to help me live my life. Achieving better outcomes with reductions in

psychiatric hospitalizations, homelessness, and incarceration. People with long-term untreated and unmanaged mental health or substance abuse conditions-- substance use conditions often end up receiving services in expensive and intensive settings such as emergency rooms, psychiatric hospitals, or in jails. Many become homeless. CCBHCs offer community-based services that provide people the care they need when they need it, reducing the, the use of costly services. At baseline, 28 individuals reported spending a collective 253 nights in the hospital for a psychiatric problem in the 30 days prior to enrollment. Six months later the total nights spent in the hospital for mental healthcare in the 30 days prior interviews dropped to 76, a change of 177 total nights, a 70 percent reduction. In 2020, the average cost per inpatient day in Nebraska was \$2,473. This funding-- finding indicates that hundreds of thousands of dollars may have been saved in hospital costs with just six months of CCBHC services and engagement. Poor health and unresolved health-

**KELLY:** One minute.

**M. CAVANAUGH:** --concerns-- thank you-- are contributing factors to homelessness for individuals across the country. An estimated 21 percent of people experiencing homelessness have a serious mental health condition. In the 30 days prior to enrollment, 33 individuals reported experiencing a collective 757 homeless nights. After six months of program engagement, 24 individuals reported 674 homeless nights, a reduction of 83 nights and a decrease of more than 10 percent. By linking clients to housing resources and providing other essential community-based services, CCBHCs appear to be reducing unhoused nights experienced by individuals in Nebraska. A quote from a consumer served by CenterPointe: My peer support coach has gone far and above--

**KELLY:** That's your time, Senator, and you are recognized to close on the bracket motion.

**M. CAVANAUGH:** Thank you. I'll just quickly first finish this quote, consumer served by CenterPointe: My peer coach has gone so far above and beyond with support, even with things I wouldn't expect or be able to even ask anyone I know. OK, so this is a bracket. Oh, I'm sorry. Oh, I apologize. This is bracket until June 2 of this year and it is the Community Based Health Center Clinic Act [SIC]. I would encourage

colleagues to not vote for the bracket or vote for it. I mean, it's not going to have the votes. I will not be voting for it, but I'm just looking at the agenda. So we have this bill, and then at 1:00 after we break for lunch, we come back to the broadband office bill, which I previously had a lot to say on so I'll probably have a lot to say on it again. So I don't know if we will get to the other bills on the agenda today or not since we are moving to the broadband bill at 1:00, that probably will be about it for the day, I guess, depending on how late we're going. I, I mentioned this last night, the motions that senators are putting on, on top of the motions that myself and Senator Hunt and Senator Conrad have put on. So last night if there had been other motions on some of the bills, I would not have had the flexibility to do what I did because that would have been me giving up my motions since we made that rule's change and I'm not going to give up my motions if there are things that I don't want to get to. And I was looking at the Transportation bill and I see that there are some amendments pending and so I'm going to have to look at the amendments to see if I'm going to give up my motions because I literally have to give up my motions in order to get to the amendments pending because Senator Geist also has motions. So if I don't-- if I use my motions, then no amendments get it on the board for Select File for the Transportation bill. If I don't use them, I give them up, then Senator Geist can use hers. Now if she didn't have any motions filed, I could let amendments be put on the board and then put my motions up. But I can't do that because if I give up putting my motions up right away, I give up putting my motions up and I turn over the motions of the day to the other person who has motions pending. So that's a quandary. That's a conundrum. I'm going to have to figure out if there's anything on LB683 that's pending that's worth giving up my motions for. So probably going to be--

**KELLY:** One minute.

**M. CAVANAUGH:** --looking at that-- those pending amendments in between times on the microphone this morning to decide what I'm going to do this afternoon. And I tell you all this because I mentioned this last night but it was a late night and that if you continue to put motions up after my motions you are going to force my hand to use my motions and block amendments that you want. So that's fine. I just want to make sure people understand the board and the board is you force my hand on motions when you file motions after me. So if you're OK with

that, I'm OK with that. I would like a call of the house and let's take a break and just have a machine vote. Thank you.

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

**ASSISTANT CLERK:** 17 ayes, 4 nays to go under call, Mr. President.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Riepe. Senators Kauth, Fredrickson, Armendariz, Dover, Vargas, Bostelman, and Murman, please report to the Chamber and record your presence. The house is under call. All unexcused members are now present. The question before the body is the bracket motion. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 0 ayes, 45 nays on the motion to bracket, Mr. President.

**KELLY:** The motion fails. The call is raised. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Appropriations reports LB815 to General File and LB816 to General File with committee amendments attached. In addition to that, motions from Senator Riepe to LB282 as well as Senator Linehan to LB183. That's all I have at this time. Mr. President, with respect to LB276, Senator Cavanaugh would move to reconsider the vote just taken on the motion to bracket the bill.

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

**M. CAVANAUGH:** Thank you, Mr. President. OK, so let's see here. So I was, in my closing, I, I was talking about when colleagues put motions on bills after motions that were already filed. You really are, are putting me in a pickle if there's amendments that you also want to see get on the board. If I don't have my motions go up right away, I'm giving up my motions. And then you have your motions that you put up



and withdraw. And so if you keep doing that, it's going to become a problem. I used the example last night of Senator Linehan's bill, a couple of days ago there was the committee amendment and I had a IPP motion that would have blocked any amendments from being put on the board. And if I had filed it, I-- we wouldn't have gotten to the committee amendment so I chose to not file it. And I think there were even other motions pending at that time but I decided in that specific instance that that was going to just, that was just going to be how it was going to be. I was going to give up my motions so that the committee amendment could be debated and voted on when we went to cloture and so that's what happened. But that's not what's going to happen every single time. So if you keep putting motions up after the motions that are already up, I'm not going to give up my motions to get to amendments, so. And I was talking about there's some amendments pending on the bill, the bill that I already oppose that's on the agenda for this afternoon, the broadband bill. I spent eight hours talking about how I oppose it and there are motions and amendments pending and I just don't think we're going to get to those things because there's motions after the motions and so that leaves no wiggle room to work and negotiate which is fine because I don't like the bill. So there we go. I don't know why I grabbed my computer because I've got printed materials. Last night, at some point I was trying to remember what generation I fall into and I don't know the name of it but I'm the generation that grew up before we had all the technology but I'm also young enough that I know how to use the technology and I am very-- you can see the conflicting parts of me when I, like, love to have paper but I also will read things on the computer but then I want to have paper and so I'm always going back and forth. I do try to not use as much paper but it's hard for me to read on the microphone off of the computer. I'm not sure why, my glasses are progressives, maybe that has something to do with it. And, yeah, you know, this place ruins your eyes. Senator Slama mentioned yesterday about reading the board and that needing some eye care potentially because this place-- I, I when I was a freshman I did not-- I had glasses but I didn't need them all the time. Now I need them all the time and I need bifocals so how quickly I start to fall apart being in the Legislature. It is not-- folks at home, the Legislature is not good for your health, your mental health, or your physical health. It certainly takes a toll. So CCBHC Impact Report. So this bill is about the certified community based health centers [SIC]. I am sorry, I keep

yawning, talked a lot yesterday, late night, still talking today. This is from the National Council for Mental Wellbeing. It is the 2022 CCBHC Impact Report: Expanding Access to Comprehensive, Integrated Mental Health and Substance Use Care. CCBHC results at a glance: Expanding timely access to care, investing in the workforce, expanding access to medication-assisted treatment services, coordination integration with primary care, making crisis services supports available to all, parenting with law enforcement and criminal justice agencies, meeting children, youth, and families where they are, addressing health disparities and social determinants of health. And there's a survey method and, and notes. OK, this is tiny font, even with my glasses, and I have the opera glasses here but I don't think that they will, will help with the reading. So Introduction: Faced with decades of underfunding, ongoing struggles to recruit and retain staff and dual mental health and substance use crisis nationwide, the behavioral health system has long needed significant investment and transformation to meet the true needs of communities across the country. The certified community based health-- community behavioral health clinic, CCBHC, model is delivering the resources our nation needs to change the care landscape. CCBHCs are clinics either certified by their states as CCBHCs or recipients of a federal CCBHC grant that receive flexible funding to expand the scope of mental health and substance use services in their community. They serve anyone who walks through the door regardless of ability to pay. CCBHC model was originally implemented in eight states through a Medicaid demonstration program with two states added to the demonstration in 2020. Since 2018, grants from Substance Abuse and Mental Health Services Administration, SAMHSA, have funded clinics in dozens of states to take on the activities and services of a CCBHC. These grants have proven to be a vital springboard to CCBHC implementation, positioning clinics and states for further delivery system transformations as they implement the the CCBHC model in their Medicaid programs. Under the 2022 Bipartisan Safer Communities Act, the demonstration will expand to include ten new states every two years starting in 2024, and will ultimately offer all states the opportunity to translate their grantees' work into new, sustainable, nationwide model of care. Since 2017, the National Council for Mental Wellbeing has surveyed CCBHCs and grantees annually to glean insights into their activities and outcomes. I'm just going to pause and say I love the word glean. I don't know why. I just do. This year's

reports-- report adds to our knowledge about the success of these clinics to expand access to care, hire, and retain staff and enable integrated care partnerships with Federally Qualified Health Centers, FQHCs, schools, hospitals, and law enforcement to help get people care when and where they need it. In effect, transforming how people access high-quality mental health and substance use care in America. I would note, I've, I've noticed the term substance use care instead of substance abuse, it's an interesting shift in language.

**KELLY:** One minute.

**M. CAVANAUGH:** Language is important, so I'm going to mentally file away that, that that is probably the appropriate terminology to use when talking about substance use. Don't say substance abuse, say substance use. CCBHCs are changing the landscape, providing that when evidence-based clinical care is supported with effective financing, clinics can dramatically increase access to care and provide comprehensive and lifesaving services nationwide to people whose needs were often previously unmet. So there is a map of the states on the next page, it is in gray scale, and I am assuming it was a colored map at some point. It has like hash marks, you know, to kind of indicate different levels but, goodness gracious, I don't think I, I don't think I can--

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

**M. CAVANAUGH:** --sort this one out. Thank you.

**KELLY:** Senator Day announces that her son, Noah, is here today, a fourth grader at Bryan Elementary. Please stand and be recognized by your Nebraska Legislature. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. OK. So we are still on the CCBHC bill and I am just sharing some information from the CCBHC 2022 Impact Report that was put together by the National Council for Mental Wellbeing. I was discussing the status of participation in the CCBHC model-- oh, I got to get in the queue-- so there's a map and I really, truly, the lighting in here is very, I wouldn't say romantic like in a romantic sense, but romantic in like it's like soft and gentle and terrible for reading, but certainly the lighting in here has great

ambiance, but for these old eyes terrible for reading. So I see Nebraska is-- states where clinics have received expansion grants. I believe, I believe, if I'm reading this grayscale map correctly, that Nebraska is a state that has received expansion grants. OK, so. Note on terminology: Throughout this report, the term CCBHC or state-certified clinic is used to describe CCBHCs that are, sorry, that are participating in the Medicaid demonstration, a CCBHC Medicaid state plan amendment, or a Medicaid Section 1115 waiver. These clinics receive a Medicaid payment base rate based on reasonable estimates of their cost of doing business. Some, but not all, state-certified sites have also received a CCBHC expansion grant from SAMHSA. States with state-certified clinics are Kansas, Kentucky, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, and Texas. OK, so I didn't read that correctly, not Nebraska. Many of these states have-- also have grantee only clinics. The term grantee refers to clinics that have only received SAMHSA CCBHC grant funding to date and are not certified as CCBHCs by their states. These clinics do not receive the special CCBHC Medicaid payment rate, and instead rely on federal grant funding to implement this CCBHC model of care. Since the grant program began in 2018, grants have been awarded to clinics in 46 states, Washington, D.C., Guam, and Puerto Rico. While state-certified CCBHCs and grantees reported broadly similar experiences, the survey data reveals some differences between the two types of clinics, providing insights as to how the Medicaid demonstration can further scale innovations and improvements initiated under the grant program. So the 1115 waiver is used in a lot of different instances. It's a Medicaid waiver, and it's not, it's not specific to CCBHCs. We do 1115 waivers for all kinds of things, Medicaid--

**KELLY:** One minute.

**M. CAVANAUGH:** --thank you-- Medicaid expansion was an 1115 waiver. That was-- that's, that is a whole nother, like, probably ten-hour conversation to talk about Medicaid expansion in Nebraska. The Family Support Waiver, actually I don't know if the Family Support Waiver is a 1115 waiver, that might be a different waiver. That was my bill so I should remember what waiver it is. But I'll figure it out and come back and talk about it later. It is a Medicaid waiver, but we might have done-- there was something-- was looking to see if my staff was over there. They're probably, like, you know this answer, Senator

Cavanaugh, you don't know the answer to your own question. I just don't remember because my brain is tired right now, but 1115 waivers which they talk about in here are Medicaid waivers.

**KELLY:** That's your time, Senator. Thank you, Senator Cavanaugh. Senator Erdman, you are recognized to speak.

**ERDMAN:** Thank you, Mr. President. Good morning. My original intention was to call the question and then I thought I needed to share something that I received last night as a text. I had a friend back home sent me a text around 9:00 and he just turned on "As the Legislature Turns" and he sent a text he said: I believe you're talking about pet insurance, could that be true? I didn't respond and 45 minutes later whatever it was we passed it and he writes and he says: That was a real bill. I said, yeah, it was. He goes: Do you think I can get pet insurance for my goldfish? I said I don't know. That was peculiar. So what I have here on my podium, and for those of you watching from home, it's called: MacRae's Blue Book, 56th edition, 1949. It has 4,000 pages and the font is size four. Senator Fredrickson is smiling, he's seen it. Size four font. I can't even see it, but I'm going to start reading page one. Maybe I won't. But I will tell you this, whatever is in this book, whatever I would read from this book is just as valuable and important as what we've been saying this morning in a stall tactic, same value. So one of the media people asked me what is your purpose? I said I haven't got a clue. I don't know if I have to have a purpose. That's what people are thinking about us here. What is your purpose? Not sure. So we'll continue to do what we've been doing here for about almost 60 days now, what is today, 57th day. Not bad. And we'll keep doing this and people will keep sending texts saying what are you doing? And so my response is going to be absolutely nothing. And in some regard that may be good because the best and safest place you can be is when we're not meeting because we're not spending your money, but we're not doing anything to do with the work you sent us here to do either. So I will conclude with that now that I have made those comments about last evening and I'll put my light on again and the next time it'll be a question to cease debate. Thank you.

**KELLY:** Thank you, Senator Erdman. Senator DeBoer, you are recognized to speak.

**DeBOER:** Thank you, Mr. President. Also, thank you to Senator Erdman for using my "As the Legislature Turns" phrase which is what I've been calling this place for a couple of years. But I wanted to get back to the bill at hand here and talk just a little bit about how CCBHCs, I think, are going to be really an important thing for our state. In other states that have them, they've really, really done a good job of really transforming how behavioral health delivery works and then the FQHC model, which is holistic and integrated care. It's prioritized to do this sort of holistic and integrated care. And that's really the best way to do behavioral health and substance abuse care. But something we maybe have not talked as much about is the long-term savings of instituting these kinds of programs because there is every likelihood that these will lower our incarceration rates. If we can get some of these interventions in place before criminogenic behavior develops, then we prevent the whole process from sort of going the wrong direction. And so having these kind of behavioral health and substance abuse interventions may cost us some money in the short term. But imagine the long term, both safety to our community, safety to individuals who are experiencing these behavioral health and substance abuse issues, and also just the savings to the state as we prevent some of that excessive amount of kind of like mental health, behavioral health sort of thing, from leading to incarceration where we find lots of folks who are incarcerated because of those problems which had we intervened earlier and more holistically we might have been able to prevent. So I am against the bracket motion and the motion to reconsider. I am strongly in favor of LB276, which Senator Wishart has brought, and I just wanted to bring us back to thinking about how important these programs are going to be. We hear all the time about the problems that behavioral health, that substance abuse issues have in our state, have across this country, and here we have an opportunity to do something really good. And a lot of folks have come together on this one and I just want to appreciate the work that's been done here and say, Nebraskans, we've heard you when you've said to us that we need this kind of care and here we have the opportunity to help deliver it to them. So thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. Senator Machaela Cavanaugh, you're recognized to speak. This is your last time before your close.

**M. CAVANAUGH:** Thank you, Mr. President. OK. So, again, this is the bill about the CCBHCs, which are the certified community-- wait, I

want to get it right, I feel like I'm always going to say it wrong-- certified community behavioral health clinics. I always feel like I'm going to say certified community based health clinics, like the B, behavioral health clinic, CCBHC. OK, so-- and this is the report from the National Council for Mental Wellbeing. CCBHCs: Impact at a glance. Expanding access to care-- and part of the reason that I am reading this is because this is--CCBHCs are a really fascinating service model but they're a fairly new service model and so I think it is helpful if I'm going to be talking to inform us all as to what that service model is and why it's important, so. Expanding access to care: CCBHCs and grantees are closing the treatment gap that leaves millions of Americans with unmet mental health and substance use needs bringing thousands of new clients into care, 1.2 million people are currently served across 249 responding clinics which means that an estimated 2.1 million people are served nationwide by all 450 CCBHCs and grantees active, grantees active as of August 2022. The estimated total represents an increase in about 600,000 clients compared to the estimated total number of individuals served by all CCBHCs in 2021. CCBHCs and grantees are on average serving more than 900 more people per clinic than prior to CCBHC implementation, representing a 23 percent increase. Investing in the workforce: The CCBHC model is alleviating the impact of the community-based mental health and substance use workforce shortage by enabling clinics to increase hiring. Responding clinics hired 6,220 new staff positions for an average of 27 new staff per clinic as a result of becoming a CCBHC, an estimated 11,240 new staff positions were added across all 450 CCBHCs and grantees active as of August 2022. Expanding access to medication-assisted treatment. CCBHCs and grantees are addressing the nation's opioid crisis by dramatically expanding access to medication-assisted treatment, or MAT, which when combined with counseling and behavioral therapy to provide a whole patient approach is considered to be one of the most effective ways to treat substance use disorder, or SUD, 82 percent of CCBHCs and grantees use one or more forms of MAT for opioid use disorder, compared to only 56 percent of substance use clinics nationwide that provide any MAT services. I don't know if you're supposed to say MAT or MAT, so medication-assisted treatment.

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you. An estimated 69,400 clients nationwide are engaged in MATs across the 450 CCBHCs and grantees that were active as of August 2022. Sixty-five percent of CCBHCs and grantees have increased the number of clients engaged in MAT since becoming a CCBHC, including 27 percent who say the increase has been significant. Coordination and integration with primary care: CCBHCs and grantees work closely with primary care partners using multiple strategies to coordinate and integrate care, 81 percent of respondents report increasing the number of referrals to primary care since becoming a CCBHC. CCBHCs also engage in numerous activities to coordinate and integrate care from electronic information sharing with care coordinating partners, 94 percent currently do this or plan to, to colocating physical health services on-site, 88 percent currently do this.

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

**M. CAVANAUGH:** Thank you.

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

**HUNT:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. I rise in opposition to the reconsider motion and to the motion to bracket and in support of LB276. And I want to stand up and say that today, as Passover approaches at sundown today, I wanted to take a moment to extend my warm greetings and my heartfelt love to the Jewish community here in Nebraska, to you and your loved ones who are celebrating Passover this year. Passover is a time of great importance in the Jewish calendar, and it's a time to remember and celebrate the freedom of the Israelites from slavery in Egypt. It's really special this year that the Muslim celebration of Ramadan and Passover and Easter are all converging at the same time that all of our Abrahamic religions are celebrating one of the most holy times of year together at the same time. And tonight, I just wanted to extend my well-wishes to my Jewish friends and family as Passover begins tonight. The story of Passover is one that has been told for thousands of years, but it remains just as relevant and powerful today as it did centuries ago. It's a reminder of the importance of freedom, justice, and the struggle against oppression. It's a time to reflect on the challenges that the Jewish people have faced and the triumphs they have achieved as a community. For many people, Passover is a time



of family gatherings, festive meals, and traditional rituals, whether we're seeing the four questions or dipping parsley into salt water or adding an orange to the seder plate to represent the fruitfulness of the Jewish community when we finally accept women and gay people and marginalized Jews to become active and celebrated in the Jewish community. Connecting with shared heritage and passing on traditions to the next generation is what this is about. But it's also a time of reflection and introspection, a time to think about the ways we can make our world a better place and work toward a more just and equitable society. Jewish Nebraskans are part of a rich and diverse community that has contributed so much to the fabric of our state. From the early settlers who came to Nebraska to start new lives, to the thriving Jewish communities that exist in Omaha, Lincoln, and beyond, Jewish people have a long and proud history here. Passover is a time to celebrate that history and look toward the future with hope and determination. At the same time, we cannot forget the challenges that the Jewish community has faced and continues to face, anti-Semitism, bigotry, and hate crimes are still a reality in our world and we must remain vigilant in the fight against them. We also must remember that there are many in our community who are struggling, whether due to financial hardship, illness, or other difficulties and Passover is a time to come together as a community and support one another in whichever way we can. Whether you're celebrating Ramadan right now or preparing to celebrate Easter during Holy Week, or you're getting ready to observe Passover tonight with your family, you know, this is a significant time for a lot of Nebraskans who are people of faith right now. And I think it's, it's a very special thing that all of these observances have converged at the same time. My Jewish friends and family in Nebraska and around the world, whether you're celebrating with a large group or a small gathering, whether you're following all of the traditional rituals or creating your own new ones, may this holiday bring you joy, meaning, and a renewed--

**KELLY:** One minute.

**HUNT:** --sense of hope for the future. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Mr. Clerk, for an announcement.

**ASSISTANT CLERK:** Thank you, Mr. President. The Urban Affairs Committee will hold an Executive Session under the north balcony at 11:00.

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

**ARMENDARIZ:** Thank you, Mr. President. Good morning. I want to speak to Nebraskans this morning about statements that were made on this floor yesterday. Statements that were made by Senator Hunt's claim that a physician shared with her personal information about a physician's patient and that patient's personal family information. I want Nebraskans to know there are strict measures in place that enable all of us to feel free to share necessary information about ourselves and our private situations we find ourselves in with our physicians. In order to meet each person's specific needs, this trust is of the utmost importance especially as we talk about mental health today but definitely not confined to mental health alone. When HIPAA regulations were passed on a national level, it was well understood the deep importance of this trust between a patient and their physician. It was very reckless for a person with the stature of a state senator to disre-- to disregard the profound implications of not only sharing that physician violated this trust, but on such a public national stage. Nebraskans, please know that we, as state senators, do continue to deeply value that trust you put in your relationship with your physician. We understand you need to maintain that trust, and we, as public figures, will fight to keep that information you have shared with your physician private. Thank you, Mr. President.

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

**HUNT:** Thank you, Mr. President. I know what Senator Armendariz is talking about and I saw some people on Twitter and other social media speculating about the same thing that she brought up. I'll tell you exactly what happened, what she's characterizing it as is not right. And I also think it's rich of her to talk about trusting medical providers and trusting medical experts in Nebraska when she's voting for healthcare bans that are opposed by every major medical institution. So what she's talking about is yesterday when I said that I know that there is a member of this body who was not present for the births of his children because I talked to the OB-GYN who attended his births because she was against these bans on healthcare and I was trying to find a way to reach the senator. I found out that he wasn't present for the birth of his children, not because the doctor told me, the doctor did not violate HIPAA, she didn't tell me that, the senator had no idea who the doctor was. I walked up to the senator and I said,

Dr. So-and-so is supporting this bill and she's going to reach out to you. And he said who is that? And there's a senator in this body who knows what I'm talking about because we had that conversation. He said who is that? And I said, she's the OB-GYN who attended all of the births of your children. I won't even say how many children because then you'll know who it is. And he said, oh, I wasn't there for that. So, colleagues, I'm not talking about a healthcare provider that violated HIPAA, Senator Armendariz, who's now the champion of believing doctors, apparently, which she's not. So I just wanted to clear that up. It was the senator who said he wasn't there for his kids births, not the physician. Thank you, Mr. President.

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

**M. CAVANAUGH:** Thank you, Mr. President. I stepped out in the hallway so I kind of missed the conversation but-- so, community-- no, certified community behavioral health centers [SIC], CCBHC, that's the bill we're talking about this morning and I have more to share about community based health centers-- certified community behavioral health centers but I think that those will wait for after this vote. I will get back to the report that I've been sharing. So I started reading the top lines: Impact at a glance, and then it does break them out a little bit more so after this vote when I have more times on the mike I will go into the expanding timely access to care. I did stop at the top lines at a glance, so we had expanding access to care, investing in the workforce, expanding access to medication-assisted treatment, or MAT or MAT, not sure which one, coordination and integration with primary care. Making crisis services and supports available to all is the next item and that is: Nearly all respondents deliver crisis support services in their communities which helps divert people in crisis from hospitals, emergency departments, and jails. CCBHCs and grantees crisis response activities make them natural partners in states, 988 implementation efforts. Then there's improving collaboration with criminal justice agencies, meeting children, youth, and families where they are-- that actually might be one that I would prioritize talking about because I think that's really important. Addressing health disparities: Universally responding clinics indicate that CCBHC status has helped them serve more people of color, improve access to care, and reduce health disparities in their communities. So with that, I yield the remainder of my time to the Chair. Thank you.

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

**ASSISTANT CLERK:** 13 ayes, 19-- 9 nays to go under call, Mr. President.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Blood, Dorn, Raybould, Conrad, and Bostar, please return to the Chamber and record your presence. The house is under call. All unexcused senators are present. The question is the motion to reconsider. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 0 ayes, 46 nays on the motion to consider, Mr. President.

**KELLY:** The motion fails. I raise the call. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, next motion, Senator Hunt would move to recommit the bill to committee.

**KELLY:** Senator Hunt to open.

**HUNT:** Thank you, Mr. President. Colleagues, I rise in support of Senator Wishart's bill to adopt the Certified Community Behavioral Health Clinic Act. One of the most exciting things that happened recently in my district is we got a new office in Benson for Charles Drew Health Center. And that office, that clinic is specifically providing a lot of specialized services for Omahans who are living with AIDS and HIV. Another exciting thing that happened on the same street just about three blocks west of there is the Nebraska AIDS Project recently opened a new clinic in the location where a crisis pregnancy center had been. There was an essential pregnancy services office in this building and they're not there anymore. I don't know what happened with that, but it's a really good thing for a community when something like a crisis pregnancy center, which is a place that's known to give misinformation to patients, a place which doesn't have

to face the same rigorous standards for clinical health services and services to patients that other health centers have to meet and abide by and a place that we know increases stigma for people who are dealing with difficult pregnancies. It's really good that that organization has closed and we don't have that any longer in Benson. But instead we have Nebraska AIDS Project which is working to decrease stigma around STIs and STDs to get people tested for STIs and STDs, which I encourage all of you to do if you haven't done, and also to provide services to Nebraskans who are living with AIDS and HIV. This organization also does a lot of important work raising money for services for people who are indigent or can't afford care, which its a lot of people, there's a lot of people in Omaha who are low income or in poverty or homeless who have these diagnoses and so I've been a supporter of the Nebraska AIDS Project for many years. I was on their board for, their "Friends" Board, which is a fundraising board for several years. And it was a friend of mine named Jordan Delmundo who actually got me to join that and he and I grew up in Omaha together kind of getting to know each other through the local music scene, which is sort of why I stayed in Nebraska, honestly. I was looking at a lot of different colleges to go to and different places to attend. I wanted to study linguistics at Iowa State or music composition. That was something I was looking at. I was applying to do journalism at University of Missouri at Columbia. That's such a time when you're applying for different things and trying to figure out what the path of your life is going to be based on where you go to college. But I met my friend Jordan at that time and he was a huge activist and someone super knowledgeable about AIDS and HIV. And it was these community health clinics like Charles Drew Health Center, like Nebraska AIDS Project that were some of the only affordable places that people were getting care for these kinds of diagnoses. So I was excited to join the "Friends" Board of the Nebraska AIDS Project. And fast forward to several years later, I actually joined the Board of Charles Drew Health Center as well. So now we have an office of Charles Drew Health Center in Benson, it's in my district, it's the same place where I have my stationery store where my son and I work. And so those are definitely important additions to the community in terms of community health centers. But a lot of people don't know that it's not just, you know, how would you put it, like, physical medical help that they provide. Charles Drew Health Center also does dentistry. I've gone there to see dentists before, before I was on

Medicaid, which now that the pandemic Medicaid has expired, I, I think I might be out of that again. So I've got to figure out a health insurance plan that I can afford. But in previous years before that, I just paid the penalty and just didn't have insurance because there was no kind of premium that was affordable when it's like, OK, you have to pay \$500 a month and your deductible is \$1 million so you're basically paying \$500 a month premium to have no care at all, which to me is a bad deal, I'd really rather just pay the premium and then try to get discounts from healthcare providers for paying cash because-- or doing different payment plans or things like that because often when you don't have insurance, you can, you know, work with them on a payment plan or something like that. So that's what I had been doing and that's what I was doing when I went to Charles Drew Health Center to get dental care because they have a, a dentist office there, but they do dental, they do all kinds of physical health, they do STI testing and treatment, but they also do have behavioral health resources. And whenever someone in my community or in my district is talking to me about what resources are available to them, this is really one of the most common questions that I get as a lawmaker, and anyone on my staff would tell you the same thing that the calls that we get, the emails that we get, the messages that we get on various social media channels, a huge percentage of those compared to other issues people have is people needing help accessing medical and mental health services. We hear from people all the time, even from other people's district, somebody from Ben Hansen's district is talking to me about this right now because they told me that they did not receive a response from their state senator and we're helping to connect them with some resources to financial assistance for healthcare. It's a woman who lost her job because her husband has cancer and she had to stay home and be a caregiver for him. And because of a law that we passed a couple of years ago that allows people who have to leave work to care for a sick family member to apply for unemployment insurance, she was on that but that ran out. And her husband is so sick that there's really nothing else they can do and they don't have the finances to hire any other kind of caregiver. And they're even struggling to pay the bills that they have for his care. So we did some research about what nonprofits exist that can give them financial aid or grants or, you know, different grants and financial aid for home healthcare aides. And what this represents to me is how government has let people down. And it goes back to what I was saying

on my last time that I was speaking here about during this time, the most holy time for the Abrahamic religions, whether you're Muslim or Jewish or Christian, this period of Ramadan and Passover and Easter and the Holy Week, this is really the time that we need to be looking out for each other. And to me, that doesn't just mean supporting nonprofits, it doesn't just mean donating to your church, entrusting them to distribute the funds in a way that makes sense, it means making sure that government that we pay taxes to, that we give our time and treasure and resources to, that they are distributing the resources that we give them in a way that actually helps us. And to me, that means things like support for certified community behavioral health clinics and that's why I support LB276. It's a great thing to be able to know that there are low-cost options for people who are in mental health crisis, who are facing things that would be really difficult for them to overcome if they didn't have that kind of assistance from a mental health therapist or counselor. And it's these community behavioral health centers that are making that accessible. I wish that these are services that government invested more in, especially when we see things like rising, rising in gun violence, we see an increase in gun violence in this country, and then people who support laws that enable this kind of gun violence they say things like, well, we don't have a gun problem we have a mental health problem. It's really just that these people are mentally ill. OK, so then what resources are we giving them to help them with their mental illness?

**KELLY:** One minute.

**HUNT:** Thank you, Mr. President. What resources are we giving them to help them overcome these challenges? So often it's nothing and you even say, well, if they're mentally ill there must be a reason for that. You know, maybe they should have made better choices, maybe they should go to church more, maybe-- you have these solutions that don't, frankly, work for everybody. So it's a really good thing when government can come together and fund access to mental healthcare and make sure that it's in a form that's accessible to people in our communities where they are. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hunt. Senator Slama has some guests in the north balcony. They are sophomores from across Nebraska in the Nebraska Federation of Women's Clubs. Please stand and be recognized

by your Nebraska Legislature. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President, colleagues. OK. Just keep getting this tickle in my throat. CCBHCs: Impact at a glance. I was going to skip ahead to meeting children, youth, and families where they are, so-- sorry, should have skipped ahead, I guess, before I was-- here we go. OK. It's page 25. So meeting children, youth, and families where they are: In December 2021, U.S. Surgeon General Vivek Murthy, MD, MBA, issued a Surgeon General's advisory highlighting the urgent need to address the nation's youth mental health crisis. The CCBHC model supports clinics in providing comprehensive services beyond the four walls of the clinic to meet community members where-- when and where they need care. In addition to directly providing services to children and youth, CCBHCs are partnering with schools and other social service systems to reach children, youth, and their families where they are. The vast majority of CCBHCs and grantees, 94 percent, deliver services to children and youth directly, while 8 percent collaborate with a DCO for child youth services. Notably, clinics can do both, providing some services directly while also working with a DCO for others, nearly four in five, 79 percent, offer direct services on site across high schools 74 percent, middle schools 73 percent, and elementary schools 68 percent. CCBHCs direct services on-site at schools: it's a chart. I'm going to skip to the next. Addressing health disparities and social determinants of health, social determinants of health: Despite some progress, inequities remain in mental health and substance use care access for black, indigenous, and people of color, or BIPOC, Asian American and Pacific Islander, AAPI, and lesbian, gay, bisexual, transgender and queer, LGBTQ+ individuals, and other historically marginalized populations. I'm going to pause there to talk about the Oxford comma. I notice here that where they have lesbian, gay, bisexual, transgender and queer they did not use the Oxford comma. And I'm wondering, is that the standard when you write out LGBTQ+ or did the author of this make the conscious choice to not use the Oxford comma? Interesting. The inconsistent use of the Oxford comma, or is it being consistently not used when writing out LGBTQ to say lesbian, gay, bisexual, transgender and queer, no comma after transgender? Is that the consistent way to write out LGBTQ sans Oxford comma or did the author of this make the choice to leave out the Oxford comma? OK, resuming. Since becoming a



CCBHC, a large majority of organizations have initiated, continued or expanded--

**KELLY:** One minute.

**M. CAVANAUGH:** --work to improve access to care for, for reduced health disparities among and serve people of color or other historically marginalized populations. I'm going to go on a limb and say that it is the author's intentional leaving out of the Oxford comma because in this next sentence that I just read, they again do not use the Oxford comma, they say initiated, continued or expanded work, no comma after continued. So I think that it is a conscious choice, maybe, maybe it's a subconscious choice, but I do think that the author of the report is anti-Oxford comma. This is a mystery we will get to the bottom of before the day is over or we won't. Probably not, because I don't know who authored this and I don't know them personally. But if anybody does, please ask them their take on the Oxford comma. Thank you, Mr. President.

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

**M. CAVANAUGH:** Thank you.

**KELLY:** Thank you, Senator Cavanaugh. Speaker Arch, Senator Sanders, and Senator Blood have guests in the north balcony, teachers, student [SIC], and staff from Papillion-La Vista Public Schools. Please stand and be recognized by your Nebraska Legislature. Senator Hunt, you are recognized to speak.

**HUNT:** Thank you, Mr. President. Colleagues, I was just talking about the great addition to our community Charles Drew Health Center has been in Benson in my district, and they recently opened an office on Maple Street, right in the heart of Benson, which is a really good location especially for people who do not have reliable transportation. We know that people who rely on community behavioral healthcare clinics are more likely to be low income, are less likely to have the same resources as some other people. And making sure that we have these community behavioral clinics on bus lines, on lines where we have public transportation is a really important thing for making sure we can get this access to people. There have been a lot of measures taken in this Legislature, led mostly by Senator Wayne, that

I've really admired to try to use whatever tools we have at the state government level to strengthen access to local public transportation. And when I was running for office the first time one of the biggest things that my constituents talked to me about, which tells a lot about my, my district and also makes me chuckle even more when somebody like Senator Jacobson stands up and says that I'm not normal and I don't understand what Nebraskans want, is what a lot of my constituents were specifically talking about that was important to them was public transportation. My constituents want bike lanes, they want busses, they want more routes, they want more reliable transportation. And I tell them, you know, this is kind of an Omaha thing. You know, this is kind of a city council thing. We can connect you with our city councilman and you can talk to him about that and lobby him for the changes that you want to see made. But Senator Wayne had a bigger vision than that and he has introduced different pieces of legislation over the years to give state support to public city level, metro, municipal, public transportation. And those are measures that I supported wholeheartedly because the people in my district have made it clear that busses, transportation, especially bike lanes, I wish we could do more for that, but alas, it still remains kind of a city issue are more accessible to people in my district, especially since my district has so many people that use community behavioral health clinics. There's several offices of Charles Drew Health Center, OneWorld Community Health Center as well in Omaha, where people from my district have taken advantage of healthcare services, whether that's dental services or regular preventive checkups or STI testing and treatment. Charles Drew, I don't believe, they don't do OB-GYN stuff or anything like that and happy to be corrected, but I don't think they do that type of care. And that is something that we should be taking a look at down the pike as we continue to consider bills and legislation that has to do with healthcare, whether we are doing something like LB276, which adds resources to healthcare clinics and makes them more accessible or considering bills that are bans on healthcare like LB574 or LB626 because we see what happens in other states like Idaho where three hospitals have decided to stop taking pregnant patients, you know, they stopped doing OB-GYN care altogether. They're not doing birth anymore at all because there's too much liability for physicians who might accidentally commit, as you would say, an abortion, as you would say somebody would commit a

crime. You use the same exact language for doctors who are using their best judgment to--

**KELLY:** One minute.

**HUNT:** --provide healthcare. Thank you, Mr. President. So when we are looking at legislation that affects healthcare clinics, not only thinking about access for patients but also making sure we're keeping Nebraska a hospitable place for healthcare providers and workers as well. There's so many things that we can be doing to recruit and attract more nurses to Nebraska. I have a friend who recently went through nursing school at, like, age 40 and I admire her so much for that. During the pandemic, she decided that her calling was to be a nurse and she has been working in community behavioral health clinics. So this is a bill that I know would affect her and she's a constituent of mine as well. So legislation like LB276 is really exciting for keeping Nebraska up to date in terms of what healthcare providers need and what patients need. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hunt. Senator Conrad, you are recognized to speak.

**CONRAD:** Thank you, Mr. President. And good morning again, colleagues. I wanted to continue in regards to some of the debate that we've been having on this measure this morning to connect the dots to some other critical issues pending before the Legislature that advanced our shared commitment to behavioral health and mental health. I'm hopeful that we'll find a way to move forward with a measure that my friend Senator Hughes has introduced that kind of updates and makes important changes to how we provide for mental health training in our schools that came before the Education Committee and I think generated a significant amount of support from school boards, from teachers, from those that are on the front lines in dealing with the stress that many students and many teachers are facing when it comes to their mental health and behavioral health issues. I know Senator Wayne has introduced a very exciting proposal in regards to providing a significant amount of funding to address PTSD, which I think would be a, a wonderful step in the right direction to getting more information and more resources into the communities that need them most to help address mental health and behavioral health issues. So along with Senator Brewer and Senator Fredrickson's work on telehealth parity,

this measure that Senator Wishart has brought forward in collaboration with the Governor's Office, I think are all thoughtful approaches to improving access and resources to address our shared goal of doing more on mental health and behavioral health and recognizing the impact, the positive impact that has for human rights, for educational achievement, for economic prosperity, and mitigates the impact to the taxpayer. If we don't address these mental and behavioral health challenges, inappropriate settings, we end up defaulting to our criminal justice system which, again, is the most expensive and least effective way to deal with mental health and behavioral health. On that note, I did want to draw the body's attention, again, kind of forecasting some of the debate that might come forward in regards to the criminal justice package and/or the budget in regards to building a massive new prison in Nebraska. I want to make sure that the body is aware of some really important data and analysis from the Office of the Inspector General for Corrections. So they provide annual reports and special reports as our representatives, as part of our oversight function to the crisis-riddled Department of Corrections. And one thing that they've continued to do a very deep dive on in relation to overall staffing and vacancy challenges there, which are starting to be addressed due to some better compensation, which is good and deserving for those on the front lines, but one area that we still have a huge crisis in particular in our correctional system is in regards to mental health professionals. And the body has saw fit to infuse significant investments into our criminal justice system to provide special treatment units for those that have the most exigent or acute mental health needs. So in a system of, you know, thousands of people, it's been a while since I looked at the number, but I think roughly about 7,000 people within our, our criminal justice system in Nebraska it's been established that usually, typically, over 50 percent of those that are experiencing incarceration also have some sort of mental health or behavioral health diagnosis. We've put--

**KELLY:** One minute.

**CONRAD:** --together-- thank you, Mr. President-- some investments on creating new mental health wings within the system, within the Department of Corrections. But keep in mind, colleagues, that's only really serving about 32 people. That's only about 32 beds in terms of the breadth and depth of the problem that exist within the carceral system. And what the Office of Inspector General report tells us is

that since we've opened that new mental health wing we still don't even have the mental health professionals on board to provide a requisite level of community care as required under state law. So that means professionals like psychologists, psychiatrists, trained mental health professionals and we have a huge and ongoing crisis when it comes to ensuring that we have--

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

**CONRAD:** --mental health professionals in our Department of Corrections. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President, colleagues. Thank you, Senator Conrad, for highlighting the very important issue of mental and behavioral health within the Corrections system. So many people who are incarcerated are having-- are faced with mental health and behavioral health crises and hopefully with a greater investment in programs like the CCBHCs we can start to work to stem the tide of the criminalization of mental health. That's really a lot of what we are faced with is the criminalization of mental health when we're talking about our Corrections system. It's one of the reasons that diversion courts are really great, diversion courts that deal with substance use, the diversion court for veterans is a really, really great option. As we know, so many of our veterans are faced with PTSD and other mental health challenges and so having a diversion court specifically for veterans has been really a game changer for a lot of people who are system involved. I, I remember the start of the veterans court, I think that was something that Senator Brad Ashford actually worked on and then his brother was a judge and he was a judge in-- of the veterans diversion court. So clearly a dedication to service in the Ashford family. His brother passed away a few years ago. And, of course, we all know that our beloved friend Brad passed away a year ago. It's just nice to think about some of the amazing things that have been accomplished in this body. And I, I oftentimes actually say that I'm going to Brad Ashford a situation, which when I say that, I mean, I don't even know what I'm doing until I'm doing it, because that was kind of Brad's way, is that he would, like, get up on the mike and start talking about something and then halfway through

would, like, totally change his entire outlook, the conversation. He might even have a whole new bill put up by the end of the conversation. He would have really enjoyed last night, that kind of quick thinking on your feet, getting things done, collaboration of the whole body, that was definitely the spirit of Brad Ashford what we had here last night with Senator Ballard's bill and Senator Linehan's bill and Senator Fredrickson's amendment that was Senator Brewer's bill and Senator McKinney's amendment. That was certainly the kind of magic that Brad would have appreciated. So CCBHCs-- you know, sometimes we have these bills in front of us and if I weren't taking time--

**ARCH:** One minute

**M. CAVANAUGH:** --so intentionally we might just move through without much of a conversation, the introducer would have their opening, etcetera, but I'm really enjoying reading about CCBHCs and the potential that exists with enacting LB276. So I'm grateful to Senator Wishart for bringing this bill. I think this is going to be a really great thing for Nebraska, for Nebraska healthcare, for alleviating pressure points long term and strategically within our systems. So, yeah, I yield the remainder my time.

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

**DUNGAN:** Thank you, Mr. President. I, I genuinely wasn't planning on speaking more on this issue, which I think is a bingo square for people who watch at home how many times senators say that. But I wanted to rise still in support of LB276, but just in response to some of the things that Senator Machaela Cavanaugh was just talking about. And these are sort of niche differen-- differences that I want to make very clear because I think sometimes these things get conflated. And I say this with all due respect, this is not to correct you or anything, but sometimes we talk about diversion and problem-solving courts and we conflate the two. And this is, I think, an actual really, really important differentiation for my colleagues. And I know a lot of people are doing a lot of things today so I'll probably talk about this more people individually, but there is a very, very large difference between diversion programs and the problem-solving courts that we talk about a lot here in the Legislature. Both are fantastic for very different reasons and both seek to achieve very different goals. To differentiate the two, to put it quite simply, diversion is

a program that is offered wherein somebody can take advantage of that program before they plead to something, whereas the problem-solving courts require that an individual has to actually enter a plea to a felony prior to engaging in the program. And why that's different is I think that sometimes these problem-solving courts are talked about as though they are a pre-adjudication kind of program, meaning that you can get involved in it and then you never even actually get charged or convicted, rather, of, of a crime and that's, that's very different. So to put this another way, diversion is where you get charged with an offense and if you meet certain criteria you are able to get into the diversionary program. And then if you complete the criteria of the diversion program, generally speaking, the charges against you are dismissed. The charges are still pending, at least in Lancaster County, during the whole time that you're in the diversion program. But ultimately the charges are dismissed prior to you having to plead guilty or have a jury trial or anything like that. So the benefit of that is you can get the benefit of diversion, you can get involved in, for example, treatment, mental health or behavioral health services like we're talking about here and it never actually shows up as a conviction on your record. It can be problematic to have that case still pending while you're waiting to finish diversion, but it's still out there. That is very, very different than the problem-solving courts that we have here as well. In the problem-solving courts, what happens, let's say, in drug court, is you actually have to, at least in Lancaster County, enter a plea to the felony as charged. So you go in and you plead guilty to the felony that you were charged with and then you're accepted into the drug court program. And what happens is the sentencing on your felony that you've now pled to just gets kicked way, way, way far down the road. And you essentially have, I think it's generally a 24-month program, so a two-year program where you have to do really intensive, supervised probation, essentially, where you have to fulfill certain needs, again, utilizing behavioral health services and substance use services, which is why that's really relevant to what we're talking about here. And if at the end of those 24 months or however long the individual program is, you've successfully completed it, then what happens is rather than be sentenced on your felony the case is dismissed. If, however, you are unsuccessful in your drug court program and you've done, let's say, 18 months and you're unsuccessful and ultimately are discharged from that drug court program you are then sentenced on the underlying felony

that you initially pled to. And so I just want to be very, very clear about that and it's just, like, a personal thing that pops up and, and I understand it's a very nuanced issue and I'm happy to have this conversation with colleagues. But I think when we conflate diversion and the problem-solving courts, we do ourselves a little bit of a disservice--

**ARCH:** One minute.

**DUNGAN:** --thank you, Mr. President-- by confusing two incredibly important, different programs. Now the other thing that I think is, is noteworthy here is that the diversion programs are essentially run by the county attorney offices and they have their own discretion to admit based on their own criteria. Whereas, we as a Legislature in the Supreme Court here in Nebraska, I think has done a really good job of sort of establishing the, the problem-solving court criteria. There are some issues I know across the state of how these are being set up and we can continue to debate those and figure out what best practices are. But I just want my colleagues to understand that when we talk about problem-solving courts, we are not talking about people just getting off of these charges without even having to plead to something. In order to be involved in the problem-solving court you are pleading, generally speaking, to a felony and undergoing an incredibly intensive supervised term of probation, essentially, for generally a number of years. So I wanted to make the differentiation clear, diversion is different than problem-solving courts.

**ARCH:** Time, Senator.

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

**ARCH:** Senator Hunt, you are recognized. This is your last opportunity before your close.

**HUNT:** Thank you, Mr. President. I see Senator Erdman in the queue to call the question, but after I finish this time on the mike I'll withdraw this motion to recommit so he can fall out of the queue unless he has something else to say on the underlying bill which then he'll certainly have the opportunity to do that. I've spoken a lot publicly over the years about my own struggles with mental health and part of the reason that I do that is to destigmatize, to remove some



of the stigma around just normalizing that we all have struggles and it's OK. And also because my experiences in that area, my experiences with that have a lot of bearing on the way I vote and the way I move in this body and in the world. When I was, gosh, probably 14 or 15, maybe younger, I couldn't drive so probably 14 or 15, I was at Crossroads Mall and I was a big shoplifter. I was one of those teens that's got very sticky fingers and, like, always finding something to take even if for nothing, for no reason, for like a thrill, basically. And I did get caught and I was shoplifting, like, long opera gloves or something and the dumbest thing, the dumbest decision, so stupid, and I got caught, I got arrested. My parents came and they actually got me a lawyer and whatever happened was such a blur to me. You know, I went in front of a judge, the lawyer handled everything. I don't know what happened and I was dealing so much with depression at the time, as I've talked about. I know I believe the attorney kind of made that argument that it was, like, this kid is mentally ill and they need treatment and they don't need to be locked up. So I know it's kind of by the grace of God, right? Like, I got really lucky that I didn't receive a harsher punishment for that. You know, that could have really gotten me in a bad cycle of being involved in the juvenile justice system, falling in with the wrong people. I don't know, like, I really can't even predict or know what my future would have held if I had continued down that path, which I didn't, because I was able to get mental healthcare at that age and when I was, like, 13 or 14 and start seeing a therapist and start working through issues that I had as a child that led me to kind of seek thrills like shoplifting and things that I wasn't supposed to be doing. And at a young age, I was able to change that behavior and stop doing those things and understand why I did those things and kind of the underlying, you know, problems that I was trying to solve in an unhealthy way. And that's exactly what you learn to do through therapy. So I know people are going to listen to me say that and be, like, you know, you're a criminal or, you know, you got off easy which, yeah, I did get off really easy. I sure did. I'll say that, first of all. But nothing happened to me that I don't think every young person deserves, which is lenience, which is understanding and connecting them to resources to help them deal with their mental health challenges instead of just immediately going to something punitive or a solution that's carceral because, you know, I, I was able to grow up into a very normal person despite what people like Senator Jacobson say about how abnormal I am

but I'm actually super normal. So it's these kinds of experiences that inform my support for bills like--

**ARCH:** One minute.

**HUNT:** --LB276 and support for the Certified Community Behavioral Health Clinic Act. And I'd like to withdraw my motion. Thank you, Mr. President.

**ARCH:** Motion is withdrawn. Mr. Clerk. Oh, excuse me, Senator Erdman, you're recognized to speak.

**ERDMAN:** Thank you, Mr. President. Senator Hunt. I changed my mind about calling the question. I have a few comments. I, I received a couple of emails today on this bill. One from a good friend of mine who's a teacher and his concern with this is they're going to, this is going to ask them to do things about mental health that they don't normally do. He would rather teach. And I think many times today we consider everyone who misbehaves has a mental health issue and that is not a true statement. There are discipline reasons, lack thereof, that some children act the way they do. We don't, we don't want to talk about that. My good friend Senator Groene tried for years to do something about controlling the discipline in the classroom, got nowhere. The teachers' union was in favor of controlling or having discipline in the classroom and it still got nowhere. I'm not here to tell you today that I don't believe there are people who have mental health issues, that's not the case. But what I'm telling you, every person who has a behavioral issue does not have mental illness. I want to share a story with you about my early, earliest days of school. In fact, it was the first day of school and that was a long time ago. And when my dad dropped me off at school, he said if you get in trouble at school that'll be nothing compared to what happens to you when you get home. You are there to respect and obey the teacher. So the very first recess seemed to be one of the greatest parts of school to me and two of my classmates and we decided that we would crawl under the pipe under the hallway-- under the roadway until the teacher went back inside and we'd come out and play. Well, the teacher seen us go underneath highway and she came out and she asked us to come out. And there was a girl and she swatted her a couple of times and then there was another gentleman and she whacked him a couple of times and then she beat me, hit me several times. And she said the reason that you

got more whacks than the others, it must have been your idea. She was probably right. So I went to school, attended government schools for 13 years, I never got another spanking once, not once. That teacher that spanked me that first day of my kindergarten year attends my church. She's 93 years old and she will remind me almost every Sunday, do you need another spanking? And I say, no, that worked. So the point was this, I knew that what I did was wrong, the teacher showed me that it was wrong, and the discipline that she gave me proved to me that I don't ever want to do that again. And so until we get some discipline in the classrooms, until we understand that disruptive behavior stops learning, until we understand that, that's why third graders can't read at third-grade level is because of the disruption in the classrooms. That's why teachers are leaving the teaching profession--

**ARCH:** One minute.

**ERDMAN:** --is because they don't feel safe. And so we're going to make those teachers do something other than teach when we put this bill in place. But that's what we do in the Nebraska Legislature, we put Band-Aids on the amputation. We never want to try to deal with the root cause. I don't know, it doesn't appear to me that this bill seems to be the answer. Thank you.

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

**ASSISTANT CLERK:** Mr. President, Senator Hunt would move to indefinitely postpone the bill, but I have a note she wishes to withdraw.

**ARCH:** So ordered.

**ASSISTANT CLERK:** In that case, Mr. President, I have nothing further on the bill.

**ARCH:** Seeing no one in the queue, Senator Wishart, you are recognized to close.

**WISHART:** Thank you, Ms.-- oh, thank you, Mr. President. I'm going to waive my closing and just move this to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. All those opposed nay. The motion-- or excuse me, LB276 is advanced to E&R Engrossing. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB276A, I have nothing pending on the bill.

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

**M. CAVANAUGH:** Thank you, Mr. President. I am going to be very brief. When I was talking about problem-solving courts, first of all, thank you to Senator Dungan for that clarification and distinction, but my staff came over and told me a little history about problem-solving courts and our very own Senator Ray Aguilar. Senator Ray Aguilar introduced the legislation that authorized the beginning of problem-solving courts in Nebraska. So I just wanted to acknowledge that since Senator Aguilar is here with us and I thought that was an interesting historical tidbit. Thank you. I yield the remainder my time.

**ARCH:** Thank you. Seeing no one left in the queue, Senator Wishart, you're welcome to close on LB276A. Senator Wishart, you're welcome to close on LB276A.

**WISHART:** Thank you, Mr. President. I'll waive closing to advance LB276A to E&R for engrossing.

**ARCH:** All those in favor for advancing LB276A say aye. Those opposed say nay. LB276A is advanced to E&R Engrossing. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, some items: new A bill, LB299A [SIC--LB799A] offered by Senator DeBoer. It's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of LB799. Committee on Banking, Commerce and Insurance reports LB256 with committee amendments attached. Amendments to be printed: Senator Sanders to LB583.

**ARCH:** Colleagues, Senator Hansen would like to welcome 100 fourth-grade students from Arbor Park Elementary School in Blair, Nebraska. They are seated in the north balcony. Students, please rise and be welcomed by your Nebraska Legislature. Mr. Clerk, you may continue with items.

**ASSISTANT CLERK:** Mr. President, two announcements: the Executive Board will meet in Room 1525 at 12:30 today. In addition, the Appropriations Committee will hold an Executive Session at noon in Room 1307. Finally, priority motion, Senator DeKay would move to recess until 1:00 p.m.

**ARCH:** Colleagues, you've heard the motion to recess. All those in favor say aye. All those opposed nay. We are recessed.

[RECESS]

**KELLY:** 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.

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

**KELLY:** Mr. Clerk for items.

**CLERK:** Thank you, Mr. President. Communication from the Executive Board indicating LB813, LB814, LB818, LB282 and LB799 have been designated as Speaker Major Proposals. That's all I have at this time, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Geist, you're recognized for a point of personal privilege.

**GEIST:** Thank you, Mr. President and colleagues. I just want to let you know that as of noon today, I announced my intention to step down from my legislative seat, which will be effective the end of day tomorrow, 11:59 p.m. It has been an honor of my life to serve here with all of you and to serve my district. Those of you who know me well, you know that I give 100 percent to everything I do. And in order to do that, I've decided to step aside so I can give my full attention to my other commitments. I'm not going to belabor the point. I wish all of you very well. I wish you the best this session. And God bless you all. Thank you.

**KELLY:** Mr. Clerk for items.

**CLERK:** Mr. President, Select File, first bill, LB683. First of all, Senator, I have E&R amendments.

**KELLY:** Senator Ballard for a motion.

**BALLARD:** Mr. President, I move the E&R amendments to LB58-- 5-- 63 [LB683] be adopted.

**KELLY:** The motion is to adopt the E&R amendments. All those in favor state aye. Those, those opposed nay. The E&R amendments are adopted. Mr. Clerk for the first item.

**CLERK:** Mr. President, first amendment, Senator Dungan would move to offer AM1096.

**KELLY:** Senator Dungan, you're recognized to open.

**DUNGAN:** Thank you, Mr. President. And thank you, colleagues. So I want to start by sort of saying that AM1096 is meant to be a technical fix. I rise generally in support of LB683. I was present not voting on the underlying one because I had questions regarding the subject matter of my amendment that I'm going to get into more in a minute. I do think that this amendment seeks to sort of make the bill operate a little bit cleaner and just clarify some things that I had conversations with Senator Geist and others about. So just to situate us and make people understand sort of what we're talking about, so obviously, LB683 seeks to create the Nebraska Broadband Office. In my reading of this bill, I tried to look at it as a practitioner's perspective from the legal perspective with regard to whether or not the process for an appeal based on a decision by the Nebraska Broadband Office is clear. And what caught my eye was on page 5, line 16, subparagraph (3) it says, "If any final decision of the Nebraska Broadband Office relating to funding for broadband projects is appealed to the district court, the appeal shall, except as to cases the court considers of greater importance, take precedence on the trial docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way." So when I was reading that, the first thing that sort of popped out to me was this line with regards to "the appeal shall, except as to cases the court considers of greater importance." Having operated and worked in the district court here in Lancaster County, where it's my understanding these

cases would ultimately be heard, that seems like a very difficult decision for a district court judge to make. And I don't want district court judges to be placed in a position where they're needing to decide what the actual level of importance is regarding to individual matters that are on their docket. And what I mean by that is district court judges take up civil cases, they take up criminal cases, they take up a number of different kinds of cases that all have varying levels of importance to those involved. And the language of "except as to cases the court considers of greater importance" seemed problematic to me. I think that puts the judges in a really difficult predicament of deciding what is more important and what's not. And so that led me down the path of trying to figure out why that language was in there. I talked to some people during General File and also in between General and Select. And my understanding is that the intent of that language was to sort of expedite or speed up this appeals process. And so the amendment before you, AM1096, simply seeks to remove the language, "except as to cases the court considers of greater importance." What the effect of this amendment does is it takes out that sort of ambiguity of the importance of cases and instead just says that any appeal before the district court of a decision made by the Nebraska Broadband Office relating to funding shall take precedence on the trial docket at the earliest practicable date and expedited in every way. So what that means is this is, I think, seeking to speed up the process in a way that is, what the goal was, but it still has "at the earliest practicable date" which means it allows the district court a little bit of flexibility because they can't obviously schedule something the next day if it's not practicable. So this is intended to sort of balance those interests. And I asked a number of these questions to somebody on the committee who I thought would have that information. So I was wondering if Senator DeBoer would be willing to yield to some questions here to kind of clarify what this amendment does and what the process is.

**KELLY:** Senator DeBoer, will you yield to some questions?

**DeBOER:** Absolutely.

**DUNGAN:** So, Senator DeBoer, we talked about this a little bit on General, but just to clarify, decisions that are made regarding funding from the Nebraska Broadband Office, any appeals process, is

that still pursuant to the APA the way that a regular administrative procedure would be?

**DeBOER:** Yes. Any appeal from the Broadband Office would go through the APA procedure.

**DUNGAN:** And so what's the intention behind subparagraph (3) here in the language that we're talking about? Why was that added in?

**DeBOER:** So the problem is with these sorts of decisions, what you-- what you have is a situation where delay actually makes a decision because these are grants which are time sensitive, so that if someone who is asking for a grant is having an adjudication by the Broadband Office about whether an area is served or not, if that takes a whole lot of time to go through the process, to go through the appeals process, then that will actually run out the clock and effectually make their grant application sort of not work. So what we want to do is we want to expedite the process because otherwise we can't have an effective appeals process if it takes too long. So currently under the PSC when we have these grants, what will happen is the Supreme Court, if you appeal a decision of the PSC, it goes straight to the appellate court. It skips that district court step, goes straight to the appellate court, and our Supreme Court, most of the time will reach down and grab those and take it up for the first time in the Supreme Court, which expedites the process. So what we want to do here is expedite the price-- the process now under the Broadband Office so that we do not, by virtue of allowing delay, actually defeat the whole purpose of having a challenge process.

**DUNGAN:** So do you think that, based on sort of your expertise in that area, do you think that AM1096 effectuate that goal of speeding up the process by removing that discretionary language?

**DeBOER:** Yes. I think that AM1096, to the extent that we are all clear that we're going to go through the normal APA process, is effective in suggesting that these appeals need to go quickly through the district court as soon as, as they can. And that is, I think, an effective way of effectuating what the, the intent was.

**DUNGAN:** And you were in favor of LB683, correct, when it came out of committee?



**DeBOER:** Yes. The, the, the newspapers did not clearly report that I was in favor of this bill, but in its current form, with the amendments that we put on in the committee, I am, in fact, in favor of this bill and have been arguing for it, despite what you may have read.

**DUNGAN:** OK. And do you-- would you remain in favor of it if AM1096 is added on?

**DeBOER:** Yes. I think AM1096 is a good addition.

**DUNGAN:** [GAVEL] OK. Thank you, Mr. President. So, generally speaking, just to reiterate that, AM1096 you see as a friendly amendment to LB683.

**DeBOER:** I think it is a good amendment that should we adopt it will do exactly what we intended with the committee amendments.

**DUNGAN:** Thank you. So, Mr. President and colleagues, I just wanted to reiterate that. I think it's helpful to have that perspective from somebody on the committee who was in favor of LB683. As I said earlier, I spoke to Senator Geist about this previously. I've spoken to a number of other senators on the Transportation and Telecommunications Committee. This is intended to be a friendly amendment to clarify that the purpose of this subparagraph (3) is to expedite these appeals. Again, I think it allows enough-- plenty of wiggle room with regards to the practicable date to allow district courts to schedule this when it would work for them while at the same time actually trying to speed up these appeals so they don't get continued out for months upon months, if not even years just because there are always pressing matters on a district court docket. And I would hate for these appeals decisions to never get heard by the court. So, colleagues, I would urge your support of AM1096. I'm happy to answer any questions that anybody might have about it. I don't intend to continue talking about it on the mike. It's a friendly amendment. I believe folks on the committee are in favor of it, at least that's what it seems like to me. But if you have any questions about the function or the form of how this would operate, I'm happy to answer those. Thank you, Mr. President.

**KELLY:** Thank you, Senator Dungan and DeBoer. Mr. Clerk. Senator Blood, you're recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I stand in support of Senator Dungan's amendment, but I do not stand in support of the underlying bill. And I am hoping just once everybody would listen to the reason why before you all push green on this button like robots, because I have a lot I want to share with you. So what's really stuck in my craw about the underlying bill is that the Governor already created this office by executive order. So the time that we've wasted on this bill is because somebody decided that we need to codify this effort. And I find that really frustrating. In fact, I think it's funny that we can't codify child labor laws here in Nebraska because I was told it wasn't needed, even though ten more states need to get together to codify it in order for it to be in our U.S. Constitution. Because, you know, we love children, but apparently only when it's a particular bill. We heard several senators say that broadband must be taken away from the PSC because what's happened, or should I say not happened, with broadband is mainly the PSC's fault. So to be honest, it's really the fault of this body and its lack of knowledge now and in the past when it comes to technology. We really need a technology committee, by the way. But we feel that the PSC is so incompetent that we still decided that we can still let them handle certain grant programs pertaining to broadband. So either they can do the job or they can't do the job. Make up your mind. What I don't see in this legislation are the very things that would have prevented our constipated efforts when it comes to broadband. Why doesn't this bill have an accountability aspect? Where is the language that says we codify this office but have the expectation that any company that applies for state or federal broadband funds are required to give us specifics? Which, by the way, is why we're in this, this mess right now, because we in Nebraska don't measure what we treasure. We give money out to big corporations and we let them go on their merry way and we don't care. And then we act surprised when we don't get any bang for our buck. I want to know where they will be building and what speed their projects are offering. I want that language in a bill like this that's still not necessary. I want to go down into the dirt and know what our cost per mile is. There are one or two senators who talked about speed during a previous debate. Where is the requirement for independent speed testing? Let's codify those things. My big thing

when it comes to broadband is that I want to pull back the curtain. Let's force our telecommunication companies to publicly report their progress since they are using gifted funds. We haven't done that. We don't do that, not really. And then we wonder, going all the way back to around 2005 when Heineman was Governor, why we're in the mess that we are in. Are they using fiber? Are they using Wi-Fi? We don't know. Show me how we know. Show me how they report back to us in a way that we can utilize the data to make better decisions. You can't. We may very well have a new regime, but the previous two regimes at the executive branch left a long list of problems that had to be corrected. And much of that was because things were not transparent. And that is the issue with moving everything over to the Governor's Office. From DHHS to overcrowded prisons and much, much more, I am not a fan of codifying something that is already in place. So when it goes south, guess who they're going to point at? It's not going to be the executive branch. It's going to be you.

**KELLY:** One minute.

**BLOOD:** We saw that during Heineman's reign of terror. Right? Or should I say error? I'm going to get back on the mike. And I'm going to start walking you through historically why this underlying bill is ridiculous and it is irresponsible to move this through any further than Select File. It needs to go away. It needs to have a Speaker's hold. It needs to be somewhere besides in front of us taking up time. With that, I yield back any time to you, Mr. President.

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

**DeBOER:** Thank you, Mr. President. I've been talking with some of the other members of the Telecommunications and Transportation Committee about this amendment and whether it would effectuate what our idea was with the committee amendment. And I think we've reached some agreement with some of us at least that it will do that. So I was wondering if Senator Geist would yield to a question.

**KELLY:** Senator Geist, will you yield to a question?

**GEIST:** I will.

**DeBOER:** Senator Geist, I know we've been talking under the balcony about this amendment with Senator Dungan and others. Do you feel that this amendment will be a friendly amendment that effectuates what we're trying to do with our committee amendments here?

**GEIST:** Yeah, I do. I think this is good. It doesn't give specific days to what is expected of the judiciary, but it does give some guidance. So, yes, I think it achieves what we're after.

**DeBOER:** Thank you, Senator Geist. Senator Bostelman, you also have been working on a lot of these broadband issues with us a lot and know about the problems or the concerns that might happen if there was a delay in these kinds of challenged processes. Do you think that Senator Dungan's amendment, as it is outlined, would allow us to achieve that goal of not having delays in the adjudication process?

**KELLY:** Senator Bostelman, will you yield to a question?

**BOSTELMAN:** Yes, I will. And yes, I do support AM1096 and I do agree with your comments and Senator Dungan's.

**DeBOER:** All right. Thank you, Senator Bostelman. Anyone else? Senator Fredrickson, we'll ask you. You're sitting here.

**KELLY:** Senator Fredrickson, will you yield to a question?

**FREDRICKSON:** Absolutely.

**DeBOER:** Senator Fredrickson, you've had time to listen to the discussion about AM1096 from Senator Dungan. Are you confident that this will help us to achieve the goals of the committee amendment to expedite this process?

**FREDRICKSON:** Yes, I am. I think this allows for obviously the adjudication in expeditious way. So that's what we're going for. So I'm in support of the amendment.

**DeBOER:** All right. Thank you. All right. Well, I want to say thank you to Senator Dungan for helping us to come to this conclusion. And I want to urge all of my colleagues to vote in favor of AM1096 and in favor of LB683. Thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President, colleagues. So I was trying to find Senator Dungan's amendment. Senator Dungan, would you yield to a question?

**KELLY:** Senator Dungan, will you yield to a question?

**DUNGAN:** Yes.

**M. CAVANAUGH:** Thank you, Senator Dungan. I thought that I had a copy of the committee-- the, the bill as adopted. What does your amendment do?

**DUNGAN:** So currently an appeal that goes to the district court, the language in here says any final decision of the Nebraska Broadband Office that relates to funding when it goes to the district court and is appealed there, that they have to set it. It says, specifically, it says appeal to the district court, "the appeal shall, except as to cases the court considers of greater importance, take precedence on the trial docket over all other cases." My concern with that is it seemed ambiguous as to-- I felt like that was placing maybe the district court in an uncomfortable position of needing to decide, well, what is a case of greater importance? And when you're working in the district court, sometimes a case that's a low level, let's say criminal offense, may be coming up on the very end of its statute of limitations. So does that mean that that's more important or is a murder more important? Or if you're looking at civil cases, is a divorce more important than this? And so that language is just ambiguous enough because courts don't rank their cases in order of importance. So I then asked folks, what's the goal of this? And they said the goal was to make sure these appeals happen as quickly as possible. And so in an effort to make sure that happens, this amendment just cuts out the language, "except as to cases the court considers of greater importance" because then all read together, it says that these shall take precedence, these appeals shall take precedence, and the court has to schedule them at a prac-- the soonest practicable date. So the language of practicable in there still gives the court flexibility to say, well, I have a jury trial coming up next week. I can't hear this case immediately. But as soon as they possibly

can, then they hear these appellate cases. And so if the goal is to get these done ASAP, this still provides the courts flexibility to do what they want, but ensures these appeals are heard in a timely manner so they don't kind of languish waiting, continuing down the road because other cases were pending on the docket.

**M. CAVANAUGH:** OK, thank you. That was helpful because I notice it said after the comma strike line 18 and 19, and I was like, OK, I got to find the comma. And then I find the comma and I'm not a lawyer so thank you. That was-- that was helpful clarification. I probably will vote for AM1069 because that sounds like something that we probably want to clarify. I still am opposed to LB683. So when we debated this on General File, I spoke about a lot of my opposition to LB683 and primarily it's about-- not about the Broadband Office itself. It's about what we are doing by taking away an authority from an elected body and giving it to the administration. And I think that we probably need to seek an AG's Opinion on the constitutionality of it, because it is very clear in our Constitution that we cannot take an authority away from the Public Service Commission that pertains to common carrier--

**KELLY:** One minute.

**M. CAVANAUGH:** --and give it to the administration. That would be unconstitutional. We have not defined common carrier, but common carrier could-- or we have not defined broadband as common carrier, but it could be defined as such at a later date and, and an immediate date. So I think before we do something like this, we really need to have that clarification of whether or not it's constitutional. So I think that we should be asking for an AG's Opinion on the constitutionality of what we are doing with this. I think I'm about out of time, so I will continue on my next turn.

**KELLY:** Thank you, Senator Cavanaugh. Senator Blood, you are recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I was a little loud on the first part because it was so loud in here, and I just wanted everybody to make sure that I was heard so I want to take it down a notch. But I hope you are listening because I think it's an embarrassment if we move this bill forward. I still stand in support

of the amendment. It's a good amendment, but the underlying bill is not. When did we waste taxpayer dollars on codifying something that already existed? Actually, I can name several instances but. So in recent years, the state of Nebraska has taken action to study the gaps in the state's Internet coverage. And we've invested in the expansion of high speed Internet. And I'm going to talk a little bit about the history of what we've done. And there's a common theme throughout all of these bills and the reason why certain parts of Nebraska have been ignored. And I'm hoping you guess what that is. So in 2018, Governor Ricketts signed LB994 into law, and they created the Rural Broadband Task Force, which was supposed to alleviate the issues of the rural areas not having adequate, or any in some areas, broadband. Ed Toner was the state's Chief Information Officer at the time, and he was the chair of the Nebraska Information Technology Commission. We love to put together commissions and committees, work-- workforce groups, but it seems like there's a lot of meetings but never any real action. The task force has worked to evaluate or had worked to evaluate rural Nebraska's broadband needs, and they recommended actions to increase high speed Internet access. Gee, that was in 2018. Is it kind of surprising that we were behind on that compared to other states? Again, no technology committee and we lack the knowledge when it comes to technology in this body to make good decisions sometimes. In 2020, the state of Nebraska allocated nearly \$30 million-- that was from the federal coronavirus assistance-- to connect more than 20,000 households with broadband. In 2021, the Governor signed the Rural Broadband Bridge Act into law, LB388. We invested \$40 million, \$20 million per year, right, to help another 30,000 households get broadband connectivity. Tens of millions upon tens of millions upon tens of millions of dollars. Did we ever get a report back on that in the body? I don't think so. In 2022, Governor Ricketts signed LB1144 into law, and that amended the Rural Broadband Bridge Act, and that changed the required match from 50 percent to 25 percent because we wanted to make it easier for people that got grants that were working on projects in high-cost areas because we know these big companies don't want to do business unless they make a profit. So we wanted to make sure that they made a good profit and it made it more financially viable for providers to construct broadband in rural parts of the state. I'm curious, where's the tracker for that? Can anybody point me to that where I can get that information? I'd like to see that. In September 2022, Governor Ricketts told us that we already have the

legislative framework. We have the latest legislative framework and operational processes in place to manage all of our state and federal broadband grant programs to expand access to high speed Internet. So did Governor Ricketts lie to us? We've already got it in place. I don't know. Maybe someone can come up and tell me the answer because I don't know. And I only had a few minutes to throw some of this together. In 2022, it was announced that Nebraska received \$5.6 million in federal grants and the working group Connect Nebraska, yet another working group and another fancy name--

**KELLY:** One minute.

**BLOOD:** --they would move forward to make sure that the funds were put to use. But yet, when you look at the bill, they talk about creating a strategic plan because apparently none of the other strategic plans or plans in general have worked. Why do we think those haven't worked? And I'll address that the next time I'm on the mike. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. Senator Conrad, you are recognized to speak.

**CONRAD:** I'd yield my time to Senator Blood if she so desires.

**KELLY:** Senator Blood, you have 4:50.

**BLOOD:** Thank you, Mr. President. And thank you, Senator Conrad. So let's talk about strategic plans. I talked about this my freshman year. It was one of the first times I ever talked on the mike when we were going to approve money for a strategic plan, when we had a commission that had done one the previous year. Strategic plans are living, breathing documents. Every time you have a whim, you don't change the strategic plan, you amend the strategic plan because either it was a good plan or it wasn't. Just because you get a new department head, just because you get a new grant, you don't get a new strategic plan. If you have a good strategic plan, you have the who, what, where, when, how for success and it is a pathway to that success. So why do they need a new strategic plan? Either they don't need a new strategic plan or they've already done it based on the fact that we're just codifying or the one that the Ricketts administration, one of the many ones done by the Ricketts administration, were crap. I don't know



and I can't tell by the way this bill is written. So it says in the bill they're going to conduct state ad-- advocacy on broadband issues at the federal level. So why do we have the Connect Nebraska Group? What are we trying to create here and what are we trying to do and who's going to be doing it? That's not clear to me in the bill. They're going to provide resources and information to the public through a Website and other communication modes. Hello, [Broadband.Nebraska.gov/home](http://Broadband.Nebraska.gov/home), which used to have Governor Ricketts' signature on it, has been replaced with Governor Pillen's signature. So again, what are we doing here? What are we voting on? This already exists. They want to create a Website of information. That Website of information is already on the Internet and it's actually a pretty good Website considering some of the Websites we have in this government. Now, I can't tell you if it's secure or not. I haven't looked at that yet because we used to have a lot of different pages within our, our government sites that were not secure and were open to hackers. Department of Labor is a really good one that I'd like to point out at another time. So what's on this Website? Well, a lot of the things that we talked about that supposedly this bill was going to do. That Website-- nobody's listening. I'll just make sure I print out the transcripts and say, I told you so in a year. So what's on the Website? Broadband availability map. Broadband grants. Thank you, Senator Erdman, for listening, by the way. All right. You can subscribe to the newsletter for updates on broadband. What grants are available? What's going on with the speeds? What's going on with the process? They even have a digital equity statement, very forward-thinking. So what are we doing with this bill? Is it just a vehicle to attach other bills on which I have an issue with one of the amendments coming up, too, so this is not the last you're going to hear about today. And again, it's another thing of what are we doing when there has already been statements made by the Governor's Office that are Executive Orders. Why are we codifying that stuff on the floor? What is the purpose of an Executive Order? Are we the executive branch? We are not. Is the Governor's Office the legislative branch? They are not.

**KELLY:** One minute.

**BLOOD:** When we went through training our freshman year, we were told there's a definite divide. Why are we trying to blur the lines? I have a lot of theories on that, but I'm not sure everybody would agree

about why we're trying to do that. But the one thing I do know is that we are ultimately responsible for this train wreck we are creating if we vote green and if we push this through. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. So, LB683, AM1096, I am going to vote for the amendment, but not the bill. I just glanced out into the Rotunda, and I saw Herbie Husker-- said that very cautiously because for a second I was like, if I get that wrong, I'm pretty sure I'm going to be run out of town. I saw Herbie Husker because it's I Love NU Day, and as an alum of the University of Nebraska-Omaha, I'm very excited that they're here. And I do love the university. I also love our state colleges and our community colleges. We have some great opportunities for education and some great opportunities when it comes to getting into the industry of telecommunications and transportation. So-- and the university provides a lot of those opportunities, as do the state colleges and the community colleges. And so with continued investment in our postsecondary education institutions, hopefully we can make up ground in recruiting and retaining an educated workforce. So the broadband bill, this broadband bill. There's more than one broadband bill. But this particular broadband bill is really the authorizing language to take away a function, a duty of the Public Service Commission. It is taking that and giving it to the administration. And a very real concern I have is the constitutionality of this. So I had started to talk about this, the common carrier. It is in our Constitution. Sorry, I have a copy of it here. It is in our Constitution that the Public Service Commission shall not have, let's see here: A legislative act or statute may constitutionally divest, which is what we are doing, divest, divest the Public Service Commission of jurisdiction over common carriers to the extent that the Legislature, through specific legislation, has preempted the Public Service Commission in control of common carriers. But then it goes on to say, the Legislature cannot constitutionally divest the Public Service Commission of jurisdiction over a class of common carriers, carriers by vesting a government agency, body of government or branch of government, except the Legislature with control over the class of common carriers. The concern, colleagues, is that we have not defined or clearly stated if broadband falls under common carriers. It hasn't been defined or stated-- defined as a

common carrier or stated that it is not a common carrier. It has not gotten up to speed. Our language, our statutes have not gotten up to speed with the technology. So--

**KELLY:** One minute.

**M. CAVANAUGH:** --if the potential exists for broadband to be defined under the common carrier definition, what we are doing is unconstitutional and we should be actively seeking an answer to that question. Could broadband be defined as common carrier? Does it meet the threshold, the requirement, the criteria of what is a common carrier? And if it does, then we should proceed very, very lightly, very lightly. So that is one of my more significant concerns that I am going to continue to talk about, because I don't believe that we as a body are paying attention to the constitutionality of what we are doing and setting up in statute this office. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Blood, you are recognized to speak. This is your third time.

**BLOOD:** Thank you, Mr. President. Again, I stand in support of Senator Dungan's amendment, but I want the underlying bill to just go away. I would like to see us maybe put a Speaker's hold on it while we write a letter to the Attorney General's Office to, to really explore what Senator Cavanaugh has been talking about. But I want to go beyond that. When you guys push green today, as I'm guessing you all will, you are voting for something that is unnecessary. And with that, I actually would like Senator Dungan to yield to a question because I think he knows the answer to this.

**KELLY:** Senator Dungan, will you yield to a question?

**DUNGAN:** Yes.

**BLOOD:** Senator Dungan, could you describe what an Executive Order is and its purpose?

**DUNGAN:** An Executive Order?

**BLOOD:** Um-hum.

**DUNGAN:** I don't have the definition here in front of me, but I know the executive branch is allowed to issue Executive Orders that don't apply to other branches. They're allowed to essentially order the parts of the executive branch and those who answer to the executive branch in order to do certain things to effectuate certain goals, and that other branches of government are not necessarily held accountable for the Executive Order. And so, for example, you couldn't do an Executive Order that would tell the Legislature to do something. It would be stuck to just the executive branch.

**BLOOD:** So when the executive branch forms a committee or when the executive branch says it's going to allocate or accept funds and do something with them, do they need the legislative branch to codify that to make it happen?

**DUNGAN:** I'm going to be 100 percent honest with you. I'm going to give you the really annoying lawyer answer, which is probably it depends, and I don't know the exact details of what we're talking about, so I don't want to speak out of turn. But I understand the point you're making. And I believe generally speaking, there is a separation of powers there with regard to an Executive Order and the executive branch.

**BLOOD:** Right. We're, we're the legislative branch. Right?

**DUNGAN:** Um-hum.

**BLOOD:** I used to be on the Bellevue City Council. It's a weak mayor system. All the legislative power was in the city council, same kind of thing. Would you say that sounds right?

**DUNGAN:** I believe so, yes.

**BLOOD:** You don't know anything about the Bellevue Council but  
[INAUDIBLE]

**DUNGAN:** I'm from Lincoln. Sorry. Yeah, that sounds right.

**BLOOD:** Yeah. The mayor is a figurehead. They can't spend money unless the council says they can spend money, which is kind of great, right? Because it gives you a good balance. So I appreciate that. Thank you, Senator Dungan. So we have really been working kind of hard on this

issue for at least 20 years. I remember when Governor Heineman was in office, it was like around 2005 and this body was pushed-- and I can't remember if it was passed, but I remember that it got through at least one or two rounds. This body voted to, to prevent Nebraska cities and towns from offering municipal broadband. So that probably sounded like a good idea at the time. Let's go ahead and give it to all the big corporations. Let's give it to the lobbyists and their clients out in the Rotunda. But when we did that, we limited our options to expand broadband. Now, I'm going to try and bring up these transcripts because I know we're going to have more talking on this bill. But what that tells me, again, is that what we are dealing with are the sins of the past. And we can say, well, we want to fix those sins of the past, Senator Blood. Yes, we want to fix those, but we don't fix those by codifying something that's already put into action. After reading that bill and seeing what we already have in place, to me, it almost feels like we're trying to give our Governor a gold star so he can use that on his platform to say that he accomplished something. And I get it. That's good PR. I'm not saying that that wasn't a good idea. I'm just saying that that's not our job in this body. That's what I'm saying. Our job is to craft legislation and move that legislation forward. Our job is not to codify--

**KELLY:** One minute.

**BLOOD:** --Executive Orders. Because if we start doing that, why are we even here? Our job is to craft good policy, not to lift up the executive branch. They have their own Executive Orders. They can move forward without us doing this. Outside of giving a ride to several amendments, this bill serves no purpose. And when you vote green, we're just playing make believe. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. Senators Jacobson and Wishart announce that in both balconies we have students, alumni, and supporters from the University of Nebraska system from across the state. Please stand and be recognized by your Nebraska Legislature. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you. I yield my time to Senator Blood if she so desires. Carol.

**KELLY:** 4:57, Senator Blood.

**BLOOD:** Thank you, Mr. President. Thank you, Senator Conrad. Sorry, I was being asked a question and had you tuned out. I apologize for that. So I was just asked the question, can the Governor do this if we don't pass this bill? That's the point. The Governor is already doing this. We don't need to pass this bill. It doesn't make sense. We're playing make believe. Now, the other question I asked-- was asked was, well, the maps that are on the Website don't show everything. And that's absolutely right. So the committee that's in charge of that should correct it. We don't need legislation to change that either. The Website in general is a really good Website. It is modern. It is easy to peruse. It doesn't have all the data that we need on it right now. So again, what are we trying to prove here? Are we trying to prove that broadband is important? No, you can talk about it on the mike and say those things, but this bill doesn't change any of that. It doesn't create good transparency. In fact, it does the opposite. I mean, we know that, that Mr. Goins stepped down today. There's a really good example why transparency is important, guys. If we give this all over to the executive branch and take it away from an elected body, as Senator Cavanaugh talked about, we are doing the opposite of transparency. What we are doing is giving it up to the universe so it can come back to us and bite us in the butts: prisons, DHHS, Nigerian, Nigerian crime rings, Russian mafia, giving them DOL dollars from unemployment. Like how many times are we going to screw up because we can't see the forest for the trees, right? You know, what's interesting is when people talk on the mike, how many people's backs are turned? Are you listening? Senator Lowe, you usually watch. You're not even watching it on your laptop today. Senator Arch, thank you for that smile. I just really want you to think about what pushing green means. Pushing green means you're ready to give things up from elected body to the executive branch. It means that you don't care about the history of the executive branch screwing things up. And it also means that you are willing to codify something that already exists. So the bill does nothing. The bill doesn't make broadband better. The bill doesn't change anything about broadband. Again, it talks about a strategic plan. What's wrong with all the other strategic plans? It's a living, breathing document. Did the Ricketts administration screw that up? Come and say that on the mike and then maybe I'll agree with you. If not, it is this administration's job to tweak that strategic plan because God knows we have spent tens of millions and tens of millions of dollars on broadband. We did not measure what we treasure.

We just gave it up and said, give us broadband. We don't really know what to ask for, but go ahead and do it. Now, I will give certain members in this body credit. The last few years we have been better about tracking those things, but it's not enough. Our fear, not all of us, of technology have prevented us from asking the right questions. And so we depend on those lobbyists out in the Rotunda, the people from the big companies that make a living doing this, to give us the information that we need to make our good decisions.

**KELLY:** One minute.

**BLOOD:** You can tell that by what happened during Heineman's time when we decided to only allow these big companies to go ahead and take control. Friends, I am begging you, put a Speaker's hold on it. Do something with it. Vote red. If that bill goes through, we are playing make believe. We are doing nothing. Why are we in this body if we're just going to do pretend? I'm not voting for a bill that codifies something that's already in motion, that already has the ability to do all the things that it claims it wants to do in the bill when those things already exist. And I hope to God that somebody is listening on this floor because that's not the action I'm getting right now. With that, thank you, Mr. President. I would yield any time I have left.

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

**LOWE:** Thank you, Lieutenant Governor. I just stand to speak in favor of LB683 and AM1096. And I wanted to welcome the UNK Lopers to the balcony today. Go Lopes. Thank you.

**KELLY:** Thank you, Senator Lowe. Speaker Arch has some guests in the south balcony, fourth graders from La Vista West Elementary. Please stand and be recognized by your Nebraska Legislature. Senator Cavanaugh, you're recognized to speak, Machaela Cavanaugh, and this is your third time.

**M. CAVANAUGH:** Thank you, Mr. President, colleagues. It's nice to see all the students here. I saw Chancellor Gold was up there. I think that he left when the last group left. But nice to see Chancellor Gold from UNMC here for I Love NU Day. And Dr. Kratochvil I think was with him as well. Dr. Kratochvil has been an amazing resource to the

Legislature during the pandemic. The university would-- the Med Center had a lot of briefings for us, mostly over Zoom. And I'm just very grateful to Dr. Kratochvil for all the time that he and all the other doctors at UNMC gave us in helping keep us up to date on everything that was happening as, as quickly as they could. And also for the Swiss cheese analogy, which is a great analogy. So the Swiss cheese analogy is the layers. So you've got a piece of Swiss cheese and it's got all the holes in it. And so it's like if you just have one piece of Swiss cheese, something is going to get through the holes. But if you have multiple pieces of Swiss cheese, the holes start to get covered up. And so that was the analogy behind the multiple layers of protocols and precautions with COVID-19 and really any infectious disease. You want to use the Swiss cheese method, which is layering until all of the holes are covered up. So that's my-- that will forever live with me, Dr. Kratochvil, the Swiss cheese analysis. So LB683, it's just, you know, the Broadband Office, first of all, exists. The Governor did an Executive Order and created the Broadband Office. It exists. The legislation gives it authorities. Fine, except those authorities belong to somebody else right now. That's the problem. It's not what the Broadband Office is being tasked to do. That's not a problem. The problem is a new office has been created by Executive Order with a new authority that we have to divest from somebody else and we don't know if it's constitutional. Problem, big problem. So we should find that out. And I know there's a notion, a notion I don't agree with, that this is of the utmost time importance because of the timeline on submitting the strategic plan to the federal government. Well, we have a Broadband Office. We have a Public Service Commission that has the authority. Both are really working together right now on the strategic plan. They can continue down that path until we make this change official in statute. But I don't believe that it is responsible for us to make it official in statute until we have an answer to that constitutionality question.

**KELLY:** One minute.

**M. CAVANAUGH:** So this is kind of me telepathing to the Attorney General Hilgers that I think we should be writing him a letter asking for him, his office, to weigh in on the constitutionality of whether or not broadband could be interpreted as a common carrier. If broadband can be interpreted to be a common carrier, if it meets the criteria of what a common carrier is, we are walking down a very



reckless path, very reckless. And if it's not, fantastic, fantastic. I will zip it. If we are not walking down that-- I don't know. If we are not walking down that path, then great. Then let's move forward. But I would like to know the answer to that before we do anything else. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Hunt, you are recognized to speak.

**HUNT:** Thank you, Mr. President. I would like to yield my time to Senator Blood if she would like it.

**KELLY:** Senator Blood, that's 4:50.

**BLOOD:** Thank you, Senator Hunt. I would like to talk one last time on it, and then I'm going to put it to rest until we get to other amendments. I still stand in support of Senator Dungan's amendment. It makes a really bad bill better, but I don't support the really bad bill, LB683 because, again, it is unnecessary. Here's what I want to see when it comes to broadband legislation. I want to see accountability. We have lacked accountability in almost all legislation that we have put forward. We have the expectation that if we gave people money, they would provide broadband for us in rural areas. We always talk about running the state like a business. Well, here's business 101. If a business can't make money, they're not going to do it. They're only going to do areas that benefit them. Are you surprised? I don't think Senator Hunt would have a business that didn't make profits because what would be the point, Senator Hunt? She'll tell you that, except unless you really enjoy it and you're willing to take it in the gut. But I can empathize with that one too. Not only do we not measure what we treasure, but it's not been transparent. We don't know the who, what, where, when, why, and how. And we really haven't asked that question very often when it comes to legislation that pertains to broadband. Because in our desperation, in our need to help our rural folks and our folks in eastern Nebraska that live in impoverished areas, we rushed to give people money. We rushed to give them grants. And what happens when you do that? You lack transparency. We don't know. Was it fiber? Was it Wi-Fi? We don't know. Were they using subcontractors, which, by the way, they usually do? And that creates a secondary problem. That happened when I was on the city council. What we had was we would hire a company that we

thought had the best price or could do the best coverage, could do the best whatever. And the reason they could do that is because they would hire subcontractors and there'd be layer upon layer upon layer of workers, which of course, they have to do because they could never afford to have that many workers within your company to provide benefits, to provide vacation, to provide sick leave. So it's really a good financial decision to have subcontractors. But then what often happens is the subcontractors aren't really beholden to anybody. And so things don't always get done in a way that is appropriate. And quite often, often those people at the bottom tier of that subgroup didn't get paid or didn't get paid what they were promised. And guess what? They usually get away with it because who laughs all the way to the bank? The big company. And that's the way the world works, friends, if you didn't know that. We need a technology committee. We do have an elected group that is responsible for this, these actions. We say that we don't trust them based on past behavior, but that past behavior came from us. Governor Ricketts himself said that we had the legislation in place. We're just asking the wrong questions. And now, after this fiasco of almost 20 years, we're willing to give it up to the executive branch. But that is our job, our job to craft good policy, our job to put the guardrails in place, our job--

**KELLY:** One minute.

**BLOOD:** --to create the road map to success. And you know what happens when we codify this? Because I know you're going to do that. Guess whose fault it's going to be when things go awry yet again? And meanwhile, again, these big companies will be laughing all the way to the bank. And yeah, we are going to get broadband because we're already to that point. Come on, don't fool yourselves. Nobody's going to be a hero and all of a sudden like, look, we got broadband. Well, yeah, after 20 years, we're getting broadband. And, yeah, we're investing in it. And, yeah, we have the resources, but shame on us for the way we're doing it. Again, thank you for the time, Senator Hunt. And thank you, Mr. President.

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

**DeBOER:** Thank you, Mr. President. Well, I have an answer so there we go. So, Senator Machaela asked for an answer about whether or not broadband can be considered a common carrier under our laws. And the

answer is no. It is not a common carrier. Under the 1996 Telecom Act, which is a federal act, it is not a common carrier, which is important because of federal preemption. They've occupied the field and they've said it's not a common carrier, therefore it's not a common carrier. So we have our answer, and we know that they are not a common carrier, which gets rid of the constitutional concern that Senator McCa-- Machaela-- McCavanaugh-- Machaela Cavanaugh had suggested she was concerned about. And so I think that's great that we know that piece. Another piece I'd like to point out, I've heard some concerns on the mike about why we're doing this. Isn't it already done basically by the Governor's, the Governor's proclamation? And the reason that we're doing it, despite the Governor's proclamation, is because with these kinds of grants, we want to make sure that we are not subjecting the state to liability. And there is the possibility that someone could challenge whether the Governor's grant would be-- or proclamation would be adequate to transfer this responsibility to the Broadband Office. And in order to avoid that liability, what we can do is we can put it in statute, which takes rid of that risk, takes care of that problem. And I also wanted to reiterate that I don't think the PSC has done a bad job. It has only been a pretty short amount of time that they have had responsibility for broadband. Broadband was not really under their purview until, I don't know, it was 15, 20 years ago. And in that time, we have not given them an astronomical amount of money at any given time to work on it. So it is understandable that we have not solved the entire problem of broadband in the state of Nebraska in that amount of time under the PSC. So I want to put out props to the Public Service Commission and certainly remind everyone in the body that we are not taking all the responsibilities away from the Public Service Commission with the Broadband Office. Rather, this is a sort of conglomeration of certain responsibilities, for example, for the mapping and for putting together this, this long-range plan which is required in order to get the BEAD funds into one person's hand to kind of try and get that part of the process all into one place and expedited. The PSC will remain an active and important player in broadband, both with the state monies through the Broadband Bridge Act and in the short term through the capital projects money, but also because they will have to now and into the future handle those high-cost areas and the-- and the funds to support those with the NUSF and USF funds that are used for those purposes. So this is a, a delineation of responsibilities for a number of folks so that the

Broadband Office will be a player in, in broadband and will have sort of primary visionary responsibility. But the Public Service Commission, as the force that does all of the regulations and as the regulatory body, will continue to function in that capacity, especially in those high-cost areas, especially with respect to the NUSF, which has, by the way, traditionally been their function.

**KELLY:** One minute.

**DeBOER:** Thank you, Mr. President. So in the entire history of the Public Service Commission with respect to these telecommunications issues, they have been regulatory. Their body has generally been a regulatory body. They handle things like the carrier of last resort. Some of those kinds of questions, which they will continue to do under this bill, under the Broadband Office, and in the future, because they will retain regulatory authority. So what we're doing here is we are providing one Broadband Office, not a whole new department, but the office. And when they get that person appointed, who's going to be the BOD, as I like to call them, the Broadband Office Director, that person will function as sort of the visionary, the sort of central sort of person who decides sort of what our direction is, because there is a lot of work that we can do in broadband. And it's going to take some organization and some, some foresight.

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

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

**KELLY:** Thank you, Senator DeBoer. Senator Conrad, you're recognized to speak. This is your third time.

**CONRAD:** Thank you, Mr. President. I am happy to yield time to Senator Blood, if she so desires.

**KELLY:** Senator Blood, 4:55.

**BLOOD:** Thank you, Mr. President. I was actually going to sit down, but I'm going to go ahead and take this time. Thank you, Senator Conrad. So what I heard Senator DeBoer say is that the PSC was doing a perfectly fine job. So the question I have again is why are we taking away responsibilities? And I agree they are the regulatory body when it comes to implementing the things that we need for, for broadband

and when it comes to overseeing what's going on. But I also disagree that by codifying what's already in place, we're doing any types of protections. If indeed we have to codify for that, why are we even giving it to the executive branch? It's very suspect, and I think it's very concerning. It's very concerning that we're willing to give away the transparency that the PSC provides that the executive branch won't be able to provide. And again, our previous Governor, not even a year ago, said that all the legislation, all the policy, all the staffing was in place for us to move forward successfully. So we're going to throw the baby out with the bathwater. Now, again, I mean, a lot of you have come to me and said we didn't really like Governor Ricketts. OK. But here's the thing. That doesn't mean that our current Governor can do any better. Because if after ten years there have continued to be-- be mistakes, there have continued to be a lack of good broadband available for all Nebraskans, that comes back to us. Comes back to bad legislation where we did a bad job of tracking what was going on, where we didn't have the expectation that we would get more bang for our buck. And it goes way, way back to previous legislative bodies slimming down our choices when it came to who we could choose to do broadband. I disagree with Senator DeBoer, respectfully. We don't need this bill. It's a feel good bill. But that seems to be a lot of what we're doing this year. I respect that everybody's coming together and hitching rides. I'd be happy if I get any of my bills out of committee this year so I could hitch a ride as well. But I don't have that benefit because I'm not a committee chair and I am obviously not one of the cool kids so. But that's OK. My mom still loves me, I think. So with that, I would yield any time I have left back to the-- to the President. I am hoping that we're ready to vote on this amendment and I look forward to the other amendments. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. No one in the queue. Senator Dungan, you're recognized to close on the amendment. Senator Dungan waives closing on AM1096. The question is the adoption of AM1096. There's been a request for a call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk.

**ASSISTANT CLERK:** 14 ayes, 2 nays to go under call.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Day, DeKay, Jacobson, Kauth, Armendariz, Dover, McDonnell, Wayne, please return to the Chamber. The house is under call and record your presence. Senators Armendariz and Dover, please return to the Chamber. The house is under call. All unexcused members are present. There's been a quest-- there's been a request for a roll call, reverse order vote. The question is the adoption of AM1096. Mr. Clerk.

**ASSISTANT CLERK:** Senator Wishart voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator von Gillern voting yes. Senator Vargas voting yes. Senator Slama voting yes. Senator Sanders voting yes. Senator Riepe voting yes. Senator Raybould voting yes. Senator Murman voting yes. Senator Moser voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator Lowe voting yes. Senator Lippincott voting yes. Senator Linehan voting yes. Senator Kauth voting yes. Senator Jacobson voting yes. Senator Ibach voting yes. Senator Hunt voting yes. Senator Hughes voting yes. Senator Holdcroft voting yes. Senator Hardin voting yes. Senator Hansen voting yes. Senator Halloran voting yes. Senator Geist voting yes. Senator Fredrickson voting yes. Senator Erdman not voting. Senator Dungan voting yes. Senator Dover voting yes. Senator Dorn voting yes. Senator DeKay voting yes. Senator DeBoer voting yes. Senator Day voting yes. Senator Conrad voting yes. Senator Clements voting yes. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese voting yes. Senator Brewer voting yes. Senator Brandt voting yes. Senator Bostelman voting yes. Senator Bostar voting yes. Senator Blood voting yes. Senator Ballard voting yes. Senator Armendariz voting yes. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar. Vote is 47 ayes, 0 nays, Mr. President.

**KELLY:** AM1096 is adopted. I raise the call. Mr. Clerk, next item.

**ASSISTANT CLERK:** Mr. President, next amendment from Senator Geist, AM1142.

**KELLY:** Senator Geist, you're recognized to open.

**GEIST:** Thank you, Mr. President. I would offer AM1142 to LB683. This amendment is LB412, as amended by the Transportation and Telecommunications Committee. LB412 is currently on General File and was designated as a Transportation and Telecommunications second priority bill for this session. The amendment also contains LB124, which was introduced by Senator Moser, a bill that extends a sunset date for the County Bridge Match Program from June 30, 2023, to June 30 I mean, yes, June 30, 2029. The additional components of AM1142 are as follows. The original LB412, the Broad-- Broadband Bridge Act is amended to provide that Federal Capital Projects Fund allocated to the Third Congressional District may be allocated to the local exchange service area of any municipality containing a city of the second class or village. Last year, LB1024 limited the use of such funds in Congressional District 3 to the municipal limits of these cities and villages. The original LB155 amends the Small Cell Wireless Deployment Act, introduced by Senator DeBoer. The bill clarifies that the act does not apply to the activities of a communications service provider that are outside of the scope of the small-- of the Small Wireless Facilities Deployment Act. And let's see, in just a moment, I will yield some time to Senator DeBoer to speak about that if she would like. Orig-- the original LB359 introduced by Senator Hughes. LB359 amends the application requirements for the Broadband Bridge Act. Current law states that the applications for grants under the program must be filled with the Public Service Commission on or before July 1 of each year. LB359 provides that the Public Service Commission shall establish and post on its Website the deadline for filing applications for Brodge-- Broadband Bridge Act funding. The final two elements of AM1142 are LB122 and LB722, both of which were introduced by Senator Bostelman. Mr. President, I would yield the remainder of my opening to Senator Bostelman for the explanation of those bills, as amended by the Transportation and Telecommunications Committee.

**KELLY:** Thank you, Senator Geist. Senator Bostelman, you have 7:13.

**BOSTELMAN:** Thank you, Mr. President. LB122 is the One-Call bill. AM1142 contains provisions of my bill, LB122. This bill is intended to improve the enforcement of violations under Nebraska's One-Call System. Our One-Call System has two goals. The first goal is to ensure the safety of Nebraska's contractors and citizens to work around, around underground utilities. The second goal is to protect Nebraska's underground utility infrastructure from damage. To make sure we're

meeting both of those goals as best as we can, we need to an efficient and effective enforcement system for violations. For those of you new to the body, we've had bills over the last several years, sessions aimed at improving the time between filing of a One-Call complaint and time it is resolved. Right now, that time period can be two to three, two or three years if the complaint is resolved at all and that is far too long. What we have heard is that there are two main problems with our current system that caused these delays. First, there is no staff dedicated to investigating the complaints that are filed. Second, there is no modified process for small first-time violations to be dealt with quickly. A Small Claims Court of sorts right now, one attorney in the Attorney General's Office, dedicates a portion of their time to doing all of the following: receiving complaints, investigating those complaints, and prosecuting those complaints that require it. There are simply not enough bandwidth there for all these things to be done. This bill proposes to fix these issues by having One-Call complaints filed with the State Fire Marshal's Office, who would also be responsible for investigating complaints. Upon completion of the investigation, the Fire Marshal shall refer their findings to the newly created Underground Excavation Safety Committee, who would determine whether complaints constitute violations. The committee would be made up of the State Fire Marshal or their designee, three representatives of operators, three representatives of excavators, and alternates in the instance of a conflict of interest. The bill caps the committee's authority to levy fines at \$10,000 and also gives them the authority to assess nonmonetary penalties like continuing education. The concept in creating this committee and at the same time limiting its authority is to have a small claims type of forum where minor violations can be dealt with quickly. I want to make it clear that those complaints violations where the consequences can be severe, where penalties can be more than \$10,000, LB122 keeps the enforcement mechanism the same. Only the Attorney General can prosecute those types of violations in district court, just as they do currently. Finally, the bill also addresses excessive refresh requests. Specifically, it would be a violation of the One-Call Act for an ex-- excavator serve-- for an excavator to serve notice of their intent to excavate an area in which an excavation cannot be reasonably commenced within 17 calendar days after the excavation start date. Similarly, it is also a violation to request remarketing or reidentification for any area in which the excavation cannot be



reasonably commenced or continued within 14 days of remarking or reidentification is complete. I want to thank all the stakeholders who have worked on this amendment. The bill was advanced out of committee with an 8-0 vote. I would ask for a green vote on AM1142 and LB683 and its advancement to Select File. The other bill amendment that I have is LB722. And LB722 may take me a little bit longer, actually. Senator DeBoer, would you yield to a question?

**KELLY:** Senator DeBoer, will you yield to a question?

**DeBOER:** Happily.

**BOSTELMAN:** Would you like to tell us about your amendment to the bill?

**DeBOER:** I would love to tell you about my amendment. My amendment is small cell means small cell. That's the whole bill. Small cell means small cell. The problem is that there was some question about the interpretation of the small cell bill that we passed and whether that, that bill that we passed would apply to other things besides small cells. But the answer is, no, it doesn't. But our clarification simply says small cell means small cell. And when we say small cell, we mean small cell. So this is the small cell means small cell bill. And that's what it is. Small cell means small cell. Thank you, Mr. President.

**BOSTELMAN:** Thank you, Senator DeBoer. Senator Moser, would you like to tell us-- would you yield to a question? Would you tell us a little bit about your bill?

**KELLY:** Senator Moser, will you yield to a question?

**MOSER:** Yes. Or is that the question? That must be the question. My part of the bill is to extend the expiration date of the County Bridge Match Program. It was a program that was fairly popular. It allowed counties to apply for a grant to pay for part of replacing bridges that needed to be rebuilt or made structurally sound. The expiration date is here. The money that we had for this program is pretty much spent already, but this would keep the-- that part of the bill alive. And then in a future bill, we could add more of an appropriation to give the counties more in the way of Bridge Match repair money. Thank you.

**BOSTELMAN:** Thank you, Senator Moser. And I'll yield the rest of my time back to the Chair.

**KELLY:** Thank you, Senators. Mr. Clerk for a motion.

**ASSISTANT CLERK:** Mr. President, priority motion. Senator Machaela Cavanaugh would move to bracket the bill until May 18.

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

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, I rise in support of AM1142 I think. I'll have to look. I think I voted for those bills that are in the amendment. I'm fairly certain I voted for small cell is small cell. It was a controversial one and I wasn't sure what I was going to do. It was right down to the wire if I was going to vote for it or not. But ultimately I decided that that clarification was helpful. So thank you, Senator DeBoer. So we had a big announcement over lunch, and when we came back from lunch and the announcements keep coming. The Governor has announced that he will announce the new senator for LD 25 tomorrow. And I am extremely concerned and upset. And, Nebraska, you should be upset. I can't remember the last time we had a gubernatorial appointment to a legislative seat without an application first. Purely plucking someone out of his roster and putting them in the seat without even going through the perfunctory motions of saying the people of District 25 submit your names if you would like to serve. That, Governor Pillen, is disrespectful. It is disrespectful. You could have it open for five hours, but at least do the bare minimum for the people of LD 25. That is so disrespectful. It just reeks of cronyism. You should show us all that you are going to do things differently and do things the right way. You can still have somebody in the seat by Tuesday when we're back in session to vote for whatever is on the agenda on Tuesday that you want so badly. You can still do that and have an application process open today, close it on Saturday, announce on Sunday, swear in on Monday, in the seat on Tuesday. It is possible. But instead you're going to pluck somebody out and you're going to put them in the seat with zero transparency or effort. It reeks of cronyism. Reeks. I don't know why you would put that kind of stink on the person that you're going to appoint. It's not fair to them and it's not fair to the people of the district. And it is really inappropriate and it is really disrespectful. But it

brings up a great point. We do not have a process for gubernatorial appointments to the Legislature, which makes no sense whatsoever. So I think this is a great opportunity for us as a Legislature to focus on that, to focus on it. And we have had a lot of appointments recently. And by recently, I mean, since I've been here, we have had a lot of appointments. And as far as I know, everyone that I currently serve with that was appointed at one time or another applied for the appointment. So I don't know why we would do it differently this time, but I do think it warrants a change because the people of Nebraska deserve transparency. And it is not transparent if you have it at the whim of the Governor as to how something is done, literally the whim. The Governor can choose to do an entirely public application process, an entirely private application process, or as we are seeing today, no application process at the whim, not the will of the people, the whim of the Governor. Future colleague, whoever you are, I am sorry that you are going to have that stink on you from day one, cronyism, so inappropriate. Shouldn't have to be told that, Governor Pillen, shouldn't have to be told that. Be better than that. Do better than that. Thank you, Mr. President.

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

**BOSTELMAN:** Thank you, Mr. President. And good afternoon, colleagues. I want to talk to you about LB722. It's the other bill that I have that's in AM1142. The amendment on LB722 came about through a months long, a months long collaboration of 14 stakeholders listed that all have come together to a consensus on this language. I introduced LB722 because Nebraska is expected to see as much as \$500 million from the federal government in the next few years for construction of broadband infrastructure. This legislation is critical to making the state-- making sure the state is prepared for that significant infusion of funding. LB722 has three primary objectives. First, it ends the present system subsidizing two broadband providers to serve the same area. Second, the bill establishes the regulatory certainty needed to make sure funding is used to reach rural areas. And finally, LB722 ensures that Nebraska will be positioned to cover the ongoing costs of operating the network we are building. So what's the background? In the past three years, Nebraska was awarded roughly \$70 million in grants from broadband construction through the CARES Act and Broadband Bridge Program. Nearly \$45 million has also been awarded under, under the Nebraska Universal Service Fund, NUSF, for broadband construction.

Some of these funds have been awarded to competitive broadband providers in areas of the state historically served by incumbent telephone companies. In those same areas, called exchanges, the incumbent carrier is receiving ongoing support from the NUSF to cover the costs of operating and maintaining their network. The incumbent receives-- receiving this NUSF support also has a duty to provide telephone and broadband services to all customers in the exchange. This duty is commonly called the carrier of last resort or COLR obligation. So we have two carriers, the competitor and the incumbent, receiving subsidies in the same areas. One is getting a grant to build. The other is getting NUSF support to operate its network. The amount the incumbent is receiving in ongoing NUSF support is very small compared to the grant the competitor is receiving. Yet the incumbent is still expected to carry out their COLR duty. Effectively by funding the competitor, we are reducing the incumbent's customer base and making it harder for them to serve areas where they receive NUSF support and continue to have COLR duty to serve. In the next few years, Nebraska is expecting infusions of \$87 million in capital projects and say approximately \$4 million in BEAD funding from the federal government. This significant amount of money has been dedicated to construction of broadband infrastructure. Larger grants will mean larger areas transitioning from incumbents to competitors. The problem of subsidizing both incumbent and competitive providers in the same area will only get worse if we do not address it now. What's the function of the bill? The bill will-- the bill first requires the agency making a broadband deployment grant to collaborate with the PSC and the Broadband Office in determining project areas. For example, it could also be a county granting ARPA funds for broadband infrastructure. Once a project is completed to the satisfaction of the agency making the grant and final payment is made to the competitive provider, then the bill requires the PSC to, to relieve the incumbent carrier of any NUSF support it was getting for the project area and the incumbent's carrier of last resort obligations. It is a simple administrative process. The bill then authorizes the commission to, to make decisions about what to do with NUSF support and COLR duties. In rural and sparsely populated areas, competitive providers will need NUSF support to sustain the network over the long term. If they choose-- if they choose to receive NUSF support, then the provider will have the, the indefinite COLR responsibility. So what's our objectives? Funding two broadband providers in areas where a business

case cannot be made for one does not make sense fiscally. This is a waste and has to stop. LB722--

**KELLY:** One minute.

**BOSTELMAN:** --will help us stop it. By ending the system of dual subsidies, LB722 will also achieve other beneficial objectives, including providing regulatory certainty where there isn't today. Incumbents and competitors both need certainty. In rural areas where the costs of providing service by necessary exceeds revenues, right now there is no assurance or even indication that the incoming competitor will receive the critical NUSF support they will need to cover the long-term costs of operating and maintaining the new broadband infrastructure. The competitor knows they have to maintain the network but has no way of knowing if they will ever be able to access NUSF funds designed for the support. This bill gives the PSC clear authority to address these issues. It will be very important for the role of PSC to ensure that we cover the costs of keeping that expensive network running reliably. LB722 is tech-- is technical, but necessary piece of regulatory piece we need to put together in anticipation of the incoming federal funds. With LB722, we will better position to get all of Nebraska connected that apply--

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

**BOSTELMAN:** Thank you.

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

**M. CAVANAUGH:** Thank you, Mr. President. So we are on the Transportation bill that I oppose, the broadband bill. So in 2017, I announced I was running for office. I started running my campaign. I had campaign kickoff, all the fun things. And then the incumbent I was running against resigned in the fall of 2017. And then the election was in the fall of 2018. So there was an appointment. And guess what? There was an appointment process. There was an application. I applied. Now, was I holding my breath waiting for that call from Governor Ricketts that he was going to appoint me? Most certainly not. But I applied because I was running to serve in the office, and I thought that it would be disingenuous to not put my name in for the

appointment because I was serious about wanting to represent District 6. So I applied, submitted my resumé and a cover letter, and they are on my personal computer. So I don't have them up right now because that's my work computer. But I sent them through-- I think there was just an email contact in the Governor's Office, but there was a press release about it. There was a deadline and so I did it. And then I heard from the Governor's Office, his communications director at the time, I think that was his title, Taylor Gage contacted me and interviewed me. I will say that it was not what I viewed as probably the right questions to be asking of a gubernatorial appointment to the Legislature. But nonetheless. I was asked some questions on specific policies, nothing really about myself as a legislator or a policymaker, but what have you. And then, I don't know, maybe four or five days later, there was a deadline. There was a date where the application closed. And then I believe-- I believe that Senator Thibodeau hadn't applied yet or hadn't applied. And since the Governor had not found anyone that they deemed suitable to appoint to the seat, essentially he reopened the application process so that Senator Thibodeau could apply. She did. Then she was appointed, a process. A process. I can't remember how quickly or how long the seat was vacant. I think there was less of an urgency because we weren't in session to fill the appointment, so the process was a little bit longer or the application process was open a little bit longer, but a process. Process is important. Process is important. Now, maybe I'm wrong. Several of my colleagues have been appointed and maybe I am missing--

**KELLY:** One minute.

**M. CAVANAUGH:** --some information here. But I believe that there was an application process, that there was a press release put out saying if people wish to serve this vacated seat, please apply. That's not what's happening today and everyone should be upset about that. It's inappropriate. It's inappropriate and it is disrespectful to the people of LD 25. Disrespectful. So on my next time I will probably get back to the bill, but I don't know. Maybe I'll talk about this a little bit more. Thank you, Mr. President.

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

**BOSTELMAN:** Thank you, Mr. President. I want to try to finish up what I-- the rest of the opening on my-- on the amendment to, LB412, LB722. Let's go back to the objectives, what the objectives of the bill is: funding of two broadband providers in areas where a business case cannot be made for one does not make sense fiscally. So that's what LB722 will help us to stop. By ending the system of dual subsidies, LB722 will also achieve other beneficial objectives, including providing regulatory certainty where there isn't today. Incumbents and competitors both need certainty. In rural areas where the costs of providing service by necessity exceed revenues, right now there is no assurance or even indication that the incoming competitor will receive the critical NUSF support they will need to cover the long-term costs of operating and maintaining the new broadband infrastructure. The competitor knows they will have to maintain the network but has no way of knowing if they'll ever be able to access NUSF funds designed for the support. LB722 gives the PSC clear authority to address these issues. It will be the very-- it will be the very important role of the PSC to ensure that we cover the costs of keeping that expensive network running reliably. LB722 is a technical but necessary piece of the regulatory puzzle we need to put together in anticipation of the incoming federal funds. With LB722, we'll be better positioned to get all Nebraska connected and incentivize new broadband buildout in rural areas that need it the most. I would like to thank all the stakeholders, all the stakeholders who, through a months long collaboration, worked on putting this amendment together. I sincerely want to thank them because it was a long process and it was very open and good dialogue. This bill, as amended, was advanced from committee with an 8-0 vote. I urge you to join me in supporting this much needed legislation with a green vote on AM1142 and LB683 on its advancement to Final Reading. One thing I guess I'll add to this is so you may ask what are we talking about? So here's an example. Let me give you a short example of how LB722 will work. Out in the Panhandle, Lumen is responsible for territory that was deemed unserved. A smaller company by the name of Mobius received a grant from the PSC to build fiber to the home inside Lumen's territory. However, Lumen is still receiving NUSF support and still has COLR duties. What LB722 establishes is clear process for NUSF funds to be transferred to Mobius in order to help them maintain their network. With this support, Mobius is able to take on the COLR duties while Lumen is relieved of its duty to serve customers it is no longer able to serve. The Public Service Commission

would be responsible for overseeing this transition. With that, Mr. President, again, I urge everyone a green vote on AM1142 and the underlying bill, LB683. Thank you.

**KELLY:** Thank you, Senator Bostelrman. Senator Machaela Cavanaugh, you're recognized to speak, and this is your last time before your close.

**M. CAVANAUGH:** Thank you, Mr. President. OK. So, AM1142 is another committee priority. Would Senator Bostelman yield to a question?

**BOSTELMAN:** Senator Bostelman, would you yield to a question?

**BOSTELMAN:** Yes.

**M. CAVANAUGH:** It's a friendly question.

**BOSTELMAN:** Yes, I will.

**M. CAVANAUGH:** Your bill that's in, in this committee package, remind me. I know it was kind of a monumental feat.

**BOSTELMAN:** So

**M. CAVANAUGH:** What was the bill number first of all?

**BOSTELMAN:** LB122, the one with One Call or LB722, the one I just spoke about? The One-Call with diggers or--

**M. CAVANAUGH:** LB722. OK.

**BOSTELMAN:** LB722, the one I just spoke about with broadband?

**M. CAVANAUGH:** Yes.

**BOSTELMAN:** It was. It's a national type of a first, one I sat with 14 collaborators with us. We actually had lawyers representing companies. There were national attorneys involved with it so it was-- it was a very big effort to get done. And, you know, those who cooperated and worked together, it was-- it's, it's a pretty big deal.

**M. CAVANAUGH:** How many years have you been on this committee?



**BOSTELMAN:** Sorry?

**M. CAVANAUGH:** How many years have you been on this committee?

**BOSTELMAN:** Seven now.

**M. CAVANAUGH:** Wow. This is a big deal.

**BOSTELMAN:** Yeah.

**M. CAVANAUGH:** I remember when we voted-- now I'm remembering when we voted on the package. And I remember when we voted on your amendment into the package. And again, like the small cell is small cell, I really-- I didn't know what I was going to do. It was a real game-day decision, but I voted for it, right?

**BOSTELMAN:** Yes, you did.

**M. CAVANAUGH:** All right.

**BOSTELMAN:** I think you may have even advanced it. I'm not sure.

**M. CAVANAUGH:** What? That doesn't sound like me. All right. Well, thank you, Senator Bostelman. It is a big deal. And now that I have been refreshed on what AM1142 is, I know that I am ultimately going to vote for the amendment because it did a lot of things that we as a committee had worked on for a long time. And I am actually very lucky with my committee assignments. I really enjoy serving on the HHS Committee with my colleagues on the committee, and I really enjoy serving on the Transportation Committee with my colleagues on that committee. And HHS is, sometimes I say it's a bit of a slog. It is a hard committee to sit on. We, we have some very hard hearings, testimony. I'm sure if there were a bingo game going with the number of times I cried in that committee, everyone's card would be filled. It is very hard, but I very much enjoy serving on that committee with my colleagues, Senators Hansen and Riepe and Walz and Day and Hardin. And we do have a nice time. I also enjoy serving on the Transportation Committee. We deal with some pretty dry, dry stuff sometimes. I remember my very first hearing in Transportation my first year when the director of the department came in and was talking to us. I-- this is legit-- was talking to us about different grades of concrete. And I was like, what am I doing? How did I end up here?

**KELLY:** One minute.

**M. CAVANAUGH:** Not sure that I could have less of a technical interest in different grades of concrete. Turns out I am interested about different types of concrete and the thickness of it. You want really thick concrete for your airports, want to make sure you got that extra thick concrete for when you got heavy things going on them. So it turned out to be an interesting road. But this particular amendment and this particular package is a culmination of a lot of years of work in the Transportation Committee. And Senator Bostelman, by the time that he's done here, will have served on that committee for the entirety of his time here. And so this is a real wealth of knowledge and information and is built upon other things. The One-Call bill that we were just discussing includes-- it's built upon the work of a previous One-Call bill--

**KELLY:** That's your time, Senator, and you're recognized to close.

**M. CAVANAUGH:** Thank you, Mr. President. It's built upon a previous One-Call bill that we had in the committee in the last biennium that Senator DeBoer had introduced. And so everything that we have done is building upon the work that we as a committee have done. So I just wanted to note that because I very much appreciate my colleagues on the Transportation Committee and, of course, our committee counsel, who I just saw walking up front. He-- I think he really is the breadth of the knowledge there for most of us. We rely upon our committee counsel on T&T very heavily so-- and grateful that he came back to the Legislature to serve as our committee counsel, because he certainly could have been doing something way more relaxing with his life at this point. But so thank you to Mike Hybl for that. OK. So we're going to vote on the bracket motion for May 18, 2023. Some people might call it a rehearsal for May 19, but May 19 is not a day we are in session so May 18, 2023. I mean, I suggest you vote against the bracket motion, but not against the spirit of the date. OK. So I would like a call of the house with a machine vote. Thank you.

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

**ASSISTANT CLERK:** 10 ayes, 1 nay to go under call, Mr. President.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Conrad, McDonnell, and-- please return to the Chamber and record your presence. The house is under call. All unexcused members are present. The question is the motion to bracket. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 0 ayes, 44 nays, Mr. President, on the motion to bracket.

**KELLY:** The bracket motion fails. I raise the call. Mr. Clerk for a motion.

**ASSISTANT CLERK:** Priority motion. Senator Machaela Cavanaugh would move to reconsider the vote just taken on MO915-- on MO912.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President, colleagues. OK, so motion to reconsider the motion-- the vote to bracket. And I'm just going to go back to the draft Nebraska Strategic Broadband Plan. Grab my pen. OK, so let's see here. This-- where did I leave off? So this is where I left off on page 5. So the broadband plan, this is what I was reading; and as I was reading it, I was also editing it. So I will continue doing that. So I'm on the conclusion at the bottom of page 5: The historical funding available through the federal government has resulted in opportunities to accomplish the goals in the Nebraska Strategic Broadband Plan and bridge the digital divide. The Broadband Office is uniquely positioned to successfully leverage resources where they are needed most in Nebraska. Accelerating broadband will ensure Nebraska's economic recovery, improve resiliency, help communities thrive, and ensure that everyone has access to essential activities and services needed for a better quality of life. They used the Oxford comma, just going to point that out. I guess I didn't read all of the grammatical things. So the next subheading Roadmap to Connect 99 percent by 2027 Table. The Nebraska Strategic Broadband Plan will connect 99 percent of Nebraska-- my phone is ringing. I'm talking on

the floor, whoever is calling me. It's an unknown Lincoln number. --road map to connect 99 percent by 2027. The Nebraska Strategic Broadband Plan will connect 99 percent of Nebraskans to high-speed Internet by 2027. That is an ambitious goal in four years. The following table is a projection of the percentage of residents that the Broadband Office proposes to connect through 2027. Included is the percent of funding that will be utilized per federal programs each year. The success of connecting residents to broadband by the projected date is based on variables that the Broadband Office does not influence. OK, the broadband-- now someone within the Chamber is calling me. It's like when-- like a horror film, the call is coming from inside the Chamber. I am reading slowly. So I am taking that feedback. I know you want me to read faster, but I am reading slower. This is-- I'm not going to do what you want, Senator. I'm not going to do what you want. I'm going to read slow. OK. So projects-- projections are subject to the following variables: completion of Nebraska mapping by the FCC, completion of the challenge process by the FCC, the total amount allocated by the NTIA for BEAD, the time of funding allocations made available by the NTIA for BEAD, grant awards to subrecipients to the NTIA for middle mile, labor and supply chain delays, local permitting easement and right of way delays, market dynamics that impact the drivers of adoption, complete applications by sub recipients-- recipients, state procurement and contracting process, completion and closeout of construction for broadband projects, compliance and monitoring of subrecipients. Connectivity and Funding Utilization Percentage Table. OK, So we have-- it's a table. And honestly, after last night, I'm just too tired to read the table. OK, I'll read the table. Challenge accepted, Senator Cavanaugh. Read the table. I-- by the way, I just challenged myself in my head. That wasn't-- anyways. Connectivity and Funding Utilization Percentage Table. And I'm also going to take the feedback to read faster. Percent of households count connected: 2023, 86.7 percent; 2024, 89 percent; 2025, 93 percent; 2026, 95 percent; 2027, 99 percent; total, 99 percent. Federal and State Program Utilization E-Rate-- don't know what that means-- 20 percent in 2023; 20 percent in 2024; 20 percent in 2025; 20 percent in 2026; 20 percent in 2027; 100 percent total. Bridge with two asterisks. Look down below. Bridge is a state-funded program administered by the Nebraska Public Service Commission and is an ongoing program. Bridge 20 percent 2023; 20 percent 2024; 20 percent 2025; 20 percent 2026; 20 percent 2027; 100 percent total.

CPF-- don't know what that is-- 50 percent 2023; 50 percent 2024; 0 percent 2025; 0 percent 2026; 0 percent 2027; 100 percent total. DE, again, don't know what that is-- 53 percent 2023; 47 percent 2024; 0 percent '25; 0 percent '26; 0 percent '27; 100 percent. BEAD program at hand that we are talking about, 0 percent 2023; 25 percent 2024; 50 percent 2025; 25 percent 2026; 0 percent 2027; 100 percent total. EMM-- don't know what that is-- 0 percent 2023; 20 percent 2024; 40 percent 2025; 40 percent 2026; 0 percent 2027; 100 percent total. Up at the top, 2027 has three asterisks. Down below it says: All federal programs are required to be executed by 2027. OK. Oh, and projections are based-- our projections are predictions and based on variables that the Broadband Office does not influence. The table is based on the drawdown of funds. The Internet gap is defined as residents who do not receive at least 100/20 Mbps. Broadband-- we talk a lot about broadband speeds on T&T, and sometimes I lose track of what we're even talking about with broadband speeds. But there you have it. Broadband goals and actions to accomplish the strategies identified in the Nebraska Strategic Broadband Plan. The Broadband Office has developed a list of goals and actions needed to implement the plan over the next several years, since the state's broadband plan is a newer initiative, revisiting and refining the implementation plan will be necessary. Incremental evaluation is included and required to benchmark success against different stages, strategies and report regularly to stakeholders on progress to ensure transparency. Goal one in bold: Bolster economic opportunity by connecting 99 percent of residents, particularly those in growing rural communities, to high speed Internet by 2027. Universal Act-- this is now the text underneath. It is not in bold. Universal access to broadband in developing networks that are future proof require being technologically agnostic and focusing on performance. The state's broadband program gives preference to system symmetrical speeds of 100/100 or higher. The grant program design will be conservative and competitive, as Nebraska is a high-cost state, and criteria will include incentives for investment in areas of critical need. Projects will include both last and middle mile infrastructure and a mix of fiber and alternative technologies. OK, I'm going to pause, grammatical thing here. Project will include both last and middle mile-- nope, nevermind, moving on. Funding sources to achieve goal: Funding Source--

**KELLY:** One minute.

**M. CAVANAUGH:** BEAD, check mark '24 time-- timeframe 2024-2026; DE check mark 2023-2024; EMM check mark 2024-2026; CPF check mark 2023-2024; Bridge check mark 2023-2027. I think I am almost out so next I will be on Strategy 1.1: and that is where we will go on my next time on the mike, which I am next in the mike. So thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. You are next in the queue.

**M. CAVANAUGH:** Thank you, Mr. President. Strategy 1.1: Prioritize fiber deployment, target funding in areas where a negative business case for investment for the unserved and underserved exists. Consider greenfield deployment to reduce the cost of investments and increase competition. Before I continue on, when we were on this bill, whenever that was, I think it was last week, I had a question about greenfield deployment, what that meant. And my colleague on the committee, Senator Tom Brandt, came over and explained it to me. So thank you for that, Senator Tom Brandt. I'm going to attempt to share that explanation with those who are following along. So greenfield deployment is pretty much what it sounds like, a green field, a field, a space that is unused. It is green for development. So did I get that right? I got a thumbs up. I got it right. Awesome. OK. So Activities: These are all bullet points. OK. Activities: Provide fiber to as many unserved locations as possible, ordered in priority from highest to lowest cost to serve. Provide alternative technology to every other location. Next bullet: Increase where there is a negative or alleviating business case for the unserved, match requirements for subrecipients need to provide an incentive for investment. Next bullet: Require a competitive match for subrecipients where there is a positive business case for investment by the private sector. Match requirements will be part of the grant program application process that will be made available in 2023. OK. Next bullet: Design a grant program that encourages brownfield build-outs that brings down costs by upgrading existing infrastructure. I'm going to need to know what brownfield developments are, but I'm guessing that there's something like sort of used that haven't quite been built out. I'm, like, doing a, a whole pantomime here from across the room. OK. I'm sort of-- I think I might be on the right track with that. I will get clarification at another date and time and bring it back to you all at home. OK. Brownfield-- lost my place-- program-- brownfield build-out. OK. Next bullet: The state will provide a subsidy for at least 15

percent of capital expenditures by weighing nonfinancial considerations in the award process and where there is a lack of competition. Next bullet: Invest in community anchor institutions, CAI, to ensure reliable high-speed access or identify opportunities to-- in nontraditional CAIs. Next bullet: The CBO-- don't know what that is-- will monitor the design, engineering, site prep, construction, close-out, and performance of the last and middle-mile project to ensure that investments are built on time. They used the Oxford comma. Performance metrics: bullet point: Increase in broadband access, minimum 100/100 for rural households of eight-- from 86.7 percent to 99 percent. Really going to suck to be in that 1 percent in 2027, like, everyone else in the whole state is going to have broadband but 1 percent. But we'll get you there someday. I just hope that it isn't Senator Bostelman's house. Too soon? Possibly. Next bullet: Number of households served with minimum speed standards of reliable 100 Mbps symmetrical upload and download unless geographically, topographically or excessive cost then 100/20 and scalable to 100/100. Next bullet: Number of homes on tribal lands being connected to broadband speeds of 100/100 Mbps. Strategy 1.2:--

**KELLY:** One minute.

**M. CAVANAUGH:** --Set a high cost per location threshold, which balances funding the use of fiber and alternative technologies to expand coverage for harder to serve areas. Activities: Bullet point: Designate high-cost areas in Nebraska that consider poverty levels, rural locations, and race and ethnicity to target funding. Next bullet: Set a cost per location threshold for the unserved. Next bullet: Incorporate brownfield development costs per location when feasible to reduce costs. Performance metrics: bullet: Number of unserved and underserved connected to high-speed Internet. I think I'm about done. I'm going to grab a lozenge before he says my next turn. Thank you.

**KELLY:** Thank you, Senator Cavanaugh. And you're next in the queue.

**M. CAVANAUGH:** I did it. OK. Strategies, Strategy, sorry, 1.3: Utilize location-level mapping and analytics to assess areas of critical need and to target areas that require subsidies. Activities: bullet: Develop serviceable location data mapping capabilities that reflect real-time speed tests, latency, and current technologies. Again,

consistently using the Oxford comma. Next bullet: Create a funding dashboard that identifies areas of critical need, current and proposed investments. Oh, didn't you? Huh? Didn't use the Oxford comma. Wondering-- I'm going to have to think on that one a little bit more if, if it even would warrant or be appropriate to use the Oxford comma. But neither here nor there. Next bullet: Create a broadband projects dashboard to inform stakeholders where investments are occurring in the state. Next bullet: Number of speed tests confirmed. Next bullet: Percent increase in confirmed reported service speeds. Goal Two Expand digital inclusion and adoption to achieve affordability, access, and digital literacy by 2025-- by 20 [SIC] percent by 2027. Use of Oxford comma. NTIA attributes adoption gaps in digital equity to affordable access to service, access to Internet-enabled devices and digital literacy. See now this one I know. They are not consistently, Oxford comma was not used there, could have been. So just for consistency's sake, going to point out when we have it or we don't have it. We want to be consistent in our style of writing. Connecting 99 percent of households to high-speed Internet access requires investment in digital equity. The Nebraska Strategic Broadband Plan includes strategies to support digital equity. Funding Sources to Achieve Goal: All right, So this should go over to the next page because it has the top of the chart on one page and then the data on the next page. So that is not an easy way to read a chart. OK, next page and then chart top here. Sorry, if I am going to be reading this and it is a draft and it very clearly says draft on it, I figure I may as well give it back to the department when I'm done since I'm editing it as I go along. OK. Funding Sources to Achieve Goal: Funding Source: BEAD check mark '24-26, timeframe is 2024-2026; DE check mark 2023-2024; EMM N/A, N/A; CPF N/A, N/A; Bridge N/A, N/A. Strategy 2.1: Conduct a landscape analysis of existing digital equity and affordability programs and develop strategies to address any gaps. Activities: bullet point-- colon bullet points: Develop a statewide Digital Equity Plan in partnership with the Office of the CIO. Bullet point: Increase Affordability Connectivity Program, ACP uptake through outreach, education, support and incentivize participation among eligible subscribers. Again, no Oxford comma. So just a question mark if it should be there. Performance Metrics: Number of residents participating in the statewide Digital Equity Plan. Strategy 2.2: Conduct digital navigator--



**KELLY:** One minute.

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

**KELLY:** Yes and your close.

**M. CAVANAUGH:** Thank you, Mr. President. Strategy 2.2: Conduct digital navigator pilots within targeted populations, evaluate strategies that work and leverage public-private partnerships to build skills and confidence in the use of technologies. Activities: I think that that's probably just about my time. So I will pick up at activities on my close. Thank you, Mr. President.

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

**DeBOER:** Thank you, Mr. President. Colleagues, I did want to take a moment to talk about how incredibly important and sort of monumental this bill is. There are a number of different bills that are within this amendment. Senator Bostelman has done an excellent job with his COLR amendment here. But I would like to talk for a minute about what we call the One-Call portion of the bill. And I know Senator Bostelman explained it, that you set up a sort of a Small Claims Court for-- or what we sometimes call a hit court for these smaller hits. But, but I do want to take a moment to talk about the importance of this to Nebraska. First of all, because, you know, people across Nebraska, it's very important for us all to recognize that there are lots of underground facilities. And when you dig, you should always call 811 first; 811 is the-- is the number that you call. And then you can find out if there is telephone wire or electricity or whatever, cable, whatever in the ground already where you would like to dig. Why is this important? Because if you don't do it, you can actually, like, we have situations where people will dig in the ground. They haven't properly had these locations found and there can be explosions. There can be all sorts of disruptions of service, I mean, very dire consequences. And we don't want anyone to die. Right? So 811 before you dig, public service announcement, everyone, 811 before you dig. Why then is this bill important? Because right now the smaller hits we call them where you, you hit some of these underground facilities, you know, they aren't really being-- prosecuted isn't quite the right word, but they, they aren't being followed up on in any sort of

official way. And, you know, that is a disincentive to get the, the locating right, which, you know, we have a lot of very good locators in Nebraska. And also to make sure that every time you dig that there has been a location done first and this is important. So how do we make sure that we get that done? Well, part of it is we have some way to redress a loss as a result of either a mislocation, which I'm sure does not happen very often, or a lack of location. So this is why we set up this sort of Small Claims, we're we're sort of colloquially calling it, Court to look at these things. The big issues are still within the Attorney General's purview. The Attorney General would handle those. But this is just to sort of adjudicate these smaller hits that, you know, maybe causes a little bit of damage, maybe is some sort of disruption of service, but nothing extraordinary in terms of monetary damages. So what we're trying to do is set up some good government here. And Senator Bostelman has done a fantastic job setting this up. You may not know it if you're not in the Transportation and Telecommunications Committee. It's my fifth year on the T&T Committee and my fifth colo-- or my fifth One-Call bill. These bills come every year because we've been trying to figure out what is the solution, because we want to protect Nebraskans and we want to do it in a-- in a way that makes sense. And Senator Bostelman has done it. So I think, you know, when we figure these things out after a long time and we work them through the committee process and we keep trying and we keep working on them, and finally, we come up with a bill that everyone's like, oh, yeah, this is the solution. This is the way we're going to-- we're going to make this work.

**KELLY:** One minute.

**DeBOER:** I think this is-- this is really kind of a remarkable thing. And this is what the Legislature is supposed to be for, and this is why our process is hard. If we had just pushed through a bill in the first year, you know, we wouldn't have gotten to the place where we are now, where we have a very reasonable solution, where we have a good solution to the problem that everyone kind of says, yeah, this is-- this is probably the right way to do it. So I want to commend Senator Bostelman for, for getting us through this legislative process, for getting here and Senator Geist for, you know, chairing the committee that got it done. And this has been a long time coming. And I think we should be proud of ourselves as a body today, assuming we can pass this amendment and we can pass this bill and get this done

and get it on its way, because solving this One-Call problem makes Nebraska safer. It was a difficult problem and it went through our process and it took a long time and now we have a solution that looks like it's going to work.

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

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

**KELLY:** Thank you, Senator. Senator John Cavanaugh, you are recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. So I think I rise in opposition to the reconsider and in support of AM1142. And I appreciate Senator DeBoer's comments and the work everybody in the committee has done in the Transportation Committee. I don't usually talk on transportation issues, transportation, telecommunication issues. In my time, my now three years here, I think I have been in front of that committee maybe three times, and two of them have been on the same issue. And that was the one I wanted to talk about, which is cell phone towers. So I brought a bill this year and last year to the Telecommunications Transportation Committee that has to do with the siting of small cell cell phone towers. And I think it's kind of relevant to the conversation we've been having because the underlying bill, LB683 is, you know, an attempt to move more quickly in our implementation of broadband and creating a new office and streamlining and those things. And people have issues with that for a number of reasons. But the reason I got involved in telecommunications issues was specifically because of streamlining in the process. So a few years before I got here, the-- this body passed a bill that would streamline the process for installation of small cell cell phone towers, which are those smaller ones for 5G, and you need more of them than the regular cell phone towers. And when this body passed that bill, it made it-- municipalities have less authority to object to the siting of cell phone towers if the communications company was of the opinion that their site maps said that they had to place a tower in that area. And so they couldn't-- the cities felt like they couldn't object to those. And then there was a shot clock put on it, meaning that you had basically 90 days to respond. So in that context, in that environment where cities felt like they didn't have any ability to reject these applications, they had 90 days to approve them. In one

particular instance in my district in the city of Omaha, the city of Omaha approved the siting of a cell phone tower that was placed in the middle of a sidewalk, and they dug up just one square panel of the sidewalk, put a cell phone tower in there and there's pictures. And so I pulled up the story, and this one's from wowt.com, the Channel 6 NBC News in Omaha, from, let's see, the date here is July 23, 2021, and it says: Cell phone tower built in the middle of a sidewalk upsets Omaha neighborhood. And they have pictures and video and all this stuff. You can see what it looks like, but I would certainly encourage you to take a look at that and see. And this is the result of haste, trying to get things done as fast as possible and not ill-intentioned, mind you, because these cell phone towers, everybody wants 5G deployed. They want to make sure we have a broad enough deployment of these towers so that people can actually use 5G sooner. And we don't want to create an unburden-- undue burden to place them there. But because of the way that we structured that expediency, they put a cell phone tower right in the middle of a sidewalk in this person's yard, and then the city ultimately had to go back and they had thought they were going to put the sidewalk around on the street side, but that didn't comply with the Americans with Disabilities Act. So then they had to put the sidewalk about five feet into this woman's yard to go around the cell phone tower. And all of that was because they basically acted too quickly. So I brought a bill, which I think is LB134. It's still in the Transportation Committee this year. And what that bill does is require that cities have a written plan for how any cell phone tower placement that is going to move a sidewalk complies with the Americans with Disabilities Act before they do it.

**ARCH:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President. So they'll still be able to do this. They still would've been able to put this tower on this corner. They just would have had to say ahead of time how it would comply with Americans with Disabilities Act. Simple fix, a little bit of just slow down the process just when you're going to move a sidewalk and do that. There's also a notice requirement that the city of Omaha was looking for in that bill. But the heart of the bill is that requirement that these plans, we put down in writing how it's going to comply with Americans with Disabilities Act. Because when you do do that, you do have to comply with the Americans with Disabilities Act anyway. So we're just saying make sure you do it ahead of time so that

we don't go through this process where we dig up a sidewalk and don't know how we're going to make sure that somebody can get down the street. So we need to be thoughtful and respectful of those processes. And sometimes just taking your time, just a little bit an extra step to go through the process and make sure we're not rushing to get things done. And that would solve all the problems. So thanks for listening to my story about the cell phone tower in my district. Thank you, Mr. President.

**ARCH:** Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President. As one who doesn't use broadband very much at my house because I don't have it, matter of fact, I don't have cell service at my house. I call it utopia. It's, it's kind of nice. It's quiet out there. But I'm in support of LB683 and AM1142; against MO912 and MO915. But I was going through some of my pictures yesterday and I came across one with 16 people in that. And there was Tom Briesse and Lynne Walz and Anna Wishart, Joni Albrecht, Mike McDonnell, Suzanne Geist, Carol Blood, Steve Erdman, Lou Ann Linehan, Tom Brewer, Steve Erdman, Mike Hilgers and that was our senior class. And one by one, we're leaving. And it's hard to see those people to go, especially hard to see the one that's going to be leaving at the end of this week. Well, I talked to a-- the senator who used to be Speaker of the Nebraska Legislature. He said he moved on after session, got out, and he never got to say goodbye. He says he still regrets that to this day. He wasn't able to say goodbye to his friends and his family because we become a family down here, whether we agree with each other or not. So we're pretty much a typical family. So I appreciate that Senator Geist is leaving us when we can all say goodbye to her, when we can all listen to the story and wish her well in this new endeavor to run the city of Lincoln. It's kind of nice to have friends and family around you when you make a decision, and especially if they support you. So, Suzanne, we wish you well and we hope and pray that you will have a successful life from here on out. And even more so, we hope that Mark can put up with whatever you bring him. So with that, thank you, Mr. President.

**ARCH:** Seeing no one left in the queue, Senator Machaela Cavanaugh, you're recognized to close on your reconsideration motion.

**M. CAVANAUGH:** Thank you, Mr. President, colleagues. Well, I am on page 9 of a 13-page report. And as much as I want to continue editing this publicly for, for grammar and the Oxford comma mostly, I am going to withdraw my motions and hopefully we can get to the next bill on the agenda because I am very supportive and excited about the next bill. So I will be continuing to be in opposition to this, but I withdraw my motion. Thank you, Mr. President.

**ARCH:** Without objection, so moved.

**CLERK:** Mr. President, Senator Bostar would move to amend Senator Geist's AM1142 with AM1181.

**ARCH:** Senator, Bostar, you are welcome to open on AM1181.

**BOSTAR:** Thank you, Mr. President. So AM1181 amends AM1142 which amends LB683. My particular AM1181 contains LB63, which is my personal priority bill. LB63 is legislation that would prohibit a telecommunications company from receiving support from the Nebraska Univer-- Universal Service Fund or from the Broadband Bridge Act if said company is using or providing any communications equipment or service deemed to pose a threat to national security according to the Public Safety and Homeland Security Bureau of the Federal Communications Commission. Additionally, LB63 incentivizes the removal of prohibited equipment by stipulating that any telecommunications company that removes, discontinues, or replaces any communications equipment or services identified as posing a threat to national security shall not be required to obtain any additional permits or authorization from any state agency or political subdivision in the removal, discontinuance, or replacement with like products, which is of similar or less weight and size of such communications equipment or service. So a couple other points I'll make before I talk about sort of how we got here. Additionally, in the bill there is a certification requirement for telecommunications companies where annually they would certify that they are not utilizing equipment that has been deemed to pose a risk or threat to national security. And all of the provisions that I've identified would take effect January 1, 2025. The initial green copy of this bill contained the USF funding prohibition, so restricting the access to USF funds. And it included the rip and replace language so removing the barriers, the, you know, sort of red tape barriers that exist that make it difficult sometimes for

telecommunications service providers to replace equipment. So those provisions were in the green copy as well as a 2025 start date. The Transportation Telecommunications Committee advanced the bill, LB63 with 7 yes votes and 1 absent member and included in the committee amendments adopted by the committee a couple of provisions which include the Broadband Bridge Act funding prohibition and the annual certification requirement provision. As well, the committee amendment included an E clause on the bill. So instead of the legislation taking effect in 2025, legislation would have taken effect immediately. This version essentially contains all of the provisions that the committee pushed out with the bill in their committee amendment, with the exception that it does not include the E clause. It maintains the original January 1, 2025, implementation date. With that, I know that we are going to have a discussion about this legislation. So I think for the purpose of time and utilizing the last bit of time we have here today effectively, I'll end my open there and I'll be ready for questions and responses. Thank you, Mr. President.

**ARCH:** Senator Blood, you are recognized.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I did have a brief discussion with Senator Bostar, and it was the first discussion we've had on this bill. And he brought up some concerns that I have been trying to research, but I'm going to go ahead and put out my concerns, hoping that he can write these concerns down and maybe answer the questions that I have when he speaks next on the mike. So where I'm coming from right now, and I hate to sound like a broken record today, today, but I don't understand why we need this bill. I have had a bill in the past in reference to terrorism that pertained to things like utilities. I do believe it's an issue and we should have things in state statute. But on February 22, our Governor Pillen issued an Executive Order 23-05, which I'm handing around if they get the copies made here shortly. Executive Order 23-05 prohibits the state of Nebraska from awarding any grant funding designated for broadband deployment to any provider using or deploying communications equipment and services developed by organizations on the FCC Commission on the-- that's redundant-- on the FCC covered list. The order also directed the State Broadband Office to maintain, publish, and update a list of all such designated equipment and services on the covered list. So the question that I have is what does this bill do that is different than what the Governor has done? If nothing, then we

need not to do this law. If it does more than what the Governor has done, then-- and again, not a lawyer, but I don't think this bill is constitutional. The Nebraska Constitution blocks any branch of government from exercising another branch's powers. The purpose of the separation of powers doctrine is to preserve the independence of each of the three branches of government in their own-- or on their own, thus tending to prevent the, the-- God, there's words that I can't even pronounce. Basically, why are we skipping over the other branches of government? And that's in our Constitution, Article II if you want to look at it. So was the Governor acting outside of his authority by issuing that order? Is that what we're saying when we push this legislation forward? And I'm not sure. I do ask that Senator Bostar yield to a question. I'm going to have more questions, but I think he knows the answer to this one.

**ARCH:** Senator Bostar, will you yield?

**BOSTAR:** Of course.

**BLOOD:** So how many companies are impacted by this proposal, to your knowledge?

**BOSTAR:** It appears that in the state of Nebraska, one company is. However, there's, there's a limited amount of confidence that I can use to assert that.

**BLOOD:** OK. I appreciate that, Senator. And that's what I remember from, from the hearing is that to me, it seems like-- and it may not be your intent, but from the outside optics, to me it looks like you're targeting a single company. Thank you. That was the question that I had for you. So the federal government has already prohibited this practice so no other companies can access these prohibited components. So I'm hoping-- I think I'm going to try and get John-- Senator John Cavanaugh on the mike here in a little bit because this is beyond my pay grade. But I think this is special legislation. Since there are no other companies, it's a closed class then. So a legislative act constitutes special legislation within the meaning of constitutional prohibition of special legislation if, one, acts and it creates an arbitrary and unreasonable method of classification or, two, it creates a permanently closed class. So that was in our Constitution. I found that under Article III. So when the Legislature,



when this body confers privileges on a class arbitrarily selected from many who are standing in the same--

**ARCH:** One minute.

**BLOOD:** --[INAUDIBLE] to those privileges without reasonable distinction or substantial difference in the statute in questions resulted in the kind of improper discrimination that we prohibit in our own state constitutions by providing this special legislation. So that's the separation of powers, the special legislation. Those are my number one and two concerns. But I have more concerns that I have written out that I'm hoping to get answered today. Thank you, Mr. President.

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

**M. CAVANAUGH:** Thank you, Mr. President. I do not support AM1181. I do appreciate that Senator Bostar did change the date for enactment so it does alleviate some of that pushing back the date. But I do think that the federal government has this well in hand, and I'm not really comfortable with the changes to the USF funds. That said, I really want to get to the next bill, so I am going to state my opposition and move forward. Thank you, Mr. President.

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

**LINEHAN:** Thank you, Mr. President. I rise to support AM1181 and Senator Bostar's efforts in this. I know he worked with Congressman Flood on this. I think this is a very important issue. And I appreciate all their efforts on this. And with that, I would yield the rest of my time to Senator Bostar so he could answer the questions I think he got from Senator Blood. Thank you.

**ARCH:** Senator Bostar, 4:30.

**BOSTAR:** Thank you, Senator Linehan, and Mr. President. Senator Blood, I appreciate the questions and having the opportunity to address them. So the Governor's EO is restricted to the powers that the Governor has. So the Governor can prohibit grant funds going to telecommunications providers that have this compromised equipment as it relates to the grant funds that he has and his office have the authority to direct. That does not include the Nebraska USF, which is

statutorily established, is distributed by the PSC. And so even with the Governor's Executive Order, the-- any telecommunications company meeting the criteria within AM1181 would still be able to receive Nebraska USF funds. This legislation would prevent that. So, you know, that kind of brings me into the separation of powers issue. These are different powers. We have the ability to do this. The Governor has the ability to manage and regulate the executive branch's discretionary grants within their related departments. So I don't see that as, as an issue at all. Targeting one company, special legislation. First of all, we're not sure with certainty that this is about a singular company. There could be more in Nebraska that are subject to these provisions. Also, the legislation doesn't say X, Y, Z company is prohibited from accessing support under the Nebraska USF, the Broadband Bridge Act, or anything like that. It simply says, per a federal-- federally defined set of equipment that are known to compromise the safety and security of Nebraskans, any company utilizing such equipment would be prohibited from those funds. That is, frankly, an open class. So I disagree with that point. The feds have prohibited this already. That's not true. So the federal government has a Universal Service Fund, just like Nebraska has a Universal Service Fund. Those are different funds. So the federal government has put prohibitions on accessing Universal Service Fund federal dollars related to equipment that is compromised and poses a risk to national security. We would be doing that with ours. These are separate pots of money. Both are useful at restricting.

**ARCH:** One minute.

**BOSTAR:** So with that, I'll leave that there. Hopefully, at least at a top level, I addressed some of the questions. We could totally continue the conversation and dive into more details, but hopefully that was helpful and thank you.

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

**GEIST:** Thank you, Mr. President. I was just going to briefly stand in approval of AM1181. This is a good bill. It's good in the sense of national security. It's serious. It's something we need to consider. And I just wanted to give Senator Bostar my support. He brought this bill to the committee. I believe it came out of committee all in favor and there was one absent. But I just wanted to give Senator Bostar my

support for this amendment as the Chair and ask the body to support it as well. Thank you, Mr. President.

**ARCH:** Senator Blood, you are recognized.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I actually agree with Senator Geist that national security is very important, but I'm not sure what that has to do with the way this bill is written. I stand opposed to AM1181. I'm going to continue talking on it and I'm going to respond to some of the things that I just heard. So if it doesn't name the company in the bill, the thing that's really weird is that it's very narrowly described in a way that it can only be one company. And if that is indeed the case, then I go back to the point that it's a closed class and it's special legislation. And the question I would have is, did we have anybody with a legal brain look at this? Did we talk to the AG? What did the committee counsel say about it? I think that I'm not sure what our legal authority really is on this bill, and I think we do need to request an AG's-- kind of the theme of the day-- an AG's Opinion, because I'm not sure if any of our legal experts have really looked at this. What did committee counsel have to say about this particular bill? I understand why people support it. The same reason that we support our veterans bills and our military bills. We don't ever want to be the people who say we're not in favor of something like this. But that doesn't make every bill a good bill. The intent maybe-- now I'm starting to wonder, was this like what the press conference was at when Senator Bostar and I-- maybe Senator Geist or another senator and Senator Flood were out in the Rotunda or-- yeah, and Flood were out in the Rotunda and they were talking about security and I think China or something. I'm wondering if that was-- I didn't stay and listen but I remember reading about it the next day in the paper. So the advantage of the Executive Order that I passed around is that the Governor can do one in a minute. Like, if he doesn't like something, he can handle it with-- without legislation. He can remove somebody or add somebody to the list. And that's the whole purpose of having the Broadband Office make the decisions in a nimble fashion. So the amendment, if you really read the amendment, what we tend to do is we look at the statement of intent and we listen to the Governor whose bill it is-- the Governor, sorry about that, Senator Bostar. I just gave you a promotion. We look at what the senators tell us the bill does, but we rarely, sometimes in this body, read the bill. And if you've not

actually read the bill, you need to do so, because the amendment to me doesn't make any sense. Either we do it or the Governor does it, but not concurrently. And our body can request that the Governor do this task, or we can ask another agency to do it as well, But to have it piecemeal like this, we are leapfrogging over two different branches of government and that doesn't work. So what happens when the Governor wants to add someone to the list? Can he do that? I don't know based on the way that this bill is written. With that, gosh, is Senator John Cavanaugh around? Did he sneak out? All my good attorneys are gone here. Who do we have left? Maybe Senator DeBoer can answer this. Senator DeBoer, you got an attorney brain. I hope you know the answer to this.

**ARCH:** Senator DeBoer, will you yield to a question?

**DeBOER:** Yes, I will. For legal purposes, I should say I am not licensed in the state of Nebraska. Yes.

**BLOOD:** Thank you for that. So I want to talk about separation of powers. Can you kind of walk me through how the separation of powers work in Nebraska and the importance of keeping the different branches separated when it comes to policy?

**DeBOER:** So generally speaking, it just means that executive powers belong with the executive branch. Legislative powers belong with the legislative branch, and judicial powers belong with the judicial branch, and that we try not to do too much commingling. So, for example, we don't have a lot of boards where there would be-- we don't have boards where there would be legislators--

**ARCH:** One minute.

**DeBOER:** --voting at the same time as executive folks.

**BLOOD:** Could you stick around so I can get you back on the mike on my next turn?

**DeBOER:** Yes.

**BLOOD:** Thank you, Senator DeBoer. I really want to talk about how we are leapfrogging across the different branches of government. I think we need to make that clear. And again, I challenge you to really read

the amendment and what it does. I know this is Senator Bostar's priority bill and I never thought I'd be standing and talking against one of his priority bills. But I still have really grave concerns as to whether we should be doing this or whether this is more pomp and circumstance. Thank you, Mr. President.

**ARCH:** Senator Bostar, you are recognized.

**BOSTAR:** Thank you, Mr. President. Whether or not a legal brain has looked at the bill, OK. So to answer a few of the questions that were proposed, yes, the Transportation Telecommunications committee counsel has reviewed the legislation several times. I've met with the committee counsel, as well as members of the committee about this several times. Never has there been a concern raised that this is in violation of some separation of powers provision. Nor has there been any concern raised that this is special legislation. I will say that, you know, thank you to Senator DeBoer for speaking to the functions of separation of power and a little bit about what that means and how that works in the state of Nebraska. And thank you for voting for this bill. My assumption is that if Senator DeBoer thought that this was a violation of the Constitution, I can't imagine that the senator would have supported it. But I am very grateful for the support. Attorneys also in multiple federal offices have reviewed this legislation, have checked on it, providing their support to it. One thing that I'll talk about when it comes to special legislation that, that we do here all the time is we'll write legislation that will apply to a city of the metropolitan class only or a city of the primary class only. There are only-- there is only one city of a metropolitan class in the state of Nebraska. There's only one city of the primary class in the state of Nebraska. That's Omaha and Lincoln, respectively. However, if we were to write legislation that named Omaha that this bill is, is pertaining to the city of Omaha, that would be special legislation. We can't do that. But we can write legislation pertaining singularly to a city of a metropolitan class. That has the same effect. If I were to write legislation, if I were to write this legislation and say this-- the provisions of this bill apply singularly to XYZ named company, that would be special legislation. That's not what the bill says. I agree with Senator Blood. I think the members of this body should read the amendment. The amendment says that any company that meets a set of criteria using federal definitions for what equipment poses a national security threat to the people of this state would fall under the

restrictions outlined within this bill. Again, it doesn't name a company. Maybe there's one company that meets the criteria. Maybe there's more companies that meet the criteria. That isn't really relevant because it isn't special legislation. And we write legislation like this all the time. I was going to go through a little bit about how we got here with the--

**KELLY:** One minute.

**BOSTAR:** --threats and concerns that have been identified, why this legislation was brought forward, what we're trying to do. But I'll save that for the next time on the mike. Again, I just-- I just want to highlight that the Governor's Executive Order is valuable. This legislation is valuable. They do different things. They're not the same thing. No, the Governor could not add a name or a company to the list that's in this bill. There is no list in this bill. But you couldn't-- you know, the Governor couldn't unilaterally amend statutes that we pass. Of course, that isn't possible. So hopefully, I've talked a little bit about that. I want to go through a bit about the timeline and the build up to how we got here with the threat faced by Nebraskans. And with that, thank you for the opportunity.

**KELLY:** Thank you, Senator Bostar. Senator Blood, you're recognized to speak. This is your last time.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I guess the thing I'm really not hearing is what exactly does this amendment do differently than the Executive Order? Not really hearing this. And I call shenanigans on the reference to USF. I wasn't sure if he was talking about the University of Florida at first or if he was talking about the Universal Service Fund, exactly what the acronym was about. I hate acronyms. And I'm, I'm saying that tongue in cheek, Senator Bostar. I knew what you meant. When you use examples like municipalities, we're not talking about individuals or organizations. We're talking about municipalities and the way state statute is written. Well, yes, we are allowed to do Omaha or Lincoln because they are labeled within our state statute. And the state statute is written in a way that we are allowed to do that legally. But when you look at this piece of legislation, you're describing a company that you clearly have in mind, whether you admit that or not. And that is also what was said if you look at the transcripts from the hearing. And as

a body, that is not something that we are supposed to do. And I question again, why do we need this bill? And when it comes to separation of powers, well, what's the competitive advantage of doing this except for maybe supporting something that Senator Flood wanted us to do? I know there's big pomp and circumstance and a press conference and a little bit of media on it, and I'm not sure what we're trying to prove here. Are we tough against terrorists? Absolutely. I had a great terrorist bill several years ago, but basically I was told everything was already illegal so why put it in the statute, which I can respect. It was in front of Judiciary. It was a tough crowd. I understand how important it is to protect Nebraskans against terrorism, but I don't think this bill does a very effective job of doing that. And had we not had the Executive Order, which I passed out on your desk, and I saw at least two people reading it, read the Executive Order. Compare that to the amendment, and then ask yourself the same question that I'm asking Senator Bostar right now. What exactly does this do differently than the Executive Order? Because I call shenanigans on this bill. I don't think it's necessary. I think if we would have a really good legal mind look at it, that they would be concerned about all of the things that I've expressed in reference to this amendment. And I got to say, I'm sincerely sorry, Senator Bostar, that I'm standing up against this, but I want to hear legit reasons, not acronyms thrown at people that they don't know what it is. But when you talk about how supposedly one thing covers something and the other thing doesn't, then explain exactly why, how, and the reasoning behind it, because we can throw words out all day because nobody listens around here the vast majority of the time and people are just going to vote green. I know you went around and worked your bill and I heard you doing it. Nobody talked to me until you found out I was against it. Maybe had we had that conversation, I'd feel different. But from what I'm reading and the amount of time I've had to research it, I'm very concerned about it. And on a bill that we absolutely, positively have to move forward on, which I also don't think we have to do either, I feel like we're rushing something that not everybody has a comprehensive knowledge of. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. Senator Bostar, this is your last time before your close.

**BOSTAR:** Thank you, Mr. President. So the Transportation and Telecommunications committee counsel is just off to the side of the floor. For anyone that is concerned about the constitutionality of this legislation, I would invite them-- if you don't trust me, you don't trust my word on it, you don't trust that this has been worked on, fine. You don't have to. But talk to committee counsel. Why not? Ask the question. I'm saying it's not an issue. Fine. You don't believe me. Ask someone else. You asked again, what does it do differently, Senator Blood, about what does this do differently versus what the Governor's EO did? I'm sorry, That was an acronym. Actually, that was an initialism, not an acronym. Apologies to everyone listening. What the Governor's Executive Order did. The difference is the Governor's Executive Order does not put restrictions on the Nebraska Universal Service Fund distributions. This bill will. That's a difference. That's millions of dollars a year. And no, we cannot write legislation for Omaha. If I put-- if I wrote a bill and I introduced it and I said, this is for Omaha, and I wrote the city down, that would be special legislation. I can't do that. But I can write that the legislation pertains to a city of a metropolitan class. It has the exact same effect, only the difference being that one is permissive and one is not. If I had written a company's name, yes, that would be a problem. That could be special legislation. But again, that's not what's in this bill. And we do not know that there's only one company. Yes, I know that there's at least one company. And I'm not trying to avoid saying what company it is because I'm worried about some legal consequence. I am not. The reason it came up in the hearing is because a member wanted to know, and I'm trying to do what I can to limit negativity directed toward the particular telecommunication provider that I know is dealing with the challenges of having a network that is full of equipment that is compromising the security of Nebraska. So I'm trying to be considerate. That's the only reason I'm not saying it. If you ask me directly what company it is, I'll say it right here on the mike, no problem. But I'm just trying to be considerate. The question related to this bill is do you or do you not want state funds, public funds, to go to telecommunication companies that are utilizing equipment that is compromising our security?

**KELLY:** One minute.



**BOSTAR:** My answer to that question is no. That's why I brought the bill. If you have no concern about that, by all means, vote against the bill. The bill isn't a prop. The bill isn't for media. Working with our federal partners, both on the congressional side and the defense side, I know this is serious. That's where this bill came from. I'd encourage everyone to vote for it. I'd be happy to answer any other questions. It's my last time on the mike before close, but if anyone else is in the queue, I'll speak to that. Thank you.

**KELLY:** Thank you, Senator Bostar, and you are recognized to close on the amendment.

**BOSTAR:** Thank you, Mr. President. Colleagues, the concept behind the bill is pretty straightforward. AM1181 contains legislation that I had introduced at the beginning of session, LB63, which would restrict the distribution of funding from the Nebraska Universal Service Fund and the Broadband Bridge Act to telecommunication companies that utilize equipment that compromises our national security. The equipment is defined through FCC, the Federal Communications Commission rules, their, their Homeland Security Bureau, essentially, that have outlined components and equipment within the telecom industry that are actively posing a threat to our nation and to our state and to the residents therein. So this legislation would say if you're a telecom provider, you're utilizing that-- you're utilizing that equipment, we will not give you USF funds, we will not give you Broadband Bridge Act funds. It would also include a provision to annually certify that your network does not contain compromised equipment. And it provides for more flexibility in statute for the purpose of removing the compromised equipment and getting it replaced with equipment that does not pose a national security threat. And finally, all of the provisions in the bill would take effect January 1, 2025. I'll be honest, I think that's too long. However, that is the compromise that we've come to with this bill. And with that, colleagues, I hope that you will take this as seriously as I do. I hope that you will support this. Please vote green on AM1181, AM1142, and LB683. Thank you very much.

**KELLY:** Thank you, Senator Bostar. The question is the adoption of AM1181. There's been a request for a call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk.

**CLERK:** 22 ayes, 2 nays to place the house under call.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Dorn and Dover, please check in and record your presence. The house is under call. All unexcused senators are present. The question is the adoption of AM1181. There's been a request for a roll call vote. Mr. Clerk.

**CLERK:** Senator Aguilar. Senator Albrecht voting yes. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood not voting. Senator Bostar voting yes. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh not voting. Senator Machaela Cavanaugh not voting. Senator Clements voting yes. Senator Conrad. Senator Day voting yes. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover voting yes. Senator Dungan voting yes. Senator Erdman voting yes. Senator Fredrickson. Senator Geist voting yes. Senator Halloran voting yes. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt not voting. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe voting yes. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould voting yes. Senator Riepe voting yes. Senator Sanders voting yes. Senator Slama voting yes. Senator Vargas voting yes. Senator von Gillern voting yes. Senator Walz. Senator Wayne. Senator Wishart. Vote is 39 ayes, 0 nays, Mr. President, on adoption of the amendment.

**KELLY:** AM1181 is adopted. The call is raised, Mr. Clerk. No one in the queue. Senator Geist, you're recognized to close on AM1142. Senator Geist waives closing on AM1142. The question before the house is the adoption of AM1142. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 41 ayes, 0 nays, Mr. President, on adoption of the amendment.

**KELLY:** The amendment is adopted. Mr. Clerk for items.

**CLERK:** Mr. President, motion. Senator Conrad would offer M0158, M0160, M0161, and M0162, all with a note she wishes to withdraw. Senator Geist would offer M0171, M0172, M0173, all with note she wishes to withdraw those. Senator Hunt would offer AM1072, AM1073, AM1074, AM1075, AM1076 and AM1101 [SIC M. Cavanaugh] all with notes that she wishes to withdraw. And Senator Brandt would offer AM1162 with a note he wishes to withdraw. I have nothing further on the bill, Mr. President.

**KELLY:** Senator Ballard for a motion.

**BALLARD:** Mr. President, I move LB563 to E&R for engrossing. LB683. I apologize. One job. One job.

**KELLY:** The question is the advancement of LB683 to E&R Engrossing. All those in favor state aye. All those opposed, nay. It is advanced. Mr. Clerk for items.

**CLERK:** Mr. President, next item on the agenda, pursuant to the Speaker's agenda, returning to LB138. I have no E&R amendments, Mr. President. First amendment from Senator Machaela Cavanaugh. Excuse me. First motion from Senator Hunt, M0314, M0315, M0316, M0317, M0318, and M0319, all with notes that she wishes to withdraw. First amendment, Senator Brewer would offer AM585.

**KELLY:** Senator Brewer, you're recognized to open on the amendment.

**BREWER:** Thank you, Mr. President. I want to start by thanking Senator Geist for making LB199 about Ukrainian driver's permits into an amendment for her Speaker priority bill. LB199 will become AM837. This bill was one that we were approached with. It, it was very unique in that most of the things that we deal with are Nebraska unique and at most a, a national issue on occasion we might have, but this is actually an international issue. LB199 was heard in Transportation and Telecommunications Committee on February 14, 2023. There were 18 testifiers in support, no one in opposition, and only one neutral testifier. The bill also advanced 7-0 and 1 present not voting. Why do we need this bill? For those that have been tracking international news, on the 24th day of February of last year, a quarter of a million Russian soldiers invaded the country of the Ukraine. Six and a half million Ukrainians were forced to leave the country. Many of those

ended up in Nebraska. The intent of LB199, now AM837, is to provide a path for non-U.S. citizens with an immigration status as humanitarian parolees to be issued driver's license or state identification cards. This includes approximately 1,000 Ukrainians that have settled, resettled in Nebraska. Due to their immigration status, they are not eligible to be issued a REAL ID compliant document. AM837 sets out the requirements to be issued a noncompliant driver's license or state identification card. There are eight different sections of this amendment that we're going to take a quick look at. Section 9 of the amendment adds the provisions of the noncompliant document to the Motor Vehicle Operator's License Act. Section 12 of the amendment sets out the identification documents required for issuance, requires documents to be marked not for official purposes and requires documents to be returned if the immigration status is terminated. Section 13 authorizes the verification of documents that are presented. And Section 14 outlines who is eligible for the noncompliant document, requires evidence of lawful status, and sets operation-- operational dates. It also makes all noncompliant cards issued subject to all other laws related to operator's license and state identification cards. Section 16 of the amendment sets out the requirements for replacement of noncompliant documents. Section 17 sets out the requirements for renewal of noncompliant documents. Section 22 sets out the same requirements for issuing and car design for commercial learner's permits and commercial driver's licenses. Section 26 sets out the same requirements for issuance and car design for state identification cards as for operator's license. And finally, Section 38 repeals the original sections. We have worked with the Department of Motor Vehicles to ensure that the provisions in AM837 do not compromise Nebraska's compliance with the REAL ID Act, while still accommodating the objective of enabling Ukrainian immigrants to be issued a license. I'm asking for your support and your green vote on AM837 and under-- on the underlying bill of LB138. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. Mr. Clerk for a correction.

**CLERK:** Mr. President, just to clarify. Senator Brewer, I have a note you wish to withdraw AM585 and spoke to AM837.

**KELLY:** There's no one in the queue. Senator Brewer, you're recognized to close on AM837 and waive. The question is the adoption of AM837.

All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 38 ayes, 0 nays on the adoption of the amendment.

**KELLY:** AM837 is adopted. Mr. Clerk.

**CLERK:** Mr. President, next amendment offered by Senator Moser, AM1138.

**KELLY:** Senator Moser, you're recognized to open on your amendment.

**MOSER:** Thank you, Mr. President. AM1138 is the bill that was introduced as LB465. I'd like to thank the Speaker for designating LB465 as a Speaker priority bill and Senator Geist for allowing me to amend LB138. This amendment is very straightforward. It was introduced at the request of the Department of Motor Vehicles. The purpose was to reallocate document fees collected by the DMV. Currently, they're directed to the state fund, state General Fund, and some go to the DMV cash fund. So the DMV is a cash-funded agency. The bill was heard in committee on January 31 and was advanced to General File on an 8-0 vote. The DMV is fully funded by cash funds and receives no General Fund appropriation. The department projects that their cash fund balance will be -\$1,838,000-plus at the end of the biennium if this legislation is not enacted. For the past several years, the increases in revenue have not kept up with the fixed operational costs. Eighty-five percent, approximately, of the agency budget is allocated to costs which are set or passed on by other entities. These costs include salaries, benefits, OCIO technology costs, Department of Administration service assessments, driver's license and state identification card production costs, postage and printing, Department of Administrative Services Bureau vehicles, and mileage and specialty papers for titles, registrations, handicapped placards. The reallocation is necessary due to increased costs for fixed operational expenses. The impact to the General Fund is \$4.3 million annually and has been accounted for in the Governor's budget proposal. This amendment proposes to reallocate the current fees being collected by the DMV to that agency to stabilize the DMV cash fund, rather than increasing fees for driver's licenses and IDs and the other services they provide. There would be no change in the amount of fees allocated to the county general fund. I ask for your support and a green light on AM1138. Thank you.

**KELLY:** Thank you, Senator Moser. There's no one in the queue and you're recognized to close and you waive closing. Pardon? Members, the question is the adoption of AM1138. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 36 ayes, 0 nays, Mr. President, on the adoption of the amendment.

**KELLY:** AM1138 is adopted. Mr. Clerk for items.

**CLERK:** Mr. President, next amendment. Senator Raybould would move to offer AM1207.

**KELLY:** Senator Raybould, you are recognized to open on AM1207.

**RAYBOULD:** Thank you, Mr. President. Good afternoon, colleagues. This year I introduced LB738. It's a very simple bill that updates the definition of electric bicycle. The bill was placed on General File with a vote of 8-0 by the Transportation and Telecommunications Committee. I ask for your green vote to adopt AM1207 to LB138. It's a good-faith amendment, which includes the provisions of LB738 as well as the committee amendment. I will quickly explain what the amendment changes and why it is worthy of your support. First, it updates the definition of electric bicycle by adding into statute the national standard three-tier classification of electric bicycles, also called e-bikes. Second, it cleans up the definition of bicycle in Section 60-611(1) by changing two tandem wheels to two, three, or four wheels. As we know that many people are enjoying riding tricycles and quadricycles and recumbent bikes. So the purchase and use of e-bikes has exploded over the last few years. Nationally, e-bike sales have jumped 145 percent from 2019 to 2020, more than double the rate of classic bikes. As more and more people try them, they find them to be a wonderful way of extending their bicycle trips or even their bicycle years. It will be important for our laws to reflect the proper technology. This amendment in no way changes the enforcement or regulations of e-bikes. It-- all it does is mirror what 39 other states have adopted, including all of our neighboring states have already done in updating our statutes as advancements in bicycling technology. It is really that simple. And, of course, it has a zero fiscal note. So I kindly ask for your green vote to adopt AM1207. I am

also proud to be a cosponsor of LB138 and thanks, Senator Geist, for introducing it.

**KELLY:** Thank you, Senator Raybould. There's no one in the queue. You're recognized to close and waive closing. Members, the question is the adoption of AM1207. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 30 ayes, 1 nay, Mr. President, on adoption of the amendment.

**KELLY:** AM1207 is adopted. Mr. Clerk for items.

**CLERK:** Mr. President, Senator DeBoer would move to offer AM1218.

**KELLY:** Senator DeBoer, you are recognized to open on AM1218.

**DeBOER:** Thank you, Mr. President. AM1218 is a combination of two bills, Senator Wayne's LB796 and Senator DeKay's LB453. Senator Wayne's LB796 provides for the trans-- the Department of Transportation to develop and administer a safety oversight program for rail transit systems. This is a program which is required federally. It won't cost the state anything. The city is going to pay for it if at any point they would need to have one of these under federal law in order to create a trolley or a, I can't remember what they call it, the-- anyway, if they have any kind of rail system. This is a Senator Wayne bill that came out of committee unanimously. Again, it doesn't cost us anything. And then I will turn it over to Senator DeKay to introduce his portion of the amendment.

**KELLY:** Senator DeKay, you have 8:55.

**DeKAY:** Thank you, Mr. President. LB453 has three-- it's an omnibus bill with several changes just to modernize state law. It came out of committee with a 7-0 vote with 1 absent. There are three main points to the bill. The first change would be that LB453 allows the DOT to pay for the Division of Aeronautics Administration to save costs and the rest of the department. The highway-- will come out of the highway cash fund. The second it will be approximately \$2 million will be available in aeronautics cash fund after the switch for aviation projects, as it will no longer be needed for administrative costs. This money can then be repurpor-- "repurperson" in the form of grants to Nebraska airports. The second point of this is, is it lowers the

threshold in what counties can contribute to be eligible for state matching funds from the State Aid Bridge Fund from 50 percent up to 80 percent. What this does is it revises the percentage that counties are required to provide from 50 up to 20 percent, allowing more counties to make use of the state and federal grants available to repair their deficit bridges. The third main point of this bill is LB453 increases the threshold at which contractors can bid in DOT's sealed bidding process from \$100,000 to \$250,000. What this does is allow small contractors to be able to bid in projects like guardrail rebuild, road mowing, and projects like that. So the NDOT has worked on the amendment that will right size the threshold at which contractors need to go through the prequalification seal bid process. And due to inflation, the old threshold is outdated and NDOT believes that the new limit will bring more competitive bids to the state. Thank you.

**KELLY:** Thank you, Senator. Senator DeBoer, you're recognized to close on your AM1218 and waive. Members, the question is the adoption of AM1218. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, record.

**CLERK:** 36 ayes, 0 nays, Mr. President, on adoption of the amendment.

**KELLY:** AM1218 is adopted. Mr. Clerk.

**CLERK:** Mr. President, finally, Senator Cavanaugh, Machaela Cavanaugh, I have AM1003, AM1099 [SIC AM999] AM1000, and AM1001, all with notes that she wishes to withdraw. Nothing further on the bill, Mr. President.

**KELLY:** Senator Ballard for a motion.

**BALLARD:** Mr. President, I move that LB138 be advanced to E&R for engrossing.

**KELLY:** You've heard the motion to advance LB138 to E&R for engrossing. All those in favor vote aye. All those opposed vote nay. It is advanced. Mr. Clerk for items.

**CLERK:** Thank you, Mr. President. Your Committee on Revenue, chaired by Senator Linehan, reports LB727 to General File with committee amendments. Additionally, amendments and motions to be printed: Senator Conrad motions to be printed to LB775; and Senator Linehan



amendment to be printed to LB727; and Senator Erdman amendment to be printed to LB393. New A bill, LB565A from Senator Bostelman. It's a bill for an act relating to appropriations; appropriates funds to aid in the carrying out of the provisions of LB565; that-- and declares an emergency. That will be placed on General File. Finally, Mr. President, name adds: Senator Wayne name added to LB50; Senator Holdcroft, DeKay, and Ibach all name added to LB50 as well. [Also LR86 introduced] Priority motion: Senator Clements would move to adjourn the body until Thursday, April 6, 2023, at 9:00 a.m.

**KELLY:** You have heard the motion to adjourn. All those in favor say aye. Those opposed, nay. We are adjourned.