

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

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

**LOWE:** Please join me in the-- in an attitude of prayer. Father, we praise you for the beautiful sky and the sun this morning, for both remind us of a new day's challenge and a chance to follow you. Thank you for reminding us life is not always easy, but we don't have to carry the yesterdays into each new day. Forgive us for dwelling on the past and for holding onto grudges. Bless our hearts to be held back by nothing as we seek you each day. In your name, Amen.

**HILGERS:** Thank you, Senator Lowe. Senator Brandt, you're recognized for the Pledge of Allegiance.

**BRANDT:** 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.

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

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

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

**CLERK:** I have no corrections.

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

**CLERK:** Mr. President, the agency reports received have been filed on the Legislature's website, available for members there to review; lobby report, as required by state law, to be inserted in the Journal. That's all that I have this morning.

**HILGERS:** Thank you, Mr. Clerk. Do we have any personal announcements?

**CLERK:** Senator Dorn would like to make an announcement.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate May 13, 2021

Rough Draft

**HILGERS:** Thank you, Mr. Clerk. Colleagues, Senator Dorn has a personal announcement, and for this announcement I would like to recognize a special guest we have sitting in the east balcony, Larry Dix. Senator Dorn, you're recognized for a personal announcement.

**DORN:** Thank you very much, Mr. Speaker. Good morning, colleagues. I'm introducing LR132, a resolution to recognize Larry Dix's years of public service. Most of us know Larry as executive director of NACO, the Nebraska Association of County Officials. I met Larry when I was first elected to the Gage County Board in 2010 and he was NACO's executive director, but he has been a fixture in county government for many years before that. Larry started his county career in the Buffalo County Assessor's Office. Larry became NACO's executive director in 2002. As NACO's lobbyist, Larry was a voice for counties before the Legislature. He was forthright about the issues he represented, always telling the pros and cons, always willing to work towards a solution. He forged relationships that went beyond lobbying. I would guess that most senators over the last 19 years have had Larry's cell number in their contact and knew that they could use it day, night, or weekends. It was the same when I was on the Gage County Board. Larry was always available, always knowledgeable, and always looking for ways to make county government better. It didn't matter if you were from a rural county or an urban one, a county board member or a weed superintendent, Larry stood for county officials. Larry also served on many task force and work groups. He was a leader in road funding initiatives and worked with the Nebraska Department of Transportation to distribute road and bridge funds to counties. On a national level, Larry served in leadership roles in the National Association of Counties, was the president of the National Council of County Association Executives, and lobbied for Nebraska counties at the federal level. Larry retired as executive director of NACO on January 31, 2021. Thank you, Larry, for your service to all of the counties in Nebraska and to all of Nebraska. Best wishes to you on your retirement.

**HUGHES:** Speaker Hilgers for an announcement.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I have my announcement to make for scheduling. Before I do, I would like to acknowledge Larry Dix. Larry is a constituent of mine in District 21 and has been an invaluable resource and personal friend over the last five years, and I know he has given quite a bit to good policy in this body and I'm personally grateful for those contributions. So thank you, Larry. Colleagues, today's announcement really is the end is

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate May 13, 2021

Rough Draft

here. We will adjourn sine die May 27, which is two weeks from today. After judging the progress of the body over the last couple of weeks and what we have remaining, and given the importance of having an interim, a very good interim this year, which will be our only interim for the One Hundred Seventh Legislature, we will be adjourning on the 27th. Now let me walk through that schedule so you have an understanding of what needs to happen over the next week in order to accomplish that adjournment. That day, what I anticipate on the 27th, will be veto overrides, if there are any. I've committed to you, both to the body generally but a number of senators individually for their bills, that I'm committed to ensuring that the system works the-- the way that it's designed, and we will have veto override opportunities if there are vetoes, In order to accomplish that, any bill that might be within the realm of possibility of having a veto needs to get through Select File next Tuesday, so next Tuesday, which is really our next working day, by the end of the day Tuesday. Now the way that works, though, just to be-- just-- I want to make sure everyone understands it not only has to get past Select, but it has to go up to the Revisor's to be engrossed and then come back and be read across. So we have to bake into our schedule next Tuesday enough time, and in some cases a couple hours, potentially, to ensure that we're still in session so that the bills can come back from Revisor's and be read across for the layover day on Wednesday, and then Final Reading can happen on Thursday. Now we may have some final reading on Wednesday, even for bills that may-- that-- that could eventually be vetoed, but that-- those-- some of those will happen already. Anything on Select File on Tuesday, just so you know, they have to lay over Wednesday and then have to be read on Thursday. So Select File for those bills have to be done next Tuesday and I think we have every ability to do that. And given what's remaining, I believe that's well within sort of the realm of reasonable accomplishment for the body. I will tell you, though, if absolutely necessary-- I don't anticipate it, but if necessary, we will-- we could adjourn sine die that Friday, the 28th. Now I will tell you that's a recess day currently, so I don't want to-- I don't want to have to switch a recess day to a working day. But in order to adjourn before Memorial Day, which is my goal, that-- we-- we could do that. That's not my intent. I actually don't think that's-- that is very likely at all. But I just want to let you all be aware that that's what will happen. So beyond that, the rest of our substantive work, I believe, will be substantially complete by the end of next week. So realistically, we have one full week of work left next week. Select File has to get done Tuesday. We'll do remaining Select File on Wednesday with potentially some Final Reading and then

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate May 13, 2021

Rough Draft

Final Reading the rest of the week. We also have some confirmation reports and some miscellaneous items that we'll have to get through. So as we go into next week, as you see the big-picture schedule and you see what I'm trying to accomplish, making sure Select File, that that should tell you what next week will look like, given the critical importance of Tuesday, we will not start at 10:00. We will start at 9:00. First day of the week, we will start at 9:00. We'll only have an hour lunch break, reserving the right to go shorter if necessary. I don't think it will be. But if necessary, we may have to have a trimmed lunch break. Tuesday, just be prepared. We might have to go late. Again, I actually don't think that's going to be necessary, but everyone should be prepared on Tuesday. Wednesday, Thursday, I think there are far less likelihood we'll have to go late. Be pre-- be-- please be prepared for that eventuality just in case, just to make sure we get our work done. But I don't think that's likely. And then we'll see where we are at the end of the week. We'll try to be as nimble as we can to get our work accomplished. The last big thing I would say is the last day, so what I think will be the 27th, that day, I'm going to have a meeting of the committee Chairs and I really want your input, both to me individually, of course, but also through your Chairs. I've talked a lot about getting ready for next year, for '22, when we come back. And the work that we accomplish, that we've accomplished so far in the session but what we're going to accomplish over the summer and fall, I think, is critical to that. And I want to be-- I want to help in any way I can to some of those big efforts that people are working on. And on that committee Chair meeting, one of the things that we're going to be talking about are what are the big items that people are working on and how can I be helpful going forward in the summer and fall to help coordinate those efforts. So that's one thing we're going to be talking about, and I would love your input to your Chairs, as well as, of course, individually to me or my team, so that we can be best prepared to go into the summer and fall and have a successful interim. The other thing I would say is, when we come back later this year, this-- this Chamber is going to look different. The plexiglass will be down. We'll have different rules. But there has been some things that we've had to put into place because of COVID this year that we would not have otherwise done. Some of those things will never come back. I've heard a lot about some of the all-day hearings. I know the burden it placed on the clerks and the body and everything else, but it was an opportunity to maybe do-- try some things that were new. And I think some of those things actually had-- were met with a lot of success. And so what I would ask of you over the next couple of weeks, to-- to be able to give me or your Chairs

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate May 13, 2021

Rough Draft

input on some of the things that you think were successful or maybe not so successful so that we can think creatively and thoughtfully over the summer and fall, so that when we come back in January, we can keep the good things that we learned procedurewise and not have to come back with the things that really put a lot of burden and stress on staff and senators. So I would ask each of you, I know we're in sort of the throes of this session, but really I've always thought the success of us, our work together as the One Hundred Seventh Legislature will be determined in April of '22. And that work really is going to be accomplished in the summer and fall. And to have a successful interim, I think that work needs to start now. And as people are thinking about it, please be aware of some of these milestones as we exit this session. And I would value your input and creative thinking. And I'm going to try to push and prod as many of you as-- you as I can to be thinking big as we go into next year, because I think it's so critical. So big picture, we're going to be done by Memorial Day. The 27th is the date, so please plan on that. I have a little bit of flexibility on the 28th, potentially, but I-- I hope that doesn't happen. And let's get a good day in today and then a good day in on Tuesday, and then we'll take it from there. So with that, have a great long weekend. I appreciate everyone's late nights and flexibility over the last two weeks and the nimbleness that everyone's shown, and I really am very grateful. Thank you, Mr. President.

**HUGHES:** Thank you, Speaker Hilgers. Senator Jen Day would like to recognize Dr. Amy Jespersen of Omaha, who is serving as the family physician of the day on behalf of the Nebraska Academy of Family Physicians. Dr. Jespersen, if you would please rise to be recognized by your Nebraska Legislature. Mr. Clerk, we'll proceed to the first item on the agenda.

**CLERK:** Mr. President, Final Reading, Senator Stinner would move to return LB131A to Select File for specific amendment, AM1436.

**HILGERS:** Senator Stinner, you're recognized to open on AM1436.

**STINNER:** Thank you, Mr. President. Members of the Legislature, last night, after LB131A had been advanced, I realized that the bill had also been adjusted, the main bill, to an 80 percent reimbursement rate from 90 percent, so that 80 percent times \$5 million now is \$4 million. It reduces the fiscal note by a million and that is the reason for this amendment, is to reduce the fiscal note to \$4 million. And with that, I'd ask you to vote green on the amendment.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**HUGHES:** Thank you, Senator Stinner. Senator Stinner waives closing. Colleagues, the question before us is the motion to return the bill to Select File for amendment. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 35 ayes, 0 nays to return the bill, Mr. President.

**HUGHES:** Colleagues, we're now back to Select File. Senator Stinner, you're welcome to open on AM1436.

**WILLIAMS:** Now you've got to do your amendment, tell them what it is again.

**STINNER:** OK, this-- once again, members of the Legislature, this reduces the fiscal note from \$5 million to \$4 million because of the change in the reimbursement rate to the cities from 90 to 80 percent. So I'd ask for a green vote on this-- this amendment.

**HUGHES:** Thank you, Senator Stinner. Seeing no one in the queue, Senator Stinner, you're recognized to close on AM1436. Senator Stinner waives closing. Colleagues, the question before us is the adoption of AM1436 to LB131A. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 37 ayes, 0 nays on adoption of the Select File amendment.

**HUGHES:** Amendment is adopted. Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB131A to E&R for engrossing.

**HUGHES:** Colleagues, you've all heard the motion. All those in favor say aye; opposed, nay. LB131A is advanced. Next item, Mr. Clerk.

**CLERK:** Mr. President, LB274, Senator Lowe would move to return the bill to consider AM1071.

**HUGHES:** Senator Lowe, you're recognized to open on AM1071.

**LOWE:** Thank you, Mr. President. AM1071 is a very simple amendment. This amendment creates two enacting dates. One is July 1, 2021. This date is for the portion of LB274 that deals with Senator Vargas' LB578. The other enacting date will be when the bill is signed into law. The reason for this amendment is simple as well. The Liquor Control Commission reached out to Senator Vargas and myself and were

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

worried about the e clause on the tax portion of the bill. They want to make sure that the tax portion went into effect during the next fiscal year and they needed a little more time to get the system up to date. So they reached out when this bill was on Final Reading. They worked out this language to satisfy-- satisfy Senator Vargas' needs with LB578 while maintaining the ability of the commission to operate properly. With that, I ask you to have a green vote on AM1071.

**HUGHES:** Thank you, Senator Lowe. Debate is now open on the motion-- debate is now open on the motion to return Senator Vargas, you're recognized.

**VARGAS:** Thank you very much. Thank you very much for your-- Senator Lowe, for your help with this. He mentioned already the intent for what this-- this amendment does. It is a small change. I just wanted to give you the rationale as to why we didn't just change everything in it. We need the e clause in the existing bill. There are a few other bills, including one of my bills, that has a 100,000 gallon cap on-- on-- on distillery, on spirits being able to be produced. And there are some actual distilleries that are reaching that cap here, even amidst the middle of this year, so it's more important that we have the e clause on that. And the other part was specifically just so we can address some tax changes and give about a month and a half for that change to go into effect, so it moves it about a month and a half back, as-- as Senator Lowe mentioned, with the-- the fiscal year. So I support this amendment. It's very, very simple. Thank you, Senator Lowe, and thank you to the General Affairs Committee. Please vote green on the amendment and the underlying bill. Thank you.

**HUGHES:** Thank you, Senator Vargas. Seeing no one in the queue, colleagues, the question before us is the motion to return to Select File. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 40 ayes, 0 nays on the motion to return the bill, Mr. President.

**HUGHES:** Bill is now on Select File. Senator Lowe, you're welcome to open on AM1071.

**LOWE:** I would just like to just have everyone vote green on AM1071 and the following LB274.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**HUGHES:** Thank you, Senator Lowe. Debate is now-- dis-- debate is now open AM1071. Seeing no one in the queue, Senator Lowe, you're welcome to close. Senator Lowe waives closing. Colleagues, the question before us is the adoption of AM1071 to LB274. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 41 ayes, 0 nays on adoption of the Select File amendment.

**HUGHES:** The amendment is adopted. Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB274 to E&R for engrossing.

**HUGHES:** Colleagues, you've all heard the motion. All those in favor say aye; opposed, nay, LB274 advances. Next item, Mr. Clerk.

**CLERK:** Mr. President, LB544A. Senator John Cavanaugh would move to return the bill for a specific amendment, AM777.

**HUGHES:** Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. Ask for your green vote on return to Select File. This is a technical amendment that basically will authorize the Department of Economic Development to actually expend the salaries that are required by LB544, so I'm just asking your green vote to return this to Select. Thank you.

**HUGHES:** Thank you, Senator Cavanaugh. Seeing no one in the queue, colleagues, the question before us is the return of AM544A [SIC LB544A] to Select File. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 34 ayes, 0 nays on the motion to return the bill.

**HUGHES:** The bill is returned to Select File. Senator John Cavanaugh, you're welcome to open on AM777.

**J. CAVANAUGH:** Thank you, Mr. President. AM777 is the technical amendment that authorizes the Department of Economic Development to actually pay the salaries that are authorized under LB544. I'd ask for your green vote on AM777. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Cavanaugh. Discussion is now open on AM777. Seeing no one in the queue, Senator Cavanaugh, you're recognized to close. Senator Cavanaugh waives closing. Colleagues, the question



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

before us is the advancement-- or the attachment of AM777 to LB544A. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 36 ayes, 0 nays on the adoption of the Select File amendment.

**HUGHES:** The amendment is adopted. Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB544A to E&R for engrossing.

**HUGHES:** Colleagues, you've all heard the motion. All those in favor say aye; opposed, nay. LB544A is advanced. Next item, Mr. Clerk.

**CLERK:** Mr. President, Senator McCollister would move to return LB108 for purposes of considering AM1421.

**HUGHES:** Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Good morning, colleagues. Last Monday, I learned that the adoption of Senator Arch's AM1196 produced a surprising fiscal note of \$3.4 million. The amendment obligated the Department of Labor to enroll all eligible SNAP recipients in the SNAP Next Step program, which is a good program. In an effort to minimize the fiscal impact of LB108, I offer the body AM1421 to eliminate the mandate for the Department of Labor to enroll every new SNAP recipient in the bill-- the Next Step program and allows the department to continue enrolling people in the program as federal funding becomes available. In the journey to make LB108 more receptacle-- acceptable to the body, AM975 reduced the SNAP benefit eligibility to 165 percent of the federal poverty level from 185 percent of the federal poverty level. Then AM1082 mandated a sunset to coincide with the expiration of federal SNAP administrative funds in September of 2003, outlined in the American Rescue Plan. Finally, AM1421, as mentioned, makes the obligation of the Labor Department to participate in the SNAP program, Next Step program, permissive. Please recall that the funding of the program is entirely funded by federal dollars with no General Fund impact. Second is-- secondly, it's projected the bill will provide an additional 3,476 new households, which will bring \$955,000 to our state every month. Lastly, please recall that SNAP beneficiaries are our neighbors and are required to work. Colleagues, I thank you for your conversation and support throughout my work on LB108, and I would appreciate your green vote on AM1421. Mr. President, I would appreciate a call of the house and a roll call vote in reverse order.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** We have someone in the speaking queue at this point. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Lieutenant Governor. I appreciate that. I was wondering if Senator McCollister would yield to a question.

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

**McCOLLISTER:** Yes, sir.

**ERDMAN:** Senator McCollister, so you're taking it out that these people can sign up for this, but they're going to be made aware that they can? What-- what are you exactly trying to do here?

**McCOLLISTER:** Well, what we're doing with the amendments that we've filed was making it optional for the Department of Labor to take these additional cases. With a \$3.4 million fiscal note, we made it permissive.

**ERDMAN:** OK, so where's the funding going to come from to pay for this-- this job training for those who are in the SNAP Next program? Where does the funding come from for that?

**McCOLLISTER:** The American Rescue Plan, and they designated \$3.4 million to the state to cover the administrative expense and the-- the benefits.

**ERDMAN:** OK. You know-- thank you for answering that. The-- the longer-- the longer this goes and the more discussion we have about this, it's less I like this bill. I didn't like it when it started. But as we continue to move down this road and make adjustments to it, I'm liking it even less. And so I won't be voting for LB108 this time. I can't get my hands around the fact that we keep making adjustments; every time we turn around, we're making more adjustments. And this is a solution looking for a problem. Thank you.

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

**ARCH:** Thank you, Mr. President. I was going to wait to speak actually on the amendment itself, but I'll-- I'll speak now on return to Select File. I do support AM1421. Un-- unfortunately, I think it's necessary. Just a short history of my involvement with this bill: In committee, I voted no, but as Senator McCollister and I started talking about it, there was a concept that came out about Next Step and-- and the involvement of the Department of Labor. If the participants, the new--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

the newly qualified participants could be autoassigned. In essence, they could opt out, but they would be autoassigned to the program. And at the time we were having that discussion and at the time that the amendment passed at the last-- on-- on-- on-- on Gen-- on Select, the-- our understanding was that there were WIOA funds available. And subsequent to that, as Senator McCollister said, we received a fiscal note from the department clarifying that, that those, those federal funds, are not available. Other funds could be available, but presently not available. And so it was necessary for-- for this amendment. What it-- what it has done-- what it has done now, of course, it has taken it to discretionary, that-- that the involvement in this Next Step by the new beneficiaries would be discretionary, not only to the individuals but also to the-- to the funding of that. I had a similar concept with Medicaid expansion, if you-- if any of you recall that I had a bill that-- and it-- and it was passed, where for new Medicaid expansion beneficiaries, that they also would be notified of their-- of their potential involvement in the Next Step. And I will tell you that that's been marginally effective, minimally effective, marginally perhaps, where-- where some have en-- have enrolled in that, but not overwhelming. It is not an auto-enroll. It is voluntary. They're informed of that and some are taking advantage of that, but not-- not large numbers. I was always concerned with LB108 because of the-- of the potential for disincentives. And I felt as though with that Next Step program, that this could be addressed, where there could be opportunity for people to be involved in other programs. So I'm disappointed. It's the reality that we're facing with-- with funding. But I'm-- I'm-- I'm disappointed. I didn't want it to impact General Funds. I thought there were federal funds available for that. So with that, I will be supporting AM1421, because I think it's-- it's-- it's necessary, but I'm-- I'm disappointed that this had to happen. Thank you.

**FOLEY:** Thank you, Senator Arch. Senator McCollister, do you care to close on your motion to return to Select?

**McCOLLISTER:** Yes, Mr. President. I'd like to thank Senator Arch for his help on this bill. I think we've improved it with the Next Step program. I think if we can give those people, those working people, the underemployed a better job, improve their job skills, I think everybody wins, and of course the state does better as well. Would like to, in due course, Mr. President, call of the house and a roll call in reverse order.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** What I will do, Senator, is ask all the senators to check in. We're on Final Reading, so we won't do a call of the house, but I'll ask all senators to check in and make sure that everyone's here. Would all senators please check in. This is not a vote, just a check-in, please. Members, we're on Final Reading. Please be at your desks and check in. Senator Pansing Brooks, check in, please. Senator Vargas, check in. Senator Groene, check in, please. All unexcused members are now present. There's been a request for a roll call vote in reverse order on the question of whether or not to return to Select File. Mr. Clerk.

**CLERK:** Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne. Senator Walz voting yes. Senator Vargas. Senator Vargas voting yes. Senator Stinner voting yes. Senator Slama voting yes. Senator Sanders--

**FOLEY:** Members, please keep the noise down so we can hear the votes.

**CLERK:** Senator Sanders, I'm sorry, voting yes. Thank you. Senator Pansing Brooks voting yes. Senator Pahls voting yes. Senator Murman voting yes. Senator Moser voting yes. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe not voting. Senator Linehan voting yes. Senator Lindstrom voting yes. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Hunt. Senator Hughes voting yes. Senator Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen. Senator Ben Hansen voting yes. Senator Halloran voting yes. Senator Groene voting yes. Senator Gragert voting yes. Senator Geist voting yes. Senator Friesen voting yes. Senator Flood voting yes. Senator Erdman not voting. Senator Dorn voting yes. Senator DeBoer. Senator Day. Senator Clements not voting. 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. Senator Blood. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting yes. 39 ayes, 0 nays on the motion to return, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. The bill is now on Select File. Senator McCollister, you may open on AM1421. Senator McCollister.

**McCOLLISTER:** Mr. President, machine vote would be sufficient for the next round.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** Any discussion on the amendment? Machine vote's been requested on AM1421. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 34 ayes, 1 nay, Mr. President, on the adoption of the Select File amendment.

**FOLEY:** AM1421 has been adopted. Anything further on the bill, Mr. Clerk?

**CLERK:** Nothing further.

**FOLEY:** Senator McKinney for a motion. Excuse me. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Lieutenant Governor. I just-- I'll be brief on this. We have our chance now to vote on this, and I would encourage you to vote no on LB108. And I would ask for a machine vote on this

**FOLEY:** Machine vote has been requested on the question of whether or not the bill should advance to E&R for engrossing. Those in favor of advancing the bill vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 27 ayes, 6 nays on the advancement of the bill.

**FOLEY:** LB108 advances. Proceeding to the next bill, LB561, Mr. Clerk.

**CLERK:** Mr. President, Senator Lathrop would move to return LB561 to Select File for a specific amendment, AM1427.

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

**LATHROP:** Thank you, Mr. President. Colleagues, good morning. You'll recall when this bill was up before this body on Select File, I had concerns about keno and keno's ability to be viable and making sure that the playing field was level between casinos and those places, for example, like Ralston Keno. The-- the result of that is an amendment that I would like to offer, with your approval, if you will permit this to be returned back to Select File. The amendment does essentially three things. One, it says that if a casino is going to offer keno, they have to live by the same rules as a-- any other keno facility outside of the casino, so we've leveled the playing field. It does another thing, which says casinos may not allow gambling on an electronic device, so you can't go into the casino and pick things

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

from your tele-- from your cell phone, other than it will still allow that to be done with horse racing. That's been the law. We won't change that with this. And the third piece of it is-- has to do with betting on college sports for teams that are here in Nebraska. By putting these three things together, I think we are able to make an accommodation, improve the bill, and ensure that we have 33 people who will vote for the bill and allow it to move along and, therefore, allow us to regulate gambling that the-- the voters have approved during the last election. So with that, I would encourage your support of the motion to return this bill back to Select File for the amendment I've described. Thank you.

**FOLEY:** Thank you, Senator Lathrop. Discussion on the motion to return to Select? Senator Hilgers-- Speaker Hilgers.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I rise in support of AM1427 and the motion to return, and I appreciate Senator Lathrop bringing this amendment. The discussion we had the other day, this is in part the product of the discussion that we had the other day where Senator Lathrop pointed out the parity concerns with keno operators, where you had keno outside of a casino and then in a casino. And so I think the changes in AM1427 as it relates to keno are very sound, I think, and I fully support them. In addition, there are the-- as Senator Lathrop mentioned, there are the sports. The small piece on the betting on in-state-- in-state teams that are playing in state, that's one that was, if you may recall, was championed by Senator Bostelman and Senator Pansing Brooks. And so I fully support this amendment and I want to acknowledge the work that those senators have-- have done, Senator Lathrop, Senator Bostelman, Senator Pansing Brooks and Senator John Cavanaugh, working together-- together over the last couple of days, socializing this with senators, working with stakeholders and coming up with something that I think is-- is very reasonable, very smart, frankly, I think will make the bill better, and, as Senator Lathrop said and as I said on my remarks the other day, I think will help clear the path to ensure that this bill gets the needed 33 that is required under our constitution in order to pass and impact the initiative petition that was passed in November. And so I think in that-- this-- this way, it's both smart policy at a micro level, but it's very smart policy at a macro level because it-- it will ensure that the great work that Senator Briese and the General Affairs Committee have done on this particular bill will get to the finish line. And with that, I'd urge your green vote on the amendment-- the motion to return and then the amendment. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** Thank you, Mr. Speaker. Senator Morfeld.

**MORFELD:** Thank you, Mr. President. Colleagues, I understand the-- the purpose behind the amendment and the compromise. That being said, I want to renew my opposition to making it so that we cannot bet on in-state sports. One, I think that it's simply just putting blinders on our eyes to something that's already happening. Two, I think it continues a history of this body doing that and then eliminating revenue sources for nonsensical reasons. It's completely illogical. We already know that people do sports betting. We already know that it occurs. We know that we lose revenue to other states, such as Iowa or Las Vegas or you name the place. And then what we don't have is the revenue to be able to do the things that we should be doing in terms of addressing issues such as property tax relief, addressing issues such as public education funding, addressing issues such as problem gambling, whatever the case may be. What we are doing is we're pretending like this isn't occurring and then cutting off the revenue stream that we would be receiving with that type of activity that has already been occurring for decades, for hundreds of years. It makes no sense whatsoever. It is literally just puritanical nonsense, it's completely illogical and Nebraskans know it and I think all of us know it. That being said, LB561 is too important to not get across the finish line. So I'm torn. I like many of the provisions in the amendment, but this provision is nonsense, and we all know it, and I don't appreciate it being in the amendment. This is activity that is already occurring. What we are basically saying is, yes, you can go drive to Iowa on game day, place your bet, and then go drive to Lincoln and go to the Husker game, which is apparently the ill that Senator Bostelman and Senator-- Senator Pansing Brooks is trying to prevent. Or you can do what a lot of Nebraskans are already doing, placing those bets on their phone while they're at the game or right before. In the meantime, we don't get the revenue because we're going to be illogical and nonsensical about this. It's illogical, it's nonsensical, and I don't care if 13 states have this or not. People are doing the same exact thing in those 13 states. So, colleagues, I don't know where I'll be at the-- the motion to return to Select File, but I just want to note that what we have in this amendment is illogical, it's nonsensical, and it's something that Nebraskans are already doing or can drive to Iowa, do, and then drive to their football game in state. It makes no sense whatsoever, and we all know it. Thank you, Mr. President.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**BRIESE:** Thank you, Mr. President. Good morning, colleagues. I had a couple questions about the amendment that Senator Lathrop dropped here, but I think Senator Cavanaugh had quite a bit to do with drafting it, and so I might ask him a question here after a bit. But I noticed in AM1427 authorized games of chance at these casinos are now going to include, quote, a keno lottery conducted in accordance with the Nebraska County and City Lottery Act. Now we need to realize that this act has dozens of statutory provisions within it, and so I wanted to ask Senator Cavanaugh a question. Would he yield to a question?

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

**J. CAVANAUGH:** Yes.

**BRIESE:** Senator Cavanaugh, relative to trying to put the parameters of the Lottery Act around these casino keno operations, what-- what provisions are you targeting here? Are you targeting the entire act, every-- every statute within the act?

**J. CAVANAUGH:** I-- I'm sorry. So you're-- it's a little noisy in here. I'm trying to hear you. So which part are we trying to make sure that we are getting into here?

**BRIESE:** Yes.

**J. CAVANAUGH:** So ultimately, we're just saying, if casinos are op-- choosing to operate casino, they will be subject to the same rules as a keno parlor under the keno Lottery Act, because, as you recall, the Attorney General's Opinion said that keno is a subset of games of chance, so a specific subset and regulated as such, under the keno Lottery Act. But under this act, at casinos, they-- they would be able to operate more broadly. And so we are attempting to say, at least, that when you-- if you operate a keno game at a casino, it would be regulated the same way as keno games that we have authorized previously.

**BRIESE:** So even though the language of the ballot proposal requires casino gambling at these racetrack casinos to be-- or requires folks to be 21 years of age, they could be 19 and play keno at these racetracks, as per the provisions of the act?

**J. CAVANAUGH:** That is a good point, Senator Briese.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**BRIESE:** OK, and then the Lottery Act prohibits operation of keno games between 1:00 and 6:00 a.m. Is it-- is it your intent to put that restriction within the casinos also?

**J. CAVANAUGH:** To prohibit keno games at casinos between 1:00 and 6:00 a.m.?

**BRIESE:** Yes.

**J. CAVANAUGH:** That would be-- yes, that would be part of the intention to-- to-- the intent-- intention is to say that casinos will have no broader game than keno parlors.

**BRIESE:** OK. And the Lottery Act limits the amount of a ticket to \$100. You-- your intent would be to put that in there?

**J. CAVANAUGH:** To-- to prevent casinos from issuing a ticket over \$100, is what you're saying?

**BRIESE:** Yes.

**J. CAVANAUGH:** Yes.

**BRIESE:** OK, but what are we going to do about the age?

**J. CAVANAUGH:** That probably requires a fix. I think you're right about that. I think we would have to say-- I think we may need to put some explicit language in there, which would admittedly make keno more restrictive at casinos than it would be at a keno parlor, and that may be a question that some people will want to debate. But I would-- I would agree with that sentiment that we should limit it to 21 for all gambling at casinos.

**BRIESE:** OK, and I noticed another provision of the amendment strips out the location detection procedure for the sports betting operation while still allowing in-person betting at casinos. If I go sit at the bar at one of these designated sports-wagering areas, download the app on my phone, place a-- place a bet on a game, that's still an in-person bet, isn't it?

**J. CAVANAUGH:** Well, no, I wouldn't think that would be. We're not authorizing mobile platform betting there, and that's the purpose of striking out the-- the-- the geofencing portion that you just described. And we are specifically authorizing in-person betting or at a-- at a kiosk, meaning at a machine that is built in.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**BRIESE:** But-- but if I'm sitting on my bar stool in person, on my phone doing it--

**FOLEY:** One minute.

**BRIESE:** --isn't that an in-person bet?

**J. CAVANAUGH:** I wouldn't think that it is, but you're saying we're not being clear enough? I-- I think that there's room to make-- that we could make that more explicit, if that's your concern. But the intention is specifically to make it a person-to-person and no mobile platform.

**BRIESE:** Yes.

**J. CAVANAUGH:** It-- there's no mobile platform authorization in this bill at that point.

**BRIESE:** Um-hum. Well, is there any particular mobile platform authorization in the existing final copy?

**J. CAVANAUGH:** Is the-- well, the geofencing would authorize that, I think, and that's why we're taking it out, saying that--

**BRIESE:** Yes, I--

**J. CAVANAUGH:** --there's no mechanism by which to regulate it then.

**BRIESE:** Yeah, I-- I think we need to be more clear on what in person means. I have folks that tell me that-- or suggest that in person would include me sitting on my phone with that mobile app, in person, at the designated area, placing that bet.

**J. CAVANAUGH:** And I'm-- I would certainly, but for time, be very interested in-- in working to fix those-- make those changes.

**FOLEY:** That's time, Senators. Thank you, Senator Briese and Senator Cavanaugh.

**BRIESE:** Thank you.

**FOLEY:** Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. This is a great amendment, I think. I-- I think we're on a great path here. And it is-- looks like it's coming to the end of LB561, which the people of Nebraska voted

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

for. I have not been in favor of it, but we're getting some groundwork done here. If Senator Lathrop would yield to a question?

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

**LATHROP:** Yes.

**LOWE:** Thank you, Senator Lathrop, and thank you for bringing this amendment to maybe finish off LB561. In-- in here on-- and on page 37 of the bill, line 11, it says, "or at a wagering kiosk." Could you kind of give me a clue what a kiosk is in your mind?

**LATHROP:** I'd be happy to. And by "finish off," you mean get it across the finish line?

**LOWE:** Get it across the finish line, yes.

**LATHROP:** OK, good, good, good. I just want to be clear that we're on the same page, Senator Lowe, a kiosk is something like you would run into at the airport. Used to be we'd step up to the counter at United and deal with a-- an individual that works for them and they'd print your ticket and they'd print your-- your bag tag. Now we do all that at a kiosk. It's a freestanding sort of a computer that is fixed. It's freestanding and you can-- you can make your wager at one of those kind-- types of machines. And it just-- it-- it helps allow-- it-- it helps avoid human error in the process too.

**LOWE:** All right. Thank you very much. I appreciate your answer. You know, I-- I know a lot of the places in Kearney, they-- they have their own personal set-aside area where the-- they have the keno operator and the computer that enters the numbers, and that's how they do it there. I know my staff has gone out to a couple of places in Omaha that the bartenders do it themselves. You tell the bartender what numbers you want and then you give him the-- the piece of paper and he types them into the computer. A lot of his tips are dependent on-- on-- on the winnings of-- of those tickets, so I'd hate to see that go away. But I'm in favor of AM1427 and I hope everybody else votes green so that we can get this across the finish line. Thank you, Lieutenant Governor.

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

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Well, so I rise in support of the motion to return to Select File and obviously in-- in support of the amendment ultimately. This is-- I think Senator Lathrop

described all of the points correctly. And Senator Briese has brought up some good technical points of things that we could address or need to address in the future to clarify. But ultimately, everyone here is familiar with the story and-- and how we got to where we are. And when you're working out a compromise, I know there some people who are unhappy with certain portions. Each individual portion, there's three-- basically three parts to this amendment. But when you make a compromise and you trying to get everybody together, there's parts that some people-- are more important to some people and parts that are more important to others that you need to integrate into an agreement. And that's ultimately where we are here is this is a bill that we've all, I think, decided and agree is something we need to get done this year because the voters passed cas-- expanded gambling by a ballot initiative and it requires further regulation. LB561 is that further regulation. And Senator Briese put in a lot of effort and did a very nice job to make this bill what it needs to be, and then we, all of the rest of us, have our particular interests in this bill, and this is the final piece that gets people to the position that-- where they can vote for this bill. So there are parts to this amendment that some people don't like, but there are parts that other people like. And I think it's the-- what we ultimately need to get this bill passed, to get everyone on the same page, to agree this is how we want to regulate these. But to answer Senator Briese's questions, there are some part-- parts of the casino act that have been resolved over the last 30 years since we implemented-- I'm sorry, keno act that we implemented over the last 30 years, and there's some complexity there. But the point of it is that the casinos will be at a competitive advantage as it pertains to a lot of things, specifically keno, if they are not regulated in the same way, so that is the objective there. The-- my understanding is that the keno-- the casinos will not allow anyone to gamble over [SIC] the age of 21, so they would have a higher threshold anyway before you can even come in to-- to engage in a game of chance. So I-- I would be fine clarifying, putting a clarification there if we need to at a later date. As to the mobile platform, I think that there-- that is-- the-- there is a potential interpretation that Senator Briese finds in the in-person. I don't think that that is an accurate interpretation, but I'm certainly willing to find a way. We can-- we can bring that bill next year to clarify that. We can advise. At this point, this is-- the legislative intent is to have no mobile platform for sports betting at casinos. That is the intent of this amendment. That would be the intent of LB561 if this amendment is adopted, and if we need to clarify that explicitly, we will come back and do that. But I know that there are

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

other parts of this bill, this amendment that people don't like, and some people are-- are considering, where we did talk to basically everyone in here about this bill. Sena-- Senator Bostelman, Senator Pansing Brooks, and I talked through with everybody and have talked about people's concerns and what-- what people want to see going forward. But it's my understanding and my impression from everyone that we talked to that some people have some concerns but ultimately do intend to vote for this bill and this amendment. And I think that is-- that that's the place we're at. This is an important step. And so I'd ask for your green vote to return to Select and I'd ask for your green vote on AM1427 and then ultimately on LB5-- LB561. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you. Senator John Cavanaugh. Senator Brandt.

**BRANDT:** Thank you, Mr. Lieutenant Governor. I agree with Senator Morfeld. This is-- the-- the keno part of the amendment is-- is a good part of the amendment. The other one is just sort of crazy. I mean, yes, I'd like to thank Senator Lathrop, Senator Cavanaugh, and Senator Briese [SIC] for working out a compromise, and if it was just on the keno, I feel I could support it. I serve on the General Affairs Committee. I mean, we spent a month hammering this thing out. Now we're in the eleventh hour and we're trying to drag this thing back to put some-- some amendments on this, on in-state teams. You know, I'm not going to vote-- vote to return this. I would-- I would ask others not to re-- vote to return this, even though it probably will get returned. The question should be divided. We can't divide the question. So when you look at what's in the bill on sports betting, the amendment is going to insert: an in-- in-- "instate collegiate sporting event in which an instate collegiate or university team is a participant." That would be banned under sports betting in Nebraska. So if the football team's playing at home and you live in Omaha, you just have to drive across the river, take your dollars with you that could be used for Nebraska property tax relief, and give them to Iowa. And I don't think that's what the voters intended. That's what I really don't like about this bill. Would Senator Pansing Brooks answer a question?

**FOLEY:** Senator Pansing Brooks, would you yield, please?

**PANSING BROOKS:** Are you sure you want something from someone so nonsensical?

**BRANDT:** I didn't say nonsensical.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**PANSING BROOKS:** Oh--

**BRANDT:** Morfeld-- Morfeld said--

**PANSING BROOKS:** Oh, OK.

**BRANDT:** OK. All right.

**PANSING BROOKS:** I will then yield.

**BRANDT:** Thank you, Senator. So what is a sports team?

**PANSING BROOKS:** What is a sports team?

**BRANDT:** Yeah, in the bill you define that, "instate sports teams."

**PANSING BROOKS:** It's the same thing as in-state high school teams. They're sports teams. They could be volleyball, football.

**BRANDT:** So what about like a-- a mathlete?

**PANSING BROOKS:** A-- a mathlete?

**BRANDT:** Quiz bowl.

**PANSING BROOKS:** That's a-- that's a-- that's an academic, not sports.

**BRANDT:** OK. And-- and this is-- it's that's why I asked that question. I mean, there's a-- there's a lot of crazy stuff out there that falls under sports teams. Do you feel we need to define that in the amendment?

**PANSING BROOKS:** If you'd like to define it, that's fine with me. I don't-- I think it's pretty clear, and 13 other states do this, plus the District of Columbia. It is not some unusual, weird thing that's happening here.

**BRANDT:** Do you know how much this is going to cost the state of Nebraska?

**PANSING BROOKS:** It's money we aren't getting right now. People are still betting in Iowa. Go to Iowa and continue to bet.

**BRANDT:** OK. Thank you, Senator Pansing Brooks. I would urge that we do not return this to Select. I would urge that we advance LB561 as it stands now to-- across the finish line. We've got casino construction

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

ready to go and their costs are going up every day because the price of construction is going up, and we keep trying to add more and more stuff to LB561. So I would urge you to vote no on the amendment, to vote no on returning it to Select File, and let's get LB561 across the line so we can start construction and get some property tax dollars from gambling for property tax relief for Nebraskans, like 64 percent of the voters asked us to do.

**FOLEY:** One minute.

**BRANDT:** Thank you.

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

**McKINNEY:** Thank you, Mr. Lieutenant Governor. I rise against the motion to put it back and AM1427. I like the keno piece of the-- the amendment, but the elimination of the sports betting, I really-- I don't know. I don't get it, necessarily. We could bet on the Iowa Hawkeyes, but we can't bet on the Huskers. We're still betting on college athletes, no matter what. The electronic piece of it, I don't get either. We stand up every day and say we want to be competitive with our neighbors, but we do things like this to make us not competitive with our neighbors. Why should Nebraska dollars go to Iowa when we could just be competitive with our neighbors? The-- the keno portion of this amendment I understand, and I think it levels the playing field. But as far as the sports betting and nonusage of electronic devices, I-- I don't fully understand. I think technology is continuing-- continuing to advance, and eliminating the usage of techno-- of mobile devices keeps Nebraska in the dark ages, like we have been. The-- the sports betting thing, again, I don't see how it-- if-- if we're against betting on college athletes, we should just not bet on college athletes. But if we're able to bet on the Kansas Jayhawks, the Iowa Hawkeyes and whoever else, I don't see why we shouldn't bet on the Huskers, as well, or people have the-- the opportunity. I know we love our Huskers. And I could go on a whole venting spree about college sports, but I won't do it today. I just think that the keno compromise in this is great. The elimination of the usage of mobile devices and sports betting, I don't agree with and it's going to make me-- it's-- it's going to make it hard for me to vote for LB561 as a whole. I just don't get it. We're going to be back here next year or the year after and we're going to have a bill about regulations for medical marijuana or recreational marijuana. And we're going to say, again, we want to be competitive with our neighbors, but we're going to try to put in things that make us less competitive when

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

we-- we-- that-- that shouldn't be the goal when we're trying to expand our tax base and bring more revenue to our state. And with that, I'll yield the rest of my time back to the Chair.

**FOLEY:** Thank you, Senator McKinney. Senator Linehan, you're recognized.

**LINEHAN:** Good morning, Mr. President, and good morning, colleagues. I-- I just wanted to say that I've worked with Senator Briese since I've been in the Legislature, and he's incredibly thoughtful. He works really hard, and I find it a little frustrating that at the final hour here he's being asked to pull on something that's not been looked at, not been studied. I-- I don't-- I'm going to yield the rest of my time, Senator Briese. I know that he's not thrilled with gambling. He didn't vote for gambling. I didn't vote for gambling. But we're here to do our job and respect the will of the people. I-- I don't know why this is happening. With that, I'll yield the rest my time to Senator Briese.

**FOLEY:** Thank you, Senator Linehan. Senator Briese, you've been yielded 4:00 and you're next in the queue. You've got 9:00.

**BRIESE:** Thank you, Mr. President. Good morning again, colleagues. And-- and thank you, Senator Linehan, for that. I appreciate the comments and appreciate the time. I started thinking about this sometime last fall when that thing was on the ballot, thinking, what if that passes, what are we going to do? It's going to be in the lap of our committee to take care of this. And once it did pass, I started working on it. My staff and I started working on this in early November and really with three goals: you know, number one, to respect the will of the voters; number two, to do this legislatively and keep it out of the courts-- it's our job to establish parameters around this legislatively and not rely on the court system to do it-- and number three, to respect my own antigambling bias. And to do so, to arrive at what we have here in the Final Reading copy, I have walked a fine line and this is where I've landed, the Final Reading copy. And now on Final Reading, Senator Lathrop brings us this. And as far as the keno folks, electronic keno should never have been in this bill to begin with, and I take responsibility for allowing it to have gotten in there. But we took it out two days ago, and that's where it belongs, on the sidelines, an idea ready to be introduced next year as a separate bill. But again, now we have this, and as far as stripping down the keno in the casinos to match the parameters of the Lottery Act, I guess I don't have a problem with that. It could possibly help



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

our keno folks, possibly level the playing field ever so slightly, but I really don't think it's going to have much of an impact. It's not going to do that much good, if any. And as far as the sports betting component, we have a lot of safeguards built into the Final Reading copy: no credit cards, requiring licensees to demonstrate that they can stop the use of credit cards; the ability to exclude oneself from gambling; sports betting can only occur in the casino itself, and it can only occur from a designated area in the casino and in person; no end-game bets on Nebraska games; no proposition bets on Nebraska games; no bets on high school be-- or below. It also defines a class of individuals that are not going to be allowed to bet. And I think what we have in here now places sufficient safeguards and parameters around sports betting and hopefully still respects the will of the voters. And now on Final Reading, Senator Lathrop wants to say, wait-- wait a minute, no bet-- no bets on in-state Nebraska games. And what does that accomplish? I submit to you, there are really no benefits from it. And if you wanted to be cynical, you could suggest it protects-- protects the business of some of our illegal bookies. It encourages Nebraskans to place illegal bets online or with those bookies, sends more tax dollars to Iowa, enhances the profit of the Iowa casinos and, maybe most importantly, it continues to chip away at the will of the voters. A lot of time has been dedicated to getting the Final Reading copy to where it is. I think it's good legislation. But with a few days left, the line between a friendly amendment and a hostile amendment can grow kind of blurry, so I'll be curious to listen to the rest of the discussion on this. Thank you, Mr. President.

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

**LATHROP:** Thank you, Mr. President. Colleagues, I'll just say this. We're here today because two days ago on Final Reading, we pulled this thing back and did something to casino-- or to keno. We're making sausage here and sometimes it ain't pretty. We have two numbers we need to worry about: maybe getting this amendment on, so 25; but we're also a little nervous and concerned about getting 33 at the end of the day. And this amendment helps us get to 33, and adding the collegiate sports piece to this amendment helps get me to 25. Am I really happy about that? No. Do I think it's a compelling thing to do? No, I don't. But we're making sausage here and-- and that's about counting votes. And at the end of the day, Senator Briese needs 33 or this doesn't go. It doesn't go, and that-- that would be a failure. This amendment, you may not appreciate every element of it; you may not appreciate that we're doing it here a week and a half before the end of the session,

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate May 13, 2021

Rough Draft

or a week before the end of the session. I'll-- I'll note that this is the fifth bill we're doing it on today, so this is not unusual and this is about numbers. Senator Briese needs 33 and he may well not have it if this amendment isn't adopted. He won't have me if it's not adopted, which is why we're back at it. When you are trying to get something as consequential as LB561 across the finish line and you need 33 votes to do it, you got to make some accommodations. Today is one of those accommodations and it's not a big deal. I would encourage you once again, colleagues. It may not be everything you like. You may not like all of it. It may not even be important to you. But part of this is really important to me and-- and my community that I represent, the city of Ralston. And it isn't just a city of Ralston thing, although they're the poster child for this because they will have a casino ten blocks down Q Street from where their keno parlor is, and that is a significant source of revenue for the city of Ralston. We're making sausage. We need 33 votes. This amendment will help us get to 33 votes. Putting in the collegiate sports betting, into this amendment, helps get to 25. That's why we're here. You may not like it, but at the end of the day, we need to get LB561 across the finish line with 33 votes. For that reason, colleagues, I would ask for your support in returning this to Select File so that we can add this amendment, move the bill on, and finally provide it with at least 33 votes. Thank you.

**FOLEY:** Thank you, Senator Lathrop. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. President. Good morning, colleagues. A little disappointed, what I'm hearing this morning. I don't like LB561, period. I'm fine if we take this four hours and kill the bill. However, I made concessions, compromises in order to make things happen to bring an amendment. Senator Pansing Brooks talked about the sports betting end of it on General, and then we spoke on it on Select saying, look, we don't have time, we want to talk about this one, make sure we get it right. I understand Senator Briese isn't happy with this, but to say that nothing's ever been said about that portion of it and never been talked about, that's disingenuous. It has, it was, and we've been up-front and-- and straightforward with it. We came around yesterday and talked to you all and asked you where it was, where you were at, would you support it or not. The votes, you said where you were going to vote and we took that for what it was. I guess this is something that we see where people change their vote last second, so it's interesting. There's another bill that's probably going to come up Monday that-- same thing. We've passed it, the

amendment on it. Now we're talking about oh, no, we didn't understand it. Now we're going to change it again. So this bill is-- already was on Final, was returned, Select. That was passed. It was said-- I said it on the mic-- that we're not ready. We want to talk about it. We want to make sure we know where we're at on things before we bring it back. Now my point was, was to compromise with-- on the keno side to get a-- to get an amendment together that, I guess, as someone said, I can live with it. I still don't like LB561; however, I will vote to return it to Select and I will vote for the amendment because that's what we agreed upon and that's what the majority, almost every one of you, agreed upon yesterday. So with that, I would encourage us to continue to allow us to, as Senator Lathrop says, make sausage, to work together to try to move something ahead, to make a bill not perfect in-- in my side or others', or not a bill that I care to see go through at all, but I'm willing to vote on it. But without some amendments here, I think there's, you know, a lot of concerns with the bill. And I would appreciate your vote to return it to Select, as we do with a lot of other bills. I mean, there's bills that we have that I'm not thrilled with the amendment, I'm not thrilled with what it is, but I vote for it because it's-- it's the thing that we need to do in order to move the bill and get it passed. And a lot of you, yesterday we talked to you about that, and you're not thrilled with-- with the amendment, per se, but the bill is important. So we can either talk for four hours on Final, if it gets there. We can, you know, move it back to Select and let's have a vote; let's see where it goes. But I think it does make the bill better. It does make a lot of changes to what different parties want and a lot of people have already agreed to. So I would just encourage you to stay with that. Again, I appreciate Senator Briese's work and it's not taking anything away from what Senator Briese's doing or has done. But there are differences in-- in opinions and things that we will support and we won't support. So this is a compromise in that area; this is a big compromise in that area. So I ask everyone to stand on their word, stand where you-- when we talked with you, keep with that and return this to Select and let's have a vote on the-- on the amendment. Thank you.

**FOLEY:** Thank you, Senator Bostelman. Speaker Hilgers.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues, I rise again in support of AM1427 and in a minute-- I had a good conversation with Senator Briese and in-- and in a minute, I'm going to yield the rest of my time to him to sort of bring this home. Just to take a step back, colleagues, just-- I know it's not ideal. I think-- I don't

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

think-- it's probably never ideal to have two rounds of being on Final Reading and going back to Select. But I think this-- there's-- there's good reasons for this. One is this is a very important bill. To use Senator Lathrop's word, this is a consequential bill. It's a bill that requires 33 votes. It's a bill that is implementing a brand-new regulatory structure for something that was passed by the voters in November. And so the idea of us, it would-- while it would be ideal for us to be able to get through Final Reading and not have to amend it at all, we're-- we don't live in that circumstance. We want to get it right and we want to get the votes to make sure it's passed, and I spoke about that in depth last week. And when I made my comments last week, when we-- or, I'm sorry, earlier this week when we had the motion to amend and pull out the keno amendment, an amendment that Senator Lathrop vigorously opposed, he made comments on the mike that, frankly, to my ear, made a lot of sense regarding the regulatory parity with keno. And so we worked over the last two days to try to accommodate his concern, both to try to get the policy right because regulatory parity does make a lot of sense to me, but also to ensure that this bill gets across the finish line and that Senator Briese's really good work gets implemented, so that the will of the voters gets implemented. It's not ideal, maybe, for some; maybe they don't quite like the policy outcome. But Senator Lathrop didn't like the policy outcome of the amendment that-- that we passed the other day to strike out the expanded keno. So I think that piece makes a lot of sense. And even though if maybe not everyone agrees with me on the micropolicy of this particular amendment, I think we can agree that this is part of a-- it's a continuation of work that really was started two days ago when we made our first amendment. And I appreciate Sen-- Senator Lathrop coming to the table with Senator Cavanaugh, who opposed my amendment, to try to reach an accord there, and we have. I think in addition, Senator Bostelman and Senator-- Senator Pansing Brooks's sports piece is very narrow. I think it's very narrow. I think it's a very reasonable accommodation. Again, not everyone likes it; not everyone likes everything in this bill; not everyone likes the bill at all because they didn't want the petition to pass. But I think ultimately we should vote green on this amendment. I understand Senator Briese is going to say-- he told me he will vote green on AM14-- AM1427, and I'll yield my time to him in a second for him to explain that. I think everyone, whether they love all the bill or not, will vote green, both on Final Reading and so we can get 33 votes and send it to the Governor's desk for signature, so that we can get this process moving. So not everyone loves everything in the bill. I think this particular amendment is part of a very good process over the last

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

couple of days with Senator Lathrop, Senator Bostelman, Senator Pansing Brooks, and Senator John Cavanaugh. I appreciate their work. I appreciate Senator Briese's work as well. If I was in his shoes on Final Reading, to have this to come up, I'm sure I-- I don't know if I would love that either, but I appreciate his statesmanship here at the end, at the eleventh hour, to help get this amendment across the finish line, and the bill. So with that, I'd yield my time to Senator Briese.

**FOLEY:** Thank you, Mr. Speaker. Two minutes has been yielded to you, Senator Briese.

**BRIESE:** Thank you, Mr. President, and thank you, Speaker Hilgers, for your comments and the time. You know, within the Final Reading copy, there are a lot of great safeguards in place, and these are safeguards designed to protect Nebraska values and respect the will of the voters. And the amendment, AM1427, I think, is a reasonable compromise relative to the issues that have brought-- been brought up by the various stakeholders. And in the interest of keeping things moving along and to ensure that we can get this in place with all the safeguards and restraints that we have within this bill, I am going to support AM1427 and I'd urge your support also and urge your support of the motion to return to Select File. Thank you, Mr. President.

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

**GROENE:** Thank you, Mr. President. I stand in support of AM1427 and will support LB561 if it's adopted. I'm on-- for the first year, on General Affairs Committee, too, and I've been around long enough to know that we're not-- we're not all-seeing and all-knowing, especially on major issues that happ-- come to you because of a ballot initiative only a couple, three months prior that passed before the session starts. We didn't catch it all in committee. I mean, we didn't. I mean, I take full responsibility too. It just isn't Senator Briese. There's-- there's eight or-- eight of us on that committee, I believe. It-- we all share responsibility. The phone thing, we should have caught that. We didn't have to do phones. It wasn't mandated that-- we can control the methods and-- of the gaming. So taking that out slows it down. People who are gambling have a little bit more time between bets to consider what they did and if they want to bet again. And the difference between the charitable keno and keno for profit that was authorized because it's a game of chance was absolutely unfair. I mean, the charitable one had to wait five minutes between. They could, with a phone, instantly have one game after another or have 20 games

going at the same time on different boards. That needed to be fixed. And before they-- casinos invest in a lot of equipment for the keno and stuff, we needed to do it now, not next year, and we do need a fix on-- on the charitable part, who, if the casino has it, who the beneficiary is, because, quite frankly, a few towns are going to do very well over this: Grand Island, Lincoln, Omaha maybe, South Sioux, going to do-- in Columbus. They're going to reap a lot of money from this. There's even an amendment they get 10 percent of the tax or whatever, the county and city do. And now you're going to give them a local charity, that huge bunch of keno money, too, if they're the ones that sponsor it in the-- we got to fix that too. But that can be done next year. This amendment is good. It-- last-ditch effort to--- to-- to fix this thin. And quite frankly, when I hear about Taylor Martinez next year, I don't want to have this ad on KFAB or KRVN, where I listen to the game, by some gaming outfit that says, bet on Taylor Martinez, that he's going to throw 300 yards today, because you will get them. Gambling apps will dominate the airwaves on advertising, on college sports. Watch it. I just want to know if he's going to have a good day, and I hope he has a good day, not if he throws 300 yards or 229, and I don't want to bet on it and I don't want to-- reminded all the time that somebody else is betting on it, so that's why I really appreciate the part about taking sports out of-- local sporting events betting. So it's a good amendment. I'm glad some individuals got together and worked on it, and I'm green on a AM1427. Thank you.

**FOLEY:** Thank you, Senator Groene. Senator Briese. She-- he waives that opportunity. Members, we're on Final Reading. I'd ask all senators to please return to your desk because we're getting close to a vote. Senator Lathrop, you're recognized to close on your motion to return to Select File.

**LATHROP:** Very briefly, colleagues, I appreciate your willingness to do what needs to be done to bring LB561 to the finish line, which includes bringing this bill back for-- to Select for AM1427. Thank you.

**FOLEY:** Thank you, Senator Lathrop. The question before the body is whether or not to return the bill to Select File. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 34 ayes, 3 nays on the motion to return the bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** The bill has been returned to Select File. Senator Lathrop, you're recognized to open on AM1427. He waives opening and closing, I presume. I see no one in the queue. The question before the body is the adoption of AM1427. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please,

**CLERK:** 31 ayes, 4 nays on the adoption of the Select File amendment.

**FOLEY:** AM1427 has been adopted. Is there anything further on the bill, Mr. Clerk?

**CLERK:** Nothing further, Mr. President.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Thank you, Mr. Lieutenant Governor. I move to advance LB561 to E&R for engrossing.

**FOLEY:** The motion is to advance the bill. Those in favor say aye. A record vote has been requested. Who requested the record vote, please? Senator John Cavanaugh requested a record vote on whether or not to advance the bill. Mr.-- we'll do a machine vote. Those in favor of advancing the bill vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** Voting aye: Senators Aguilar, Arch, Bostelman, Brewer, Briesse, Cavanaugh, Cavanaugh, Clements, Day, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Sanders, Slama, Stinner, Walz, Williams, Wishart. Voting no: Senator Brandt, McKinney, Pahls, Senator Lowe voting yes. 39 ayes, 3 nays on the advancement of the bill.

**FOLEY:** LB561 advances. Moving now to Select File 2021 committee priority bills, LB566, Mr. Clerk.

**CLERK:** Mr. President, Senator McKinney, LB566. I have Enrollment and Review amendments, first of all.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Thank you, Mr. Lieutenant Governor. I move that the E&R amendments to LB566 be adopted.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** You've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments have been adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator McDonnell would move to amend, AM1345.

**FOLEY:** Senator McDonnell, you're recognized to open on AM1345.

**McDONNELL:** Thank you, Mr. President. Good morning, colleagues. This amendment has to do with the input that we had on-- on General File. Number one: change "owns" to "operates" and changes-- changes to "multiple." After floor debate and talking with Senator Wishart and hearing from projects in Lincoln, Beatrice, Columbus, and Nebraska City, we made the change to have-- to-- in consideration of different partnerships, arrangements so that the projects that are right for the individual communities aren't excluded due to technicalities. Number two: changes maximum grant for a project under \$5 million to \$1.5 million to make sure the smaller projects are getting the help they need. Three: the General Fund appropriations is lowered from 15-- to \$15 million from \$25 million allows DED to put the structure in place and provides American Rescue Plan Act funding subject to appropriations up to the full amount of eligible funds available. We would have to-- the list of the projects prior to appropriating the funds in January; inserts the "Section 9901 of the American Rescue Plan Act of 2021," which is the section referring to the aid to states and local governments. Thank you, Mr. President.

**FOLEY:** Thank you, Senator McDonnell. Any discussion on the amendment? I see none. Senator McDonnell, you're recognized to close. He waives closing. The question before the body is the adoption of AM1345. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. Record, please.

**CLERK:** 34 ayes, 0 nays, Mr. President, on the adoption of the amendment.

**FOLEY:** AM1345 has been adopted. Anything further on the bill, Mr. Clerk?

**CLERK:** Yes, Mr. President, there is. Senator Groene would move to amend, AM1441.

**FOLEY:** Senator Groene, you're recognized to open on AM1441.



**GROENE:** Thank you, Mr. President. I've showed Senator McDonnell the amendment. He can tell you if he likes it or not. A lot of times around here for fairness, when a-- when something comes out of the blue, as this bill did, which actually I wasn't in favor of the bill in the first place because there is no COVID crisis on these types of facilities, as I'd said on the bill, there's more money now out there for philanthropy than there's ever been with the stock market, what it's done, and with all the COVID money out there. Remember, you will get a list eventually of this billion dollars, how much each community will get of the-- of the CARES money. So the purpose of it, the reasoning behind it that says we got a problem with-- because of the pandemic, I don't see that. But I understand the rationale from it because everybody likes to do things besides go to work and have lots of things they can do for extracurricular activities, so I understand that. And nobody wants to be responsible for paying locally for their deal. They want Santa Claus to pay for it. But-- but if we're going to do this, I dropped an amendment to strike all of those-- those amounts of money that each facility could get as a percentage of their-- as an amount of their total, total project cost and said, let's be fair, let's be fair about this. It's a statewide initiative. It should be split up equally, the amount of funds available, between the three congressional districts. Because the sponsor is from a certain district and, therefore, his-- his people know about this ahead of time, before other-- and that's just if my bill was brought, just like my rail park. They knew about it prior to other rail parks. And the timeline about application favors those who knew about it ahead of time, so we need to make it fair and make sure the money is split equally between the three congressional districts. And then I believe we need to limit-- limit how much any one project can get. It should be spread across the state. So we-- part A of-- of the-- my amendment says no one project shall receive more than \$1 million or-- or 10 percent of the total funds available, whichever is greater. Understand that Senator-- the bill now limits the state participation to \$15 million. So if you divide that by three congressional districts, no project could get more than a million dollars. It's fair. That's a big project. If the-- the CARES Act money comes in, as Senator McDonnell is hoping the Governor does, and throws another \$100 million in there, then we're at \$115 million. Well, let me tell you, if any project gets \$11.5 million, I would think that's plenty. That would be 10 percent. That's plenty. For example, I don't think the city of Kearney should get one dime because they already got \$7.5 million for-- in the budget for the museum. That's fair. Not that I don't like the city of Kearney. I visit it a lot. But they're already getting \$7.5 million

for a museum, a line item in the budget. So I hope that's all taken into consideration. And this is not a bad amendment. We do this a lot where we make sure it's fairly distributed across the state between the congressional districts, and then we also limit. My rail park limits how much one unit can-- body can get and it's spread across the state. So I think it's a very reasonable amendment and even at-- looking at it, that it steps it in and is associated to how much total dollars is available. But out of the blue, coming up with \$15 million for a late bill that came out, and because of a-- special projects, I think we need to examine and take a step back, just like we did on the gambling bill, and say we can make it better; we can make it fairer. So this is a legitimate amendment that needs to be addressed for fairness issue because rural Nebraska, we need to protect that. People in Lincoln need to protect that you can get that-- in that congressional district area needs to make sure. That's-- that includes Norfolk in there-- in the First Congressional District, has a fair chance and is in a panic situation, first come, first serve, and have it all applied for within a week or two in July unless that's been changed. I don't think it was. So anyway, I'd appreciate a green vote on AM1441 and then a green on-- I'll be voting LB566 if that passes; otherwise, I'm probably a red. Thank you.

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

**McDONNELL:** Thank you, Mr. President. I-- I appreciate Senator Groene coming to me approximately an hour ago and showing me his-- his amendment. I cannot disagree more with his amendment. His amendment does not improve this bill. His amendment changes this bill dramatically. Now something about the fairness, and if you-- you look, there's a handout that I-- I gave out earlier, and you look at all the cities and all the projects. And you come to the bottom of that and you look at the total amount of money: \$138 million. What we did was we took the \$25 million, dropped it down to 15 from General Fund, then working and still continuing to work with the Speaker, with Senator Hil-- Hilgers, with also Senator Stinner, with the Governor's Office, we said, July 1 or July 15, because, remember, this is a snapshot in time. The idea of fairness and trying to divide it among each congressional district? This is a snapshot in time prior to March of 2020, when COVID stopped these projects. And the impact that COVID had on these 501(c)(3)s was dramatic, not because people stopped giving. They gave in a different way. They gave for basic needs because they no longer could look at capital projects. So those were either shelved, changed dramatically to the point where we said, OK, how can we intervene and help? With one-time spending, one-time spending. The

goal is, when you see this list, these app-- is to fund every one of these projects, every one of these projects when you start looking at the cities: Beatrice, Crete, Omaha, Kimball, Kearney, south Omaha, Gering, Lincoln, Lincoln, Scottsbluff, Scottsbluff, Kearney, Nebraska City, North Platte, Omaha, Crawford, Potter, Scottsbluff, Gibbon, Hickman, Kearney, Omaha, Red Cloud, Red Cloud, La Vista, Lincoln, Nebraska City, Columbus, Norfolk, Grand Island, Columbus, Kearney, Hastings, North Platte, York, Omaha, Lincoln, Beatrice. These are the-- these are the-- the 501(c)(3)s that are contacting us in the office, and it changes daily. Some will call and, again, they have to be a 501(c)(3); they had to have their capital campaign prior to March of 2020. The reason we're putting the application period so short, from July 1 to July 15, because they've-- they've got all the paperwork. This was put on the shelf as of March of 2020. What Senator Groene is doing is dramatically changing this bill and the idea that when I introduced it in January, this discussion is going on today, that we're going to dramatically change this bill? And we're doing nothing except trying to help those 501(c)(3)s. Now remember the economic impact they make: 90,000 people are employed in the state of Nebraska by 501(c)(3)s, \$4 billion dollar annual-- annual pay. The idea of-- of one dollar for every-- some of these-- these venues, you're going to get \$12 back in that community. These do impact us. Take that off the table. Take the economic impact. All the good work these 501(c)(3)s do, we're not picking winners and losers; we're trying to fund all of them. We're not trying to say, oh, Congressional District 1 gets X and Congressional District 2 gets-- we want to fund every one of these projects, but it is a snapshot in time. This isn't Johnny-Come-Lately. This isn't "I have an idea now." This is based on what were you-- how were you impacted back in March of 2020 when you either had to stop or reduce or shelve your projects? That's what this bill is about. And we're now dropping the-- the \$25 million to \$15 million.

**FOLEY:** One minute.

**McDONNELL:** But also, we know we're getting \$1 billion as the state of Nebraska. I said, you know what, I'm not trying to jump the line with the \$75 million that I just took out today. I will go through the appropriations process like everyone else. The Governor will-- will propose. We will depose and we'll bring it to the floor and have that discussion. I will be asking to fund every project that through the July 1-July 15 application comes through, that's eligible, east, west, north, south in the state of Nebraska. I'm not going to pick a winner or loser. And I believe we're going to have that money based on the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

art money, the Rescue money. That's what I'm trying to do. But this amendment is wrong. This totally changes this bill. Thank you, Mr. President.

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

**GROENE:** Thank you, Mr. President. Unless, Senator, I've overlooked something, Senator McDonnell, I don't see anything in your bill where the money is prorated, that who distributes this money has to make sure every project is funded and it's prorated. I don't see it. I see them picking winners and losers and funding it. And as far as your 90,000, that includes an awful lot of 501(c)(3)s. There's no employees at a softball complex. They are volunteers. In small towns, there's no employees; they volunteer. 501(c)(3)s in-- include an awful lot of organizations that have nothing to do with public entertainment, so that number is vastly inflated. I don't understand why you think this drastically changes it. You just-- it does exactly what you-- your goal is, to make sure it is equally distributed and every project is funded. Well, that don't happen in reality. It won't happen. This leans, this lists so far, leans heavily east, dollar amount, heavily east. They knew about it sooner. It also leans heavily towards some of the folks who are on the communities who knew about this ahead of time represented by Appropriations Committee members. I don't begrudge that, because if you're on a committee, I do it, too. You better look at this bill, folks. It's going to favor you. That is why we make-- clarify who's in there when we get to the floor that there is no favorites. It's a good amendment. It's a very good amendment. We do it quite often, distribute between three congressional districts. This is not "I don't like Mike McDonnell's bill," and I don't think it's Mike McDonnell's bill, Senator McDonnell's bill. It is our bill. It is a state of Nebraska bill. I never bring a Groene bill. I bring a-- for my citizens, a bill. As I always said, when this-- a bill is passed, go through our statutes and try to find out on the footnotes who-- who was the senator that introduced the statute. It isn't there. So when I brought this amendment, which I told him I had problems a while back, my original amendment was to strike all the state funding, because if we're going to have all-- but he changed that, to his credit, and said it's \$15 million, which I still think is too much. Shouldn't be any and it should be CARES money, if that's the-- with a billion dollars floating out there. So anyway, it's a very good amendment. It's a good amendment for the people in Congressional District 1, Congressional District 3, and Congressional District 2, where Senator McDonnell represents, in that area. It's a fairness issue. We are going to do what Senator McDonnell said. We're going to make sure everybody has a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

chance to be funded. Thank you. And I appreciate a green vote on AM1441.

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

**McDONNELL:** Thank you, Mr. President. Going back to Senator Groene's first statement about fully funding, we-- we put it on line 10, that up to the amount needed to fully fund approved grants, based on the idea that we took the \$75 million out. As I mentioned earlier, we're going to go through the appropriations process. We want to fully fund. That's the goal. That's up to-- it's up to the Governor to propose and us to depose and this body to decide that. That's the fact. We're trying to fund every one of these projects. Now think about this. I introduced this in January. I have discussions, of course, in the fall. You had to be frozen in time as of March of 2020. You had to already have your capital project, your campaign in play. We're not picking as Appropriations Committee. That's just not accurate. It's whoever at that moment in time could now put their application in based on being stopped because of COVID. And now with the American Rescue Plan, with ARP, we have funds and we are taking \$15 million out of the-- out of the General Fund, but we have more funds available, a billion dollars that will be coming to us, the first tranche of money, \$500 million. We will get all of it most likely by-- by January. We'll go through that process. We have an opportunity, east, west, north, south, to fund every project. But we didn't pick them as appropriations and we're not going to OK the idea of who gets funded. It's going to go through the-- the process. July 1-July 15, they'll put their applications in. Department of Economic Development will start reviewing those. We know by the end of the year they've got to show that they have their-- their-- their share of the fundraising. And then by June of 30-- June 30 of 2022, they've got to have a shovel in the ground. This is that economic shot in the arm. This is trying to help those 501(c)(3)s that help all of our communities, all those people that work for them. And I've got the statistics about the 90,000 people in the state of Nebraska that are employed by the 501(c)(3)s with a \$4 billion annual budget; \$3.5 billion in annual tourism, the hospitality industry, that's going to be impacted by this; and then again, for every dollar spent at one of these venues, \$12 in economic activity impacts. That's-- that's the numbers I received. If Senator Groene has different numbers then, please, bring them to me. But what we're trying to do here today and what Senator Groene is changing, we-- we made it a change today because Senator Flood had brought up the idea: How about trying to help \$5 million unless it was up to a million? We said, OK, we'll move it up to \$1.5

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

million. But \$5 million to \$25 million is \$5 million. Twenty-five million to 50 is 10. Over \$50 million is maxed out at \$15 million. We did put caps on there, but we're not picking based on congressional districts. We're not going to do that. That's what this bill does. We want to fund every one of them, but it wasn't the Appropriations-- when they made this their priority bill, it wasn't the idea that we all looked at our districts because we didn't know. We didn't know what project-- now, I-- I-- I had conversations with-- with Kids Can, Social-- used to be the old Social Settlement, and the work they do and the project that they had going in my district, yes, I did. Did I want to help them? Absolutely. But did-- this bill was set up to help everyone in the state of Nebraska, east, west, north, south, and not knowing who it could benefit. That's why when you look at the handout, it's as of today because we're getting calls saying, OK, are we eligible? We're a 501(c)(3), and this is what happened before March of '20. This what we were working on. This is what the pandemic did to us. We had to make a choice of not laying off personnel and-- and-- but we had to stop the capital campaign. We had to stop the project, the brick and mortar. Here's what we're trying to do. We're trying to say, you know what, thank you, let's get back to where you were, don't bring your personnel back. We're trying to help. But if you look at the original--

**FOLEY:** One minute.

**McDONNELL:** -- the \$25 million coming from us, \$75 million coming from ARP, the American Rescue Plan, think about that, because basically you're looking at 80 percent coming from the private sector, from individuals. Now is 20 percent of the money comes from-- 80 percent of the money comes from 20 percent of people that participate? Sure, there's some big donors and I thank them for their generosity. But there's a lot of these small donors, I think, like people in this room, like myself, that maybe I donate \$50, \$100. That all adds up. But in reality, even with the ARP money, the Rescue Plan money, and with our \$15 million, still 80-plus percent is going to be raised by the-- the-- the 501(c)(3) from the private sector, from those individuals. Please vote against AM1441 and please vote-- vote green on LB566. Thank you.

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

**FRIESEN:** Thank you, Mr. President. I'm going to just talk in more general terms, and I do thank Senator McDonnell for lowering the price tag. But I want to talk in a little bit broader terms of, you know,

the-- the federal dollars that are going to pour into us in the future and what's all coming. And I do think that after seeing some of the-- the-- there was a Go Big Give event in Hall County and they raised a record amount of money. The people who have money have more money today than before COVID started. A lot of businesses did really well. The stock market has done really well. And I think those people are willing to give money, are still having the money to give, and these projects will move forward without this. But in the bigger picture, when we look at the state and what we have done and the small businesses that did get hurt, we have restaurants that are probably never going to open. We have restaurants today that would like to open, can't find employees, and they have been hit the hardest. The hotels, restaurants, the movie industry, the tourism places, those are the ones that just got clobbered and they can't find employees now when they do finally get a chance to open. And so, again, I don't think we've addressed any of those issues and this federal Recovery Act, we talk about building infrastructure, but most of that money is not infrastructure. It's money that someday we're going to regret that we borrowed and spent. And so I-- I look at the future generation that's going to have to pay this off. And we've all noticed inflation starting to kick in. Stock market had its big hits the last couple of days. And we've seen what can happen when oil prices and gas prices go up. And I think the-- we're setting ourselves up for some really high inflation rates in the future, because when you talk to people and you talk to businesses, they can't get supplies, they can't get parts, they can't get cars, they can't get trucks, and we're going to see inflation take over and they're going to raise interest rates. And that's when our federal deficit will come back to bite us. And I think this-- I call it irresponsible spending. Now if we're spending it truly on infrastructure, I have never been sorry for spending money on roads, bridges, maybe broadband, on those things that I think down the future help us. But when we spend it on other things, those are not things that help the economy in the future. And so I-- I just want to, in those bigger terms, have people keep in mind that when we do projects like this, which I think the philanthropists can still fund as they want, I do think there's some businesses and people who have done really well through this COVID, but we have always forgotten about those that really got hurt the worst. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Groene, you're recognize, your third opportunity.

**GROENE:** Thank you, Mr. President. Senator McDonnell and I happen to be friends. We've got some heritage background the same, grew up kind of

the same way, so that we yell at each other. We do that at kitchen tables too, with, our families, so this is a friendly conversation. But Senator McDonnell, I got to use conductive reasoning on you here. I mean, one side of it, you said we're limited amount of money and one time you say this list keeps growing, keeps growing, you're getting more people calling, you're already at 100 and-- \$488 million total and \$138 million which they could-- qualified amount. I don't know what that means, but they're going to pick winners and losers. There's nothing in this bill that says the Economic Development Department will prorate or choose all the projects that qualify and then prorate the amount of money available to each one. It does not say that. This isn't government or we-- it's nice to say you're going to fund them all, but the money isn't there to fund them all. Somebody's going to pick winners and losers. That's the way the bill is written. So at least let's make it fair between the congressional districts. That's no harm in that. And let's limit it to 10 percent of the gross proceeds. If you do get \$100 million from the Governor and then you have \$115 million, if \$11.5 million, 10 percent, isn't enough for one project, I've got a real concern about that. These are all our tax dollars. This list is going to grow; it better grow. I'd better call some people in North Platte, say, get your name in there, make sure you had at least \$15 or 10 bucks in a-- in a savings account claiming you're going to build a softball complex or something that you had it-- you woke up one night and you had a dream of doing this. And that's just joking because every community has dreams about something they want to build for the for their citizens. So this list should grow to what-- how many towns and communities there are in the entire state because everybody has one. But how do we make sure it's fairly distributed? First, you do it by congressional district. Second, you limit it to a certain amount for any one project. It's just common sense. I'm not going to argue with Senator McDonnell about his view of funding everything. He used to work in government, I never did. I understand you can't fund everything. I had to balance both sides. This is a fairness issue. This is common sense. This doesn't harm his bill. He's still going to go after the money. It's going to create competition. It's going to give more opportunity for more communities to participate. It is a fairness thing. That's what Democrats used to believe in, fairness. But anyway, it's a good amendment and I'd appreciate-- appreciate a yes vote on this. And actually, if I'm the last in the queue, this is my closing, Mr. President, on-- on AM1441. And I would apprec-- appreciate a green vote because I don't want red votes because Groene is taking too much time and going to run the day too long. Thank you.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** Thank you, Senator Groene. Senator McDonnell, you're recognized, your third opportunity.

**McDONNELL:** Thank you, Mr. President. I want to make sure it's-- it's very clear, because I've had a couple of people ask, that I am definitely opposed to AM1441. I'm asking you to vote no on Senator Groene's amendment. And Senator Groene is correct. We are-- we are friends and we have-- we have good discussions. And I just totally disagree with him right now on-- on this issue. And based on-- on the idea that we did structure this with the idea of projects \$5 million and less, \$1.5 million, \$5 to-- to \$25 million, \$5 million, then over 25, another 10, then over-- over 50, up to the maximum of \$15 million. But with the ARP money and knowing we introduced this in January, the discussions we had, we didn't know what the federal government were going to-- was going to do with that American Rescue Plan. Now we know, but I took \$75 million out of this bill today. I lowered it from \$25 to \$15 million to say this: On the ARP money, the Governor's going to propose-- I'm going to ask him to fully fund this. And until that process happens and we go through all billion dollars of what-- what everyone is-- is interested in, their ideas, I understand that-- that possibly all these will be funded, possibly some-- possibly all these on the list, when they go through the process, aren't eligible. But every day people are calling us. Now, remember, we froze it in time. This isn't someone that thought last week when they saw this bill, oh, I got a project. No, this is based on prior to March of 2020, prior to March of 2020. So I would agree with Senator Groene if we were doing something new and say, OK, we're doing something new and let's make sure it's equal throughout the state based on those amounts. We're not doing anything new. These projects were already up and running as of-- of March of 2020, and now we're trying to say fully fund all of them, large and small. But we're saying a max someone can get is \$15 million, and if you're less than \$5 million, we can go up to \$1.5 million. I think that's fair; that's fair for the whole state. So I am totally opposed to Senator Groene's AM1441. Please vote red. Thank you, Mr. President.

**FOLEY:** Thank you, Senator McDonnell. Senator Groene, you're recognized to close. I think you've indicated you wanted to waive closing or no? I don't know.

**GROENE:** I said earlier what I said was-- was my closing.

**FOLEY:** Very good.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**GROENE:** And this-- this is just-- this explains itself. This is common sense, so a green on AM1441 and I'll still like Senator McDonnell. Thank you.

**FOLEY:** Thank you, Senator Groene. Members, you've heard the debate on AM1441. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 17 ayes, 2 nays to place the house under call.

**FOLEY:** The house is under call. All senators please return to the Chamber and check in. The house is under call. Senator Groene?

**GROENE:** [RECORDER MALFUNCTION] order.

**FOLEY:** Roll call, regular? All senators please return to the Chamber and check in. The house is under call. Senator Lathrop, please return to the Chamber and check in. House is under call. Senator Groene, we're lacking Senator Lathrop. We can wait or proceed.

**GROENE:** Go ahead and proceed.

**FOLEY:** We will proceed. The question before the body is the adoption of AM1441. A roll call vote in regular order has been requested. Mr. Clerk.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

Pansing Brooks not voting. Senator Sanders not voting. Senator Slama voting yes. Senator Stinner voting no. Senator Vargas voting no. Senator Walz voting no. Senator Wayne. Senator Williams voting no. Senator Wishart not voting. 12 ayes, 19 nays, Mr. President.

**FOLEY:** AM1441 is not adopted. I raise the call. Speaker Hilgers, you're recognized. Next amendment, Mr. Clerk.

**CLERK:** Mr. President, Senator Hunt would move to amend, A-- LB566.

**FOLEY:** Senator Hunt, you're recognized to-- to open on AM1260.

**HUNT:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Good morning, Nebraskans. I have introduced AM1260, amendment that I will be surprised if it passes, even though it's a good one that improves the bill and improves the impact on Nebraskans. AM1260 is short and simple and it contains language that all of you know well. On page 2, after line 26, it will read: Qualified nonprofit organization means a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code that, and my amendment would add, "Does not discriminate on the basis of race, color, religion, national origin, ancestry, citizenship status, gender, sexual orientation, gender identity, or disability." It's good governance and it reflects the values of Nebraskans. I stand with Nebraskans who share these Midwestern values of working hard for what you have and being able to shape your own destiny. Every Nebraskan should have the opportunity to participate in society, especially if they are a taxpayer whose income is being taken by the state to fund initiatives like LB566. Every person should have the freedom to work hard, to earn a decent living, and to provide for their families. And those aren't just Nebraska values. Those are American values. And my amendment brings that recognition and those protections into the bill. I believe that when we talk about nondiscrimination, we have to be inclusive and we have to talk about nondiscrimination in 2021 terms. We have to write legislation while being mindful of how this will be interpreted 10 or 20 or 50 years from now, and so that's why if the Legislature is going to pass this law and allow this grant funding for nonprofits, we have to make sure that tax dollars are not going to nonprofits that fund discrimination or that allow discrimination. To not include discrimination protections in LB566 is a significant omission. Colleagues, marriage equality was decided by the Supreme Court six years ago. When state dollars are going to organizations, we should make sure that these organizations are not ones that discriminate. And that's something that we should all care about. It's good governance.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

AM1260 reflects the kinds of things that Nebraskans are asking us to do to improve the work that we do in the Legislature and improve the culture of our state. It hurts nobody. It could really help somebody. And it would make me very happy. And in that body-- in this body, that goes a long way too. Without this amendment, I will be a no vote and I would encourage others to stand by our principles of nondiscrimination and vote no as well. So I encourage you to give me this one, give this one to the young people and forward-facing people of our state. Vote green and we can move on. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Debate is now open on the amendment. Senator McKinney.

**McKINNEY:** Thank you, Mr. Lieutenant-- Lieutenant Governor. I rise in support of AM1260. I think it's great to ensure that no one is being discriminated against in no shape or form. And I think it's good policy to make sure that we do all we can as a body to make sure that we stamp out discrimination in our state. No matter where you live, whether it's rural Nebraska or urban Nebraska, no one should stand for discrimination. I think it's a good policy to have in place to ensure that organizations that are receiving these dollars are acting in a manner that is acceptable for all Nebraskans. Discrimination is something that should never be acceptable. I think this is a great policy and I'll yield the rest of my time to Senator Hunt, if she would like to have it.

**FOLEY:** Thank you, Senator McKinney. Senator Hunt, you've been yielded 4:00 if you care to use it.

**HUNT:** Thank you, Senator McKinney. Colleagues, I just want to reflect that in all of the initiatives that we fund in our state to figure out what is going on with our population, why do we have a net outmigration of thousands of people of-- a year, most of them college educated, most of them young professionals who are leaving Nebraska to work higher-wage jobs in information technology sectors, in STEM, in other states in our country? And we've done Blueprint Nebraska. The Chamber of Commerce has been heavily involved in this. It's a perennial conversation that we have in the Legislature about, what are we going to do about the young people? Well, there's a segment of the Legislature that thinks that we're going to solve the problem with property tax relief. That's something that I've always been open-minded to. That's something that also matters to people in my district to a degree, and that's something that is going to continue being a perennial conversation. The other perennial conversation is

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

around discrimination, inclusion, and building a culture in Nebraska that actually reflects the modern values that Americans have. There are LGBTQ people in our state who want to be included when their tax dollars are being spent to fund initiatives like the ones included in LB566. Many of you, over the last three years that I've been here, have introduced bills similar to this that were lacking a nondiscrimination clause. It's a goal of mine to always include something like that. On General File, I spoke about this, and on General File we had a robust discussion on LB566. And many people stood up and said, Senator McDonnell, I have this concern; Senator McDonnell, would you be willing to work with me on this? And on every single one of those instances, Senator McDonnell stood up and said, yes, Senator-male so-and-so, Senator-white-male-so-and-so, yes, I'll help you with this. And he never once acknowledged my concerns about nondiscrimination. This is an issue that matters to young people. It matters to young professionals. And with AM1260, we have an opportunity to just put it in. Again, it hurts nobody, might help somebody. It'll shut me up, which matters to a lot of you. And it's something that matters to young people. So I think that's something that we should take seriously if we're going to take seriously the problem of brain drain in our state. Thank you, Mr. Lieutenant Governor, and thank you, Senator McKinney, for the time.

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

**McDONNELL:** Thank you, Mr. President. The reason this is not necessary and I'm opposed to AM1260 is based on the feds already cover this: McKinney-Vento Homeless Assistance Act, based on 42 U.S.C. 11360(17): Private nonprofit organizations. "The term 'private nonprofit organization' means an organization-- (A) no part of the net earnings of which," and then it gets into the voluntary board. Then it gets into "(D) that practices nondiscrimination in the provision of their assistance." It is already covered. Thank you, Mr. President.

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

**M. HANSEN:** Excuse me. Thank you, Mr. President, and good morning, colleagues. Colleagues, I do rise in support of both the bill and the-- Senator Hunt's amendment, and I'll support the bill regardless. I do agree with Senator Hunt's perspective that this is an important thing to do, especially when we are, you know, directly appropriating kind of an investment of the public's money and making sure that these are organizations that the public, and we mean that in the broadest possible terms, are able to, you know, participate in and feel fully

accepted on. Senator McDonnell referenced a federal case and a federal statute. I wonder if that does include all of the people that Senator Hunt includes in her AM, including persons of LGBT, but I don't necessarily know enough to-- to speak specifically to that in terms of the particular case and section he cited, reference to nonprofits. I do want to talk a little bit. I was tempted to put my light on earlier, kind of in some of the earlier discussion. I do agree with Senator McDonnell very strongly on kind of the principle of this bill, including that the investment in arts and community centers are a investment to the community. And the notion was kind of brought up earlier and brought up another thing on General File that investment in the arts doesn't-- you know, is somehow separate from the economy or somehow separate from the community. It very much is interconnected and we see that where obviously, you know, a theater, a museum does employ people; it does draw tourism dollars; it does draw people to the community. You know, they're often, you know, respected members and involved with-- or involved in the community, involved with, you know, the business association, involved with the-- sometimes involved with the chamber as, you know, an active component of the community, something that people spend dollars on, something that people work on, something that people are employed. Obviously, it's no surprise to those of you who know me, obviously. My wife works for the arts, although not a facility that seems to appear on this list or able to qualify for this. But even with that, you know, understating and understanding how significant the pandemic was to a number of arts organizations, you know, a lot of them were able to respond and adapt and shift to online programing, outdoor programing, things that you were able to do. That was a lot of work and a lot of effort. And it was not something that was necessarily revenue generating and it was not necessarily something that was cheap to do. So in addition to having to suspend their capital campaigns, in addition to having, you know, foundations and donors shift their view from, you know, capital campaigns and arts to, you know, more immediate human service needs, you also had the arts nonprofits furloughing and laying off people because they couldn't necessarily have people in their buildings in the same way, while also making investments in technology to, you know, do live streaming, web-- web streaming, which are not simple things, which are certainly not simple things to-- to do well and not simple things to monetize or have-- be revenue generating as opposed to just a true service to the community. I think recognizing the impact of the pandemic and recognizing the impact on the arts is-- is of great importance. And obviously I know this is broader than that for a variety of different reasons. So that's why I do rise in overall

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

support of LB566 and would continue to listen to the discussion on Senator Hunt's amendment to see if federal law and state law line up and make sure everybody is-- that needs to be covered is covered. Thank you, Mr. President.

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

**HUNT:** Thank you, Mr. Lieutenant Governor. If no one gets in the queue after me, this can be my close. To clarify the law and respond to what Senator McDonnell said, no, these groups would not be included as protected groups in the nondiscrimination clause that our federal government has. Any of you who have followed the news around this, who are interested in issues of nondiscrimination and equity, the-- the House of Representatives recently passed, like the end of February, the Equality Act, which would amend the 1964 Civil Rights Act to prevent discrimination based on sexual orientation and gender identity. The federal Civil Rights Act already includes those things I mentioned, like race, national origin, gender, these things, religion. But it does not include gender orientation-- gender identity and sexual orientation. This equit-- Equality Act in Congress, this bill has been introduced many, many times. It also passed in the House in 2019. Right now it's in the Senate. And if it passes in the Senate, then, yes, those groups would be protected under LB566 and any other law that we pass in Nebraska that has to do with federal funding. But we're not there yet and so, no, these groups would not be protected unless we explicitly put protections in the bill, which is what my amendment does. Once again, this amendment will hurt nobody. It will take away nobody's rights. It may protect somebody, which we in the Legislature should care about, and we should especially care because young people, young professionals, forward-facing Nebraskans, who do not want to live in 1950, are saying that this is something that matters to them. So to clarify what Senator McDonnell said, he's-- he's misinformed, and there has been debate about this. But, no, unless we adopt AM1260, we could potentially be giving tax dollars to nonprofits that do discriminate. So I encourage your green vote. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Members, you've heard the discussion on AM1260. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 13 ayes, 9 nays to place the house under call.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** House is under call. All senators please return to your desks and check in. The house is under call. All senators please return to the Chamber and check in. The house is under call. Senator Groene, check in, please. Senator Hunt, did you want a roll call in any particular order? Reverse. All unexcused members are now present. the question before the body is the adoption of AM1260. A roll call vote in reverse order has been requested. Mr. Clerk.

**CLERK:** Senator Wishart voting yes. Senator Williams voting no. Senator Wayne. Senator Walz voting yes. Senator Vargas not voting. Senator Stinner voting no. Senator Slama not voting. Senator Sanders voting no. Senator Pansing Brooks voting yes. Senator Pahls. Senator Murman voting no. Senator Moser voting no. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell voting no. Senator McCollister voting yes. Senator Lowe voting no. Senator Linehan not voting. Senator Lindstrom not voting. Senator Lathrop voting yes. Senator Kolterman voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann not voting. Senator Hilgers voting no. Senator Matt Hansen voting yes. Senator Ben Hansen voting no. Senator Halloran voting no. Senator Groene voting no. Senator Gragert voting no. Senator Geist voting no. Senator Friesen voting no. Senator Flood voting no. Senator Erdman voting no. Senator Dorn voting no. Senator DeBoer voting yes. Senator Day voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese voting no. Senator Brewer voting yes. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar. Senator Blood. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting yes. Senator Brewer, you're-- just a second, please. Senator Brewer, you-- you want to vote no, is that what you're telling me?

**BREWER:** That is correct.

\_\_\_\_\_ : Say yes.

**BREWER:** Yes.

**CLERK:** Thank you. Senator Brewer voting no. Senator Slama voting no. 14 ayes, 27 nays on the amendment. 15 ayes, 27 nays on the amendment.

**FOLEY:** AM1260 is not adopted. I raise the call. Is there anything further on the bill, Mr. Clerk?

**CLERK:** I have nothing further on the bill, Mr. President.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Thank you, Mr. Lieutenant-- Lieutenant Governor. I move to advance LB566 to E&R for engrossing.

**FOLEY:** Record vote has been requested. The question before the body is the advance of LB566. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** Senator Hunt, did you want a record vote or a machine vote?

**HUNT:** Machine vote.

**CLERK:** OK, thank you. 31 ayes, 6 nays on the advancement of the bill.

**FOLEY:** LB566 advances. Proceeding to the A bill.

**CLERK:** Mr. President, LB566A, no E&Rs. Senator McDonnell would move to amend with AM1419.

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

**McDONNELL:** The amendment, again, on LB566, "\$25,000,000," insert "\$15,000,000," and the funds, strike all \$75 million from the federal funding. Thank you, Mr. President.

**FOLEY:** Any discussion on the amendment? I see non. Senator McDonnell, you're recognized to close. He waives closing. The question before the body is the adoption of AM1419. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 35 ayes, 0 nays on the adoption of Senator McDonnell's amendment.

**FOLEY:** AM1490 [SIC] has been adopted. Anything further, Mr. Clerk?

**CLERK:** Nothing further, Mr. President.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Mr. Lieutenant-- Lieutenant Governor, I move to advance LB566A to E&R for engrossing.

**FOLEY:** The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB566A advances. Next bill, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**CLERK:** Mr. President, LB428. Senator McKinney, E&R amendments, first of all.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Mr. Lieutenant-- Lieutenant Governor, I move to advance-- no, I move to adopt the E&R amendments to LB428.

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

**CLERK:** Mr. President, Senator Arch, I have two amendments. The first one I have is AM1400, Senator.

**ARCH:** [RECORDER MALFUNCTION] that, withdraw.

**CLERK:** Withdraw that [INAUDIBLE]

**ARCH:** Withdraw AM1400.

**CLERK:** Thank you. Senator Arch would move to amendment with AM1315.

**FOLEY:** Senator Arch, you're recognized to open on AM1315.

**ARCH:** Thank you, Mr. President. This is LB428, which is the bill, a priority bill from the committee, Health and Human Services, a legislative package related to the youth in the state's care, including those placed at the Youth Rehabilitation and Treatment Centers. I'm introducing AM1315 this morning to address concerns we discussed on General File related to an Attorney General's Opinion on potential separation-of-powers issues with Section 1 of the committee amendment, which has become the bill. In Section 1, the language we advanced on General File would require DHHS to notify the Legislature 120 days prior to implementing any substantial changes to the facilities and programs of the YRTC's. This version of the language had already been modified in light of the AG's Opinion on the original language of the bill and took care of what I felt were the primary constitutional concerns. However, in effect, this language could have been read as prohibiting the department from taking action to open, close, or relocate a YRTC or YRTC program until that 120-day period had expired, except in the case of an emergency. The 100-day-- 120-day prohibition on agency action gave rise to some lingering constitutional separation-of-power concerns raised by the Attorney General's Opinion. And I think at this point, I think it's important

to take a step back and ask what were-- what were-- what was the committee trying to accomplish in this original bill that was amended into this package? And that is that a couple years ago, when the YRTC's had significant issues, starting in 2019, we felt as though that there were rapid changes going on to changing facilities, to moving kids, to a number of things that we wanted to be involved in, and we wanted to require the department to-- to have advance planning and-- and do that advance planning and not reactive to what was going on. So we passed several bills as-- as a package last year, and one of those bills had the requirement for filing a five-year operations plan, updated annually with the committee, talking to us, telling us major pieces of what was planning-- what the-- what the department was planning for the YRTC's. So we had a briefing. We have seen the first-- the first-- the operations plan, and we will be receiving annual updates on that plan every December going forward, which is great. The problem that we had was, what about in the middle? What about during the year, not waiting until December to tell us, oh, yeah, that-- that changed and-- and letting you know that-- that-- that is all different now. But how do we stay, as a committee, engaged in the process of knowing what's going on in the YRTC's and-- and being involved in that discussion, not directing, not stopping, not becoming the administration, but being involved in the discussion? So we have debated several different pieces of language, trying to find the language that would keep us involved and not get into this issue of the separation of powers between the Legislature and the administration and AM1315, we believe, is the language that will accomplish that. So as you take a look at AM1315, it addresses those concerns by taking a different approach to facilitating continued legislative oversight of the YRTC's. Under current statute, DHHS was required to develop a five-year operations plan for the YRTC's and is required to update the Legislature annually on that operations plan. AM1315 would require that, in addition to the annual report, the department report to the HH-- the HHS Committee three additional times throughout the year by each March 15-- by March 15, June 15, September 15, and then we would receive an annual report on December 15 if any substantial changes are planned or have occurred to the population at the YRTC's, the facilities, the rehabilitation programs, the mental health treatment programs, or the gender segregation at the YRTC's. I want to take you back to the operations plan statute, and that is 43-427. And there are certain elements that we required in the-- in the operations plan to be provided to the HHS Committee. And the-- the letters are (a) through-- (a) through "t," so numerous pieces of operations plan. Our-- our intention is not to require a full operations plan update every quarter but, rather, what

we would consider to be substantial elements. And so the-- the language of AM1315 describes what those are in the operations plan that we would want to see. And we have identified several of those letters and I want to identify those for you today. First of all, (a)-- this is in the annual operations plan, so if there are substantial changes to any of these items, that's what we want to see-- (a) a description of the population served at each youth rehabilitation and treatment center; (d) a facility plan that considers taxpayer investments already made in the facility and the community support and acceptance of the juveniles in the community surrounding the youth Rehabilitation and treatment center; (e) a description of each rehabilitation program offered at the youth rehabilitation and treatment center; (f) a description of each mental health treatment plan offered at the youth rehabilitation and treatment center; and (m) a plan to segregate the juveniles by gender on separate campuses. We've identified those as what we believe to be substantial changes, and that's what we want to know. So if you go to the language of AM1315, it says subdivisions (a), (d), (e), (f), and (m), which I just read to you, of any substantial changes planned before the next report and of any substantial changes that have occurred to such facilities or programs. So this is-- this, again, as I say, is the effort for the HHS Committee to stay involved in the discussion of these substantial changes. Because we have identified quarterly, this is in essence 90-day notice. Now it's not-- it's not 90-day notice with-- we get into that separation of power, but we're covering those 90-day periods where we are asking to know what it is that the department is planning for these particular items that we've identified. So that's the amendment. I want to thank multiple senators. There have been multiple senators working on this. I think there's still some heartburn on some of this language. It is compromise language, not everything that either-- either the administration or the Legislature would have liked to have seen, but compromise language for working with me on this amendment. I do think this takes care of the concerns raised by the AG Opinion, yet accomplishes the goal of facilitating continued legislative oversight of the YRTC's into the future. And with that, I will close, urge your support for AM1315 and for LB428. Thank you.

**FOLEY:** Thank you, Senator Arch. Discussion on the amendment? Senator Lathrop.

**LATHROP:** Thank you, Mr. President. Would Senator Arch yield to some questions?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

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

**ARCH:** I will.

**LATHROP:** Senator Arch, I want to ask a few questions about this. We have been at different times this morning talking about language that would accomplish what those of us who were opposed to taking the language out last time would like to see happen. Under this amendment, HHS is required to provide what amounts to quarterly reports to the Health Committee about those things identified in subparagraphs (a), (d), (e), (f) and (m). Is that right?

**ARCH:** That is correct.

**LATHROP:** So now I just want to step back and maybe take a-- a higher view of what this language does and what it doesn't do. Specifically, if HHS had a plan to, let's say-- and I'm going to make something up-- close Kearney, would they have to tell us beforehand?

**ARCH:** Yes. Yes. That's how I--

**LATHROP:** So where is--

**ARCH:** That's how I read this language, particularly with the language that says, "of any substantial changes planned before the next report," so that is-- we have 90-day periods in here, so, yes, they would need to tell us of that.

**LATHROP:** What's the-- under this scheme, what's the minimum amount of notice? And-- and I'm going to use the hypothetical they're closing-- they're closing the Kearney boys' YRTC, just because that's a-- that's a fixed thing. Far as I know, that's not a moving target, like many of the other aspects of the YRTC program. So let's use that hypothetical. If they're going to close that and they're developing a plan to close it, how-- how do we know that we get 90 days as a Legislature to hold hearings, to take testimony, to find out what the plan is and we don't have HHS doing what they want and they say, gosh, we didn't-- we didn't-- we didn't have this plan the last time we reported, we developed a plan and implemented it in 30 days, we never had to report to you, so guess what, we closed Kearney and all the boys are headed to Omaha?

**ARCH:** OK. I mean, I think that's a good example, because the closing of Kearney would certainly be a substantial change that would-- that would be in this type of a report. I believe that that-- well, first

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

of all, with a annual operations report that comes to us in December of every year, if the intention was to close Kearney, that would be very major. Now there is an emergency clause in here, as you know, where-- where if Kearney was hit by a tornado or something and wiped out, then, of course, we have to do something different. It wouldn't include that situation. But if Kearney were to be closed or the intention is to close it, the plan is to close it, they would need to notify us of that. And-- and whether that comes in that annual operations plan or whether it comes in one of these three quarterly reports, I believe that would be a situation that they would need to notify us of.

**LATHROP:** Well, maybe I'll ask the question a little bit differently. The language that you want to change requires that they give notice to your committee prior to-- I think it's 120 days prior to a substantial change, allowing you, your committee and the Legislature, to the extent they can, even in an interim, to hold hearings, to ask questions, to get the detail, to have input. When we take the "prior to" language out, which we are doing with this amendment, my concern-- and we've talked about this, and that's-- that's where HHS is heartburn is, is with the "prior to" language.

**FOLEY:** One minute.

**ARCH:** That's-- that--

**LATHROP:** Am I right?

**ARCH:** That is my understanding. And-- and the-- and the-- the language that I believe replaces that in a different fashion is the language that is in this amendment right now, because it not only requires like a report as to what you have done, but it is also of any substantial changes planned before the next report. Well, the next report would be 90 days. So I believe that that language covers that.

**LATHROP:** But it-- but it doesn't stop them from doing something.

**ARCH:** It--

**LATHROP:** Prior to-- prior to-- and that really is where the AG Opinion sort of touched on, at least, which is if we, the legislative branch, are freezing the executive branch from doing something before they tell us about it, arguably, there's a problem there. But that language explicitly says, no, you're not going to do one of these substantial

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

changes without giving us 120 days' notice. Here, they could literally change it and then say, well--

**FOLEY:** That's time, Senators. Thank you, Senator Lathrop and Senator Arch. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Colleagues, I very much support LB428 as it is currently amended from General to Select File. I am not supportive of the current amendment that is on the board. There was a previous amendment, that was discussed this morning between Senator Arch and Senator Lathrop and Senator Vargas and myself, that changed the notice from 120 days to 90 days. And I'm-- I'm not objecting to the 90-day change, though I do think the 120 days is appropriate, but the 90-day change is something I certainly could live with. But my concern in this current amendment is much of what Senator Lathrop was just talking about, the "prior to." And I do think that there is the opportunity to adjust this language to be something that I would find acceptable. But the way it is currently written, that's not the case and I have requested an amendment to be drafted. So if you go to page 3 of AM1315, it talks about the report-- well, actually, if you go back up to the bottom of page 2, lines 28 through 31 starts talking about the report, the quarterly report, that there would be a report on March 15, June 15, and September 15 regarding the-- the elements of these certain subdivisions of operations, (a), (d), (e), (f), and (m). And then-- and then it goes on to say: of this section, of any substantial changes planned before the next report, and any substantial changes that have occurred to such facilities or programs. So the issue there is, as Senator Lathrop was saying, the "prior to." So, yes, we get a report every 90 days, but if we get a report on March 15 and they are going to make substantial changes to a facility, say Kearney, on March 16, they can tell us that in the March 15 report, the way that this is currently written. And-- and that's-- that's where I have the issue is that I want to make sure that we are getting the 90-day notice and so that we have the opportunity to fully look at what it is that the department is planning to do and, if appropriate, hold hearings or possibly even have a special session. That seems like a very extreme option that is not likely to happen. But certainly we would want to know with the communities so that we don't have what happened in Senator Halloran's district where they just made the sweeping change to a facility where, I mean, I can't imagine a situation like that happening again. But if we're in that position where the Legislature authorizes \$5 million to build a facility, a treatment facility, and then after it's built the department decides not to use it for that purpose and moves an entire

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

population of youth to another city, I would like us to know at least 90 days in advance so that we can take appropriate action, whatever that may be. And the way that this amendment is currently written, that's not what will happen. It, of course, could happen. We could get 90 days' notice. But this does not require that 90-day notice, and that's really what I have issue with. And our-- the bill, as amended right now, does require the 90-day notice, and we passed it from General to Select, and I would like to see us just move the bill as is. So I'm hopeful that we will not adopt this amendment and just move forward with the bill as is. And if we do adopt this amendment, then I will bring my amendment that requires the 90-day notice. Thank you.

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

**VARGAS:** Thank you very much. So first, I do want to acknowledge that Senator Arch did speak with some of us. I was one of those individuals we spoke-- he spoke with. You know, I've made at least my intention-- I've always preferred the underlying bill as it is, with the committee amendment, because I think it's a good amendment. But I was willing to hear him out on-- on these certain things. This one is something that I-- I wasn't involved with recently, and I'm still listening because I do have concerns about at what point they would give us the notice and-- and how far in advance they would. The-- the only thing is I want to be able to add here is the reason why I prefer the existing one, and, you know, we're going to see what happens-- I haven't been able to see Senator Machaela Cavanaugh's amendment and I-- and I would like to see it-- is-- is because we have-- the actual underlying aspect of YRTC and what we've always discussed has been when there's erratic changes or when there-- there are things that happen and we don't have say, we need notification. That's the only way we're-- we can-- we actually react. If we can't react to what's happening, we can't make decisions that are trying to be in the best interest of-- of youth within OJS and within the YRTC system. And that is very, very important. It's the reason why I originally supported the amendment. I do-- I do, again, want to acknowledge Senator Arch has been trying to go back and forth. I'm still unsure on the HHS's opposition to what that original language is. I understand some of the fundamentals of their opposition, but the way we continue to read it, from the original language, that it's not impeding their ability to do certain things, it's really letting us know in advance when they are going to make a substantial programmatic or contract or sort of, you know, infrastructure or new-- or new placement changes-- or not placement of the youth, but actual buildings. That's the way that I read it. That's-- and we were kind of going back and forth, Senator Arch and I,



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

for some time, because if that's the real big reason, then I'm not entirely sure why we would have to make some other changes. Now I know there's an effort to try to make those changes, to make it work, and I don't know where this is going to go. But at the end of the day, there is still-- there is still an opportunity for us to vote on the underlying amendment. I don't know what Senator Cavanaugh's amendment looks like, so I guess we'll look at that and talk about that as well. But I'm-- I'm still listening because this is important. It's not trivial. I just want people to know that if it was trivial, then, you know, we would have-- we would have moved past it and tried to fix it on later. I think it's important because we have our history and we have our-- we have our history and what our relationship has been in regards to YRTC in the past. And we want to make sure that there are some level of guardrails to then inform us as members of the Legislature, because without that, we are really left in the lurch, not only because of us, but also because of the nature of the turnover of individuals that are senators. State senators are elected and state senators change over because of term limits, and I'm really concerned about whether or not that notice is provided to us in-- in the interim here. So I'm still listening. I was not part of the conversation with Senator Cavanaugh, and I'm going to go talk to her and see what the language is. I was discussing a couple other things prior to that, and I haven't been able to engage as much as Senator Lathrop, as well, just a little bit of listening to him on the mike talk about this issue. But right now, I'm-- I'm still listening. I'm not in support of it. And I-- I do like the existing amendment. And for those who are listening that want to engage, please read the existing amendment that we did pass from the committee. That is really important. That is really critical so that you know what we're debating here. With that, I'm still listening. I appreciate the time. Thank you very much.

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

**LATHROP:** Colleagues, I would like to just talk about why this conversation or this debate is important. I talked about this a little bit when LB428 was up on General File. But the-- the history-- the history and why this is important goes back to August, a year ago, when a number of us went out to Geneva after there was a problem out there. Girls were involved in a-- in what's been described as a disturbance. Four of us went out there. The Inspector General had been out there ahead of us, but four of us went out there and toured Geneva. And it was clear after talking to kids there that there was no programming, that they just abandoned that, that the kids were basically in lockdown, that the La-- that our most modern building was

in a state of complete disrepair. The floor was torn up and some plumbing had been just not repaired. It-- it was not used and the-- the older cottages that are out there were in disrepair. They had had a lot of problems. And that led us, including me-- by the way, I'm on the YRTC Oversight Committee. We went out there and saw the place and realized that there was a huge problem in Geneva. That became very public. At the same time, the girls then get moved to-- up and down the interstate, I'm just going to say. They're-- they're-- they're then taken to Kearney. We took some, I think, to Lincoln. We opened up a Lincoln YRTC. In the same time we're doing all this work in here, this body is doing this work. The girls are now-- they weren't supposed to close Geneva, but they already made plans to turn an alcohol center for youth into the girls center and Hastings without any input from us. And then there's Whitehall has been turned into the alcohol center, some question about whether they have the capacity to do what they need to do, and the sex offenders are there. And a lot of things are happening and it's not happening in a collaborative way, like I would say there was a workaround so that they didn't have to deal with the Health and Human Services Committee, and so there is con-- trust issues, I'll just say, trust issues. And what the language currently says is before you do something, we need to know. And my concern right now-- and Senator Arch's amendment is certainly an improvement over a number of things that I've seen him offer, and I appreciate, as others do, his effort to try to find the middle ground. But the term or the words "prior to" are important. They're important because it's the difference between asking for permission and begging forgiveness. And we all know what that is. And they don't need our permission, and this doesn't require that they secure our permission, but they ought to at least tell us before. This-- this amendment would suggest that if they act in good faith, it should be just fine. It would be fine if we-- if-- if we had the trust, Senator Arch. If I trusted that they would do that, this would be fine. My concern, without the "prior to" language, is they can issue a report March 15 and then on the 17th, implement a substantial change and go, oh, yeah, we-- well, we cooked this up before-- after our last report and before the next one, and so, sorry, and if you want to have a hearing you can, but we've already moved the boys out of Kearney and they're now in Omaha somewhere. And so that's the-- that's why this is an important debate, colleagues. Many of you followed this. I hope you--

**FOLEY:** One minute.

**LATHROP:** --recognize that it's consequential because of the unbelievable history of the YRTCs, the movement of the institutions

around. We took a building that was brand-new for alcohol treatment of youth and overnight turned it into a place where the girls were going, but it had to be retrofitted to accommodate the girls because it's a whole different environment from an alcohol treatment center. As I said before, the process feels erratic and I think the Health and Human Services Committee ought to be involved prior to, which is why that language is important. And I hope-- I don't know if we're going to take a lunch break, but-- and I'm not sure Senator Arch will ever be happy with "prior to," but I think that's the language we need to find-- needs to find its way into this amendment. Thank you.

**LATHROP:** Thank you, Senator Lathrop. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you. I-- I do think we should get to a vote on this amendment and we can decide how to proceed from there. It's my hope that we don't adopt this amendment and we can move forward with the bill, as was intended by the committee and as was recommended by the YRTC Oversight Committee. I agree wholeheartedly with Senator Lathrop that the "prior to" is essential. This department has not done the work to garner trust, but beyond that, this administration is coming to an end in the next year and a half and there's going to be a new administration in place. And so we need to think about the future and how we want to interact, how we want the administration to interact with the Legislature in the future. And I think the lessons that we've learned from this situation with the YRTCs over the last couple of years is that we need to have those oversight guardrails in place. And it's essential that we have them in place in perpetuity, not just for this body and this administration, but for moving forward so that all of the youth in Nebraska in the future know that their Nebraska Legislature is engaged and is receiving adequate notice of changes in their situations. And we also should be ensuring that we don't have another situation like we had in Hastings that was very disruptive to the community, and as we had in Geneva that was very disruptive to the community. And we still, you know, don't really have a plan for the Geneva campus, and so I think that it is important that we have these guardrails in place. Oversight is a big part of our job. And this bill, as it is right now, really ensures that we are able to do our job and engage with the department in an appropriate manner. That isn't overstepping. We aren't-- it doesn't say that they can't act without us. It just says that they have to let us know with enough notice before they act, and I think that's a really important distinction. And no matter what the project is, I-- I would think that-- or the move, I would think that 90 days is a reasonable amount of notice to require. With that, I will yield the remainder of my

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

time. I hope we can get to a vote and move forward with our day. Thank you.

**LATHROP:** Thank you. Senator Cavanaugh. Senator Arch, you're recognized to close on your amendment.

**ARCH:** Thank you, Mr. President. You know, we say it often. Well, thank you for the discussion, because I think we're all-- honestly, we're all trying to get to the language that will give us what we need, and that is we need to know; we need to be involved in the discussion. But as-- as the original language sits right now, if you read that, it says at least 120 days prior to implementing, and that could be read-- and this is where the AG Opinion came with the original language. Does that stop the department from doing anything? Is that-- is that where that separation of powers? So what I'm trying to do with AM1315, which I've said, is find language that says, we need to be involved, you need to be talking to us now. Now I-- I would say that without trust-- and-- and Senator Lathrop said it very well. Without trust, I don't care what kind of language you have, you're going to-- you are going to be nuancing the language and you'll be-- and you'll be wrestling with each other in the future. So I think that trust is absolutely essential. The-- the committee, the department are continuing to work to build trust so that we are aware, the transparency is there, going both ways. We want to take better care of our children in our care. It's as simple as that. And we need to be involved in the process in order for that to occur. And so this is an attempt to say, on a quarterly basis, come and talk to us. So with that, I would appreciate your support for AM1315 and the underlying bill, LB428. Thank you.

**FOLEY:** Thank you, Senator Arch. Members, you've heard the discussion on AM1315. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 25 ayes, 11 nays on the amendment

**FOLEY:** AM1315 is adopted. Items for the record, please.

**CLERK:** Mr. President, Enrollment and Review reports LB649 to Select File. Study resolutions: LR148, Senator Day, and LR149, Senator Day; LR150, Senator Walz; Reference report regarding the referral of LR135. That's all that I have, Mr. President. And, Mr. President, forgive me, re-- Senator Matt Hansen would move to recess the body until 1:00 p.m. If I misspoke, Mr. President, the motion is to recess until 1:00 p.m.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**FOLEY:** Members, you heard the motion to recess for one hour, until 1:00 p.m. Those in favor say aye; those opposed say nay. We are in recess for one hour.

[RECESS]

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

**WILLIAMS:** Members, we have a quorum, so we will begin the afternoon session, Mr. Clerk, any items?

**CLERK:** I have no items at this time, Mr. President.

**WILLIAMS:** Thank you. We're moving back to debate then on LB428. Senator Machaela Cavanaugh, you're recognized. Excuse me. Mr. Clerk for an amendment.

**CLERK:** Thank you, Mr. President. Senator M. Cavanaugh move to amend with AM1447.

**WILLIAMS:** Senator Machaela Cavanaugh, you're recognized to open on AM1447.

**M. CAVANAUGH:** Thank you, Mr. President. Good afternoon, colleagues. OK, so AM1447 is an amendment to the amendment that we adopted before lunch. So it takes what was in the amended version of LB428, what we amended-- the committee amendment from General to Select. It takes the portion of that that required notice and combines it with the reduction in days from 120 to 90 and incorporates that into the quarterly report amendment that we just adopted before lunch. So the quarterly report amendment that we adopted before lunch does not require the 90-day notice. It-- it more just-- I mean, the quarterly report that we adopted is a good amendment that we adopted. It-- it-- but it is missing this 90-day notice piece, so the amendment says that they, in addition to the quarterly reports of subsection (2)-- and shall provide 90-day notice to the Legislature prior to any substantial changes to such facilities or programs under the jurisdiction of the Office of Juvenile Services. So that's just reinstating the language that we had originally requiring the notice. And the "prior to" is the piece of that that is really important, and I hope that we can adopt this amendment and move this entire bill to Final Reading. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

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

**M. CAVANAUGH:** I will get out of the queue and let others speak.

**WILLIAMS:** Thank you, Senator Cavanaugh. Senator Arch, you're recognized.

**ARCH:** Thank you, Mr. President. I appreciate very much what Senator Cavanaugh is trying to do here. I-- I know that-- because that's what we want. We want to have notice. We want to be involved. But I want to go back to what the AG Opinion, the original language that the AG opined on, and-- and let me read it to you. This is the original language of the bill, LB429: prior to implementing any substantial changes to the facilities and programs under the jurisdictions of the Office of Juvenile Services and the Depart-- the Department of Health and Human Services shall notify. It goes on to say no substantial changes shall be implemented until the conclusion of the earliest regular session of the Legislature in which there has been a reasonable opportunity for legislative consideration of such proposed changes. So this language now says, shall provide 90 days' notice prior to any substantial changes. So as I read this, we are taking what was until the conclusion of the legislative session, and we're replacing that now with 90 days. But in the AG Opinion, the AG goes on to say the statute at issue in LB429, Nebraska Revised Statute 43-404, currently provides in pertinent part that there is created, within the Department of Health and Human Services, the Office of Juvenile Services; the office shall have oversight and control of the youth rehabilitation and treatment centers. We've carefully considered whether language in the proposal, which imposes a mandatory stay on any substantial changes to be made to the YRTC programs or facilities through the conclusion of the earliest legislative session constitutes a violation of the separation of powers clause. In light of the authorities cited above, we believe the proposal presents a serious question as to its constitutionality. OK. So we're not saying it has to be done, it can't be done until the end of the session, but this language can very well be read that it can't be done for the next 90 days; you must tell us. So we are-- in the language that we have currently, in the amendment that was passed, it provides for quarterly reports for anything anticipated over the next 90 days. And it gets away from this "prior to" language; it gets away from this-- walking this-- walking over the line where we are telling the department that they can't do certain things and gets away from that separation of powers. So I'm concerned that this particular amendment will put us

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

right back where we were with the AG Opinion. So with that, my conclusion is I cannot support AM1447 and I would like to see the bill advanced as-- as currently amended. Thank you.

**WILLIAMS:** Thank you, Senator Arch. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President. And, colleagues, good afternoon. I had a conversation with Senator Cavanaugh before we reconvened today. I think we'll run one amendment, we'll have a conversation about it, and then you effectively can choose: the Arch amendment that was adopted before, or we can strengthen that with the Cavanaugh amendment. I intend to support the Cavanaugh amendment, but I think we've had a pretty good discussion about this. I don't think this particular amendment requires a lot of discussion, and we can probably get to a vote fairly quickly. Let me just say this. The-- the Cavanaugh amendment requires that they give us notice before they do something. Senator Arch is concerned that the Attorney General's Opinion might suggest that there is a constitutional problem with the separation of powers. Actually, the conclusion was it presents a serious question, which, of course, somebody knew when they sent it over to the AG. We didn't get an answer to a serious question. We got a "this is a serious question." I honestly don't think it is. I don't think it is. I have to tell you, the-- the reason I-- I have a great deal of frustration over-- you know, I don't-- I haven't had to pay a lot of attention over the years to what HHS does. We've had-- that committee takes care of that business and I sort of got tied up in this YRTC thing by chance. And it really is disturbing. It's very disturbing to me how they just do things and they don't collaborate with the Legislature. It is a heavy-handedness and I think, in order for us to be confident that they are not doing something substantial without engaging the policymakers-- because we're talking about a change, right? Everything they do is substantial. We want to know about a substantial change. Policymakers ought to be involved in that process. The executive branch runs government. This body makes policy. And I think it's only proper and-- and in this case, necessary that we know before they make a substantial change so that we have an opportunity, or at least the HHS Committee, under Senator Arch's leadership, has an opportunity to get the director or the CEO in front of the committee and say, break it down for us, what is it? And we can critique whatever plan. And this isn't every plan. You want to get a different vendor to bring lunches to the boys at Kearney? Not a problem, right? We're talking about something like closing Kearney down or moving girls from Hastings back to Geneva. Those kind of things, we ought to have a say in, and we are not going to have a say

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

in them unless we know prior to. And that's the-- that, to me, is the magic language in the Cavanaugh amendment. That, to me, is the compelling reason to adopt the Cavanaugh amendment. And this is not splitting hairs. This is not one of those circumstances where a senator is offering something that is meaningless or doesn't make a consequential change. I think history tells us this is a necessary change. And for that reason, I would encourage the support of AM1447. Thank you.

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

**M. CAVANAUGH:** Thank you, Mr. President. So the AG's Opinion really focused on, as far as the separation of powers go, the language that said no such substantial changes shall be implemented until the conclusion of the earliest regular session of the Legislature in which there has been a reasonable opportunity for the Legislature-- for legislative consideration of such proposed changes. That is not what this amendment does. This amendment is just about the notice. It does not prohibit them from taking action without the approval of the Legislature. It requires them to notify the Legislature 90 days in advance of major substantial changes that they are making as re-- in regards to the YRTC. So they can't move an entire population of children from one campus to another campus without us knowing for 90 days. And they can't lease a new facility in Omaha or Scottsbluff without giving us 90 days' notice. It doesn't prohibit them from doing it on day 90. It prohibits them from doing it on day 85 or 75 or 10 or day 2 without first giving us notice. So the concern over the separation of powers is specific to the-- the inability to act without our authorization. This is saying you can act, but you have to tell us and you have to give us reasonable notice. I think that reasonable notice is 120 days for these substantial changes. But I'm willing to-- to live with 90 days, as was requested and put in the previous amendment that we didn't end up adopting. So I really hope, colleagues, that you will vote for this amendment and we can move forward LB428 and we can all go home and see our families. Thank you.

**WILLIAMS:** Thank you. Senator Cavanaugh. Senator Vargas, you're recognized.

**VARGAS:** Thank you very much. And I might have questions for Senator Cavanaugh in a second. Upon first reading this, there are some similarities to some initial language that Senator Arch and I had been talking back and forth on. So on first glance of this, I-- I support



the amendment because I do think the 90 days' notice-- I mean, originally it was even 120 days, but the 90 days' notice to the Legislature prior to any substantial changes to such facilities or programs for OJS, I mean, just honestly seems reasonable. I-- I understand that there may be pushback on it, but for those that have been the most intimately involved in this for some time, either through HHS Committee from the last year or even Senator Howard who's watching-- watching us-- I feel like she's probably somewhere still even here trying to make sure we're ushering in some-- some good-- good legislation guardrails that we just want to make sure that we're not getting to a place where we-- we miss an opportunity to-- to support good language that doesn't get us in the place that we were in before. I think the 90 days makes sense to me, specifically for the substantial changes that are in the existing language already for facilities and programs, because what we don't want is a substantial change in programming happening and then we're not able to at least react or-- or-- or weigh in and-- and have a conversation. And-- and I-- and I largely don't think it's to say, stop, stop, stop or-- or-- but more to say, I want to know how this fits in within the plan, I want to know why this is important, I want to know why this is needed and if-- and then even the individuals that have-- let's say-- I could say if they're going to start up a new center and it's in a new place, those senators can then weigh in that are exist-- that-- that actually represent that district. And I think that's what we ran into with Senator Brandt and Senator Halloran in the past, and Senator Lowe, that there wasn't always that communication on the front end. I think we're-- we're in a better place. So I-- I-- on first glance, I'm supporting of this because of that reason and, you know, hope we can get to a vote on it and appreciate the dialogue. Thank you.

**WILLIAMS:** Thank you, Senator Vargas. Senator Arch, you're recognized.

**ARCH:** First of all, I want to apologize. I don't want to belabor this point, but I think what Senator Cavanaugh said was very important. I-- and I don't want to-- I don't-- I'm going to paraphrase what she said. I-- I can't quote her exactly. But I believe the comment was that the department can't do things during that period of time. So there is an intention to hold them in place and not allow them, which is a-- I go back to that AG Opinion. That's exactly what they says [SIC]. That's exactly what they said. It imposes a mandatory stay on any substantial changes. Now in that original language we said until the end of the next legislative session; here, we're saying for the next 90 days. It's still imposing a-- as what they say, a mandatory stay on any substantial changes. I want to stay off the line. I want to stay off

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

that line with the AG and the-- so that's why I am not supporting AM1447. Thank you.

**WILLIAMS:** Thank you, Senator Arch. Seeing no one in the queue wanting to speak, Senator Cavanaugh, you're recognized to close on AM1447.

**M. CAVANAUGH:** Thank you-- thank you, Mr. President. I, too, want to stay off that line. I don't want to be causing any sort of constitutionality concerns. I'm reading the AG's Opinion that it's not to stop them from taking action; it's to require notice. And the intent-- that is the intent. It's not to stop them from taking action. It's to require notice. And these changes are so substantial. And we already know. We don't even have to speculate. Senator Arch and Senator Lathrop, before we broke for lunch, went through a hypothesis of-- of situations. We don't even have to do that. We can look at the situations over the past two years. Moving the girls from Geneva to Kearney, that followed-- falls under the emergency. Not reopening Geneva and not giving us a plan at all or talking to us or telling the people of Geneva, moving the kids from Hastings to Whitehall and then moving an entirely different population to Hastings, they did all of that without telling us and not telling us what their plan was and not telling the people of Hastings, not telling the mayor of Hastings what the plan was. This is intended and has always been intended to have thoughtful discussion with the Legislature and the department. It-- nothing about this stops the department from doing anything. It just requires them to be thoughtful in their implementation of very big changes. I hope you all will vote for AM1447. I would like a call of the house and a record vote-- or a roll call vote. regular order.

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

**ASSISTANT CLERK:** 20 ayes, 1 nay to go under call.

**WILLIAMS:** 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 Clements, would you please check in? Senator Morfeld, would you please check in? All unexcused members are present. Members, the question we are voting on is the adoption of AM1447 to LB428. There's been a request for a roll call vote in regular order. Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate May 13, 2021

Rough Draft

**CLERK:** Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch voting no. Senator Blood. Senator Bostar. Senator Bostelman voting no. Senator Brandt voting yes. Senator Brewer voting no. Senator Briese. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Day voting yes. Senator DeBoer voting yes. Senator Dorn voting no. Senator Erdman voting no. Senator Flood voting no. Senator Friesen voting no. Senator Geist. Senator Gragert voting no. Senator Groene. Senator Halloran voting no. Senator Ben Hansen voting no. Senator Matt Hansen voting yes. Senator Hilgers voting no. Senator Hilkemann voting no. Senator Hughes voting no. Senator Hunt voting yes. Senator Kolterman not voting. Senator Lathrop voting yes. Senator Lindstrom voting yes. Senator Linehan voting no. Senator Lowe voting no. Senator McCollister voting yes. Senator McDonnell voting no. Senator McKinney voting yes. Senator Morfeld voting yes. Senator Moser voting no. Senator Murman voting no. Senator Pahls voting no. Senator Pansing Brooks voting yes. Senator Sanders voting no. Senator Slama voting no. Senator Stinner voting no. Senator Vargas voting yes. Senator Walz. Senator Wayne. Senator Williams voting no. Senator Wishart voting yes. 16 ayes, 25 nays, Mr. President, on the motion to return-- I'm sorry, on the amendment.

**WILLIAMS:** The amendment is not adopted.

**CLERK:** I have nothing further on the bill at this time, Mr. President.

**WILLIAMS:** I'll raise the call. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. President. I will make this brief because I know we're going to move on and go home. Colleagues, I really would encourage you to reflect upon the votes that we just took on this bill today and look at the AG's Opinion and really consider what our role is in government. There's lots of con-- conversations over constitutionality of various bills. The-- this had a lackluster conversation today. There were only three of us, really, that were participating in the-- I'm sorry, four that were participating in the conversation about something that is really serious, so serious that we created a special oversight committee that we spent lots of time, even during a pandemic, going and investigating what was happening with the re-- youth rehabilitation and treatment centers. And so the-- the lack of engagement around this issue is-- is, of course, disappointing, and I just hope that we can get this bill now, as it is amended, passed and signed by the Governor. Hopefully this assuages

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

anyone's concerns that Governor Pete Ricketts will veto this bill.  
Thank you.

**WILLIAMS:** Thank you, Senator Machaela Cavanaugh. Anything further on the bill, Mr. Clerk?

**CLERK:** I have nothing further, Mr. President.

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB428 to E&R for engrossing.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB428 is advanced. Next item.

**CLERK:** LB428A, Senator. I have no amendments to the bill.

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB428A to E&R for engrossing.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB428A is advanced. Speaker Hilgers for an announcement.

**HILGERS:** Thank you, Mr. President. Good afternoon, colleagues. We've had-- in the last ten days, we've had eight working days that have been-- most of which-- almost all of which have gone late into the evening. We've accomplished a tremendous amount over those eight working days and we've only had a short weekend in the middle of-- of the two four-day-- the two four-day workweeks that we've had. So we've gotten a lot done and we have some more to do next week, but we have a four-day weekend, I think a very much needed four-day weekend, staring us right ahead. So let's get to it now and we will be adjourning right now. So have a great weekend, everyone. Thank you.

**WILLIAMS:** Thank you. Speaker Hilgers. Mr. Clerk for items.

**CLERK:** Mr. President, Senator Murman offers LR151. That will be referred to the Executive Board. Name adds: Pansing Brooks to LB8; Blood to LB128; Lowe to LB134. Senator Moser would move to adjourn until Tuesday at 9:00 a.m.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 13, 2021  
Rough Draft

**WILLIAMS:** Members, you've heard the motion to adjourn. All those in favor say aye. Opposed say nay. We are adjourned.