

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

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

**LOWE:** Thank you. May we all attain an attitude of prayer. Lord God, in the last year we have witnessed that when lawlessness runs rampant and the citizens try to take matters into their own hands, peace is disrupted and lives are in turmoil or peril. We are told to respect the position, even if we don't agree with the person in authority. For it is you, Heavenly God, who is the one who places people in leadership. Even though in our culture we are given the privilege of voting for those, hopefully positioning ones in office who do believe in your ultimate authority, and we can help hold our leaders and ourselves accountable, but our greatest role in government is to pray. The Bible says when his people will humble themselves and pray, he will not only hear but he will heal our land. In your name, we pray. Amen.

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

**CLEMENTS:** Please join me for the Pledge of Allegiance. 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 Clements. I call to order the forty-fourth day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**ASSISTANT CLERK:** No corrections this morning.

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

**ASSISTANT CLERK:** There are, Mr. President. First of all, your Committee on Appropriations, chaired by Senator Stinner, refers LB579, LB103, LB365, LB566, LB629 to General File, some having committee amendments. Your Committee on Judiciary, chaired by Senator Lathrop, reports LB28, LB204, LB273, LB316 [LB661] to General File, all having

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

committee amendments. Your Health and Human-- your Committee on Health and Human Services, chaired by Senator Arch, refers LB411, LB428, to General File, both having committee amendments. Your Committee on Transportation, chaired by Senator Friesen, reports LB215 to General File. And the Committee on Education, chaired by Senator Walz, refers LB452 and LB669 to General File, both having committee amendments. Additionally, your Committee on Enrollment and Review respectively reports that it is carefully examining engrossed LB35, LB93, LB94, LB148, LB177, LB297, LB337, LB503 as correctly engrossed. Those will be placed on Final Reading. Your committee on Enrollment and Review also has examined and reviewed LB369, LB100, LB351, LB476, LB533, LB101, LB401, LB37, LB169, and LB255, some having E&R amendments. Finally, Mr. President, amendments to be printed: Senator Hilkemann, AM418 to LB250. That's all I have this morning, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Are there any personal announcements?

**ASSISTANT CLERK:** There are, Mr. President, one from Senator Williams this morning.

**HILGERS:** Thank you, Mr. Clerk. Senator Williams, you're recognized for a personal announcement.

**WILLIAMS:** Thank you, Mr. President, and good morning, colleagues. And I heard from the Speaker this morning that this is the first rule follower of a special announcement and I appreciate that. March 16 is a special day. You may not know that, but James Madison was born on this day along with Jerry Lewis. That's kind of opposite ends of the spectrum. This is also National Artichoke Heart Day, Panda Day, and everything you do is right day, which we'll see about that as we move forward today. Fun facts of-- of March. Monopoly was invented on-- in March. Telephone was-- was patented. Elvis joined the Army. But 70 years ago on this day was a very special day, March 16, 1951. On that day, it was estimated there were 260,000 babies born in the world and one of those very special babies born was from Seward, Nebraska and so I want you all to recognize that this is Clark Kolterman's birthday. Now, that happens to also mean, it's Mark Kolterman's birthday, his twin brother, and it's a special birthday. Happy birthday, number 70, to my dear friend, Mark Kolterman.

**HILGERS:** Thank you, Senator Williams. Senator Geist would like to recognize Dr. Rachel Blake of Lincoln, who is serving as our family physician of the day. Dr. Blake is seated under the north balcony. Please rise and be recognized by your Nebraska Legislature. Turning to the first item on the agenda, Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**ASSISTANT CLERK:** Thank you, Mr. President. LB371, introduced by Senator Aguilar, is a bill for an act relating to the state, district, and county fairs; provides an exemption for the conduct of games of chance pursuant to the Nebraska Racetrack Gaming Act where a State Fair or district or county agricultural fair is being held; and repeals the original section. It was read for the first time on January 13 of this year and referred to the General Affairs Committee. There are no committee amendments, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Aguilar, you're recognized to open on LB371.

**AGUILAR:** Thank you, Mr. President. Good morning, colleagues. LB371 is my priority bill and it reconciles the section of statute 2-219 regulating activities at the fair with the recently approved Nebraska Racetrack Gaming Act. Historically, this section has banned all forms of gambling, the sale or consumption of alcohol, and explicit performances from occurring within 40 rods of a location where a county, regional, or State Fair is occurring. If you're confused about the measurement of distance, 40 rods is one furlong and a furlong is equal to 660 feet. As time has passed since this section was written in 1879, the Legislature has adopted language that exempts the different gaming acts the voters and Legislature have approved, including the lottery, raffles, horse racing, bingo cards, pickles, and keno from this section. With the passage of the Racetrack Gaming Act and the direct relationship of three county fairs and a State Fair to the racetrack, Hastings, Columbus, and Grand Island, it's logical that we continue on this tradition of updating 2-219 by allowing games of chance pursuant to the Racetrack Gaming Act to be conducted within 40 rods of the fair. The current statute would require that the casino operation shutter their gaming operations for the duration of the fair. In the case of Grand Island Fonner Park, that would be 15 days worth of halted gaming operations for both the Hall County Fair and the Nebraska State Fair. The economic impact will be significant-- significant to the local economies at which these racetracks are located. Due to lost tourism dollars, lost revenue, lost tax revenue, which includes property tax relief, and the impact on the local employees hired by these casinos, early estimates on the anticipated loss of tax revenue place it at \$1 million between the municipalities, the counties, and the state for those two weeks alone. To be very clear, this will not put poker tables by the ferris wheel. The two cannot and will not directly intertwine. There is a way to allow both the fair and the casino to conduct business as normal while remaining distinctly separate from each other. The rules defined in the Racetrack Gaming Act and promulgated by the Gaming Commission will

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

assure that there remains a definite separation between the activities of the fair and the activities of the casino. The Racetrack Gaming Act and the rules promulgated by the commission will already make sure that our casinos will be some of the most stringently controlled facilities in the nation. During the hearing, we were assured by both Fonner Park and the State Racing Commission that the casinos will be required to be incredibly rigid with how they control access to their gaming operations and that there will exist a significant financial penalty for failure to enforce the controlled access. The fair and the casino will be located on the same property. That's about all they'll share. LB371 simply will allow the casinos to remain open while the fair is going on and allow both to conduct their business as usual. It doesn't intertwine the two. It will allow the communities constructing the casinos and hosting fairs to realize the full economic benefit of both operations. LB371 has the support of the Grand Island Chamber of Commerce, the State Fair Board, and Fonner Park. There is-- there was no opposition in testimony in committee and I'd ask that you join me in supporting the will of the voter by voting to advance my priority, LB371. Thank you, Mr. President.

**HILGERS:** Thank you for your opening, Senator Aguilar. Debate is now open on LB371. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. Good morning. I read through Senator Aguilar's bill. I listened to his opening statement. I was wondering if he'd yield to a question.

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

**AGUILAR:** Yes, I will.

**ERDMAN:** Senator Aguilar, I think you said three fairs will be affected by this. Did you not say that or did I misunderstand you?

**AGUILAR:** I'm sorry. I didn't hear the last part of that question, Senator.

**ERDMAN:** You said there will be three fairs affected by this legislation. Can you tell me which ones those are?

**AGUILAR:** Yes, I can. It's, of course, Grand Island, Hall County, and the State Fair. It's Hastings and the City of Columbus.

**ERDMAN:** OK, thank you. So if we don't do this, then the week of the fair or whenever the fair is going on, the casino will have to close?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**AGUILAR:** Yes, for the duration of the fairs.

**ERDMAN:** All right. So are those-- do those other counties besides Grand Island have casinos? They don't have any now, do they?

**AGUILAR:** Yes. They will lose those jobs temporarily.

**ERDMAN:** OK. All right. So I understand what you're trying to do. So you mentioned that there will be \$100 million lost to-- did you say property tax relief?

**AGUILAR:** Part of that goes to property tax relief, yes, sir.

**ERDMAN:** Do you know how much that is of the \$100 million or whatever the number was?

**AGUILAR:** I'm not sure that all those rules have been put in place yet.

**ERDMAN:** All right. OK. All right. Well, thank you for answering those questions. I appreciate that. I had-- I had looked at this bill earlier and I was trying to figure out what the rationale was, but after hearing his opening, I understand what he's trying to do. It's kind of a double-edged sword there. You have those young people there at the county fairs and at the State Fair and then you also have the casino, so it's a little concerning, but we'll see how the debate goes. Thank you.

**HILGERS:** Thank you, Senator Aguilar and Senator Erdman. Senator Geist, you're recognized.

**GEIST:** Yes, thank you, Mr. Speaker. I wonder if Senator Aguilar would yield to a couple of questions.

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

**AGUILAR:** Yes.

**GEIST:** Just so that I'm clear on what your bill does, it allows the casino to be open the same time the State Fair is running, is that correct?

**AGUILAR:** That's correct, Senator.

**GEIST:** OK, and I'm sure and you can agree or not that the whole idea is so that the casino has revenue coming in because there's a larger crowd on the grounds at the same time, is that correct?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**AGUILAR:** Yes, Senator.

**GEIST:** OK. I just want to express what my concern about that is and that is that a casino can only have participants or those who are gambling inside who are 21 and older. And I see the county fair as a-- as a family event and many times what happens is the adults go to the casino, children go to the midway to ride the rides, and then those on the midway end up having a large number of young people who are not supervised. I see that as a problem, a ripe situation for human traffickers, also just a situation where children are separated from adults and under no supervision. And that gives me pause in this bill and I'm going to continue to listen to the debate, but for that reason, I am leaning no on this bill because I see the, the fair time as a family event and a casino as an adult event and blending those two, I think is a little bit of a conflict in my mind. So, but again, I'm willing to listen to the debate and I appreciate your-- your-- your answers to the questions. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Aguilar and Senator Geist. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. Speaker. Good morning, Nebraska. Senator Aguilar, would you answer a question?

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

**AGUILAR:** Yes, I would.

**BOSTELMAN:** Apologize for not getting with you before-- before now on the mike. I did talk to, to your staff member there, your LA. My question kind of follows along the line what Senator Geist was saying. Do you know, is there plans, say on Grand Island, right now the racetrack, there's fair exhibits within-- within that facility as well as they hold concerts and that is in-- do you know, is the intent then to build a casino somewhere other than that or are they going to, like, move those fair items out and have it in their-- do-- have you had any discussion on that?

**AGUILAR:** As the law exists, the casino has to be built on the property of a racetrack.

**BOSTELMAN:** So it'll be a new facility that will be-- it's not an existing facility.

**AGUILAR:** It'll be a completely separate building with separate entrances.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**BOSTELMAN:** OK, thank you, Senator Aguilar. I appreciate it.

**AGUILAR:** Thank you, Senator.

**HILGERS:** Thank you, Senator Aguilar and Senator Bostelman. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. Speaker. Senator Aguilar, I appreciate what you're doing for your district and your community, but I, too, have to stand against LB371. The State Fair is a family event and to have an attraction that doesn't really deal with the State Fair, I mean, it's-- it's the gambling portion that is going to be added. If it can't go dark during that time when we have our families there, when we bring our families to a State Fair, when we bring our families to a county fair, it's about the family and I think during that time we have to look at ourselves and to see what is important in life and how we view things. Is it about the agriculture, is it about the food, is it about family, or is it about getting a whole bunch of people together for one reason and that is to occupy a casino? I respect Senator Aguilar for bringing this bill, but I have to stand no on the vote. The fairs are about showing off our best, our best stock, our cattle, our pigs, our sheep, our chickens, our ducks, our rabbits, our pumpkins. That's showing off our best. And really is a casino our best? Thank you, Mr. Speaker.

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

**CLEMENTS:** Thank you, Mr. President. I also do not support LB371. I have a personal story, not from me personally, but from a personal friend who had experience in the carnival area regarding an abduction. He was a young boy, four or five years old, and had been put into foster care because his mother was unfit to care for him. Well, his mother abducted him and went to the carnival and followed and took him along to the carnival from Nebraska all the way up to Oregon because the carnival doesn't really leave a paper trail and he said they just deal in cash and it was very difficult to-- for his father to find out where he was. And so for several months, he was just a captive and abducted and working along with the carnival people and it made it very easy for them to hide him and hide his location. And I-- fortunately, finally, he was found in Oregon and brought back to Nebraska by his father. But he was pretty concerned when I was telling about this bill, the situation with the casino being next to a fairgrounds where his experience had been that it was fairly easy to hide a young person that you wanted to abduct and take somewhere secretly. And so I think I would rather err on the side of families and young children and ask the casinos to just stand down for the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

period of time that the fair is going. And they're going to be operating 24/7. I believe they're 24 hours a day, seven days a week and they'll have a lot of other time besides a few days that the fair is going on to be able to operate with a profit. And so that's a personal story to me and somebody who expressed concern about this bill to me and somebody I know very well. And for that reason, I will not support LB371 and thank you, Mr. President.

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

**BRIESE:** Thank you, Mr. President. Good morning, colleagues. I rise in support of LB371. I thank Senator Aguilar for bringing this and I truly appreciate the comments of the-- of my colleagues who express concern about this. And I share many-- many of your concerns. And several times I've stood on this floor and along with many of you, have opposed the expansion of gambling within our state. And I will continue to do so when warranted. But, you know, in November, Nebraskans delivered a mandate and by an average margin of 71 percent to 29 percent, Nebraskans told us that they want casinos at racetracks, they want it taxed at 20 percent, and they want the property tax relief it will provide. And I believe we have an obligation to implement the will of the voters and that's what I intend to do. Again, I'm not going to vote to expand gambling beyond what the voters implemented, but I will facilitate and implement what the voters put in place and I think that what Senator Aguilar here-- proposes here is entirely consistent with what the voters mandated and I will support his bill. Thank you, Mr. President.

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

**HALLORAN:** Thank you, Mr. Speaker. Good morning, colleagues. I, too, rise in support of LB371. Prior to COVID, prior to 2020, 2019 I spent ten days at the State Fair, every day at the State Fair. And it was a great State Fair because we-- except for the kayaks being floated down through the midway with all the rain, but they still conducted a State Fair that drew a huge crowd. But being there, I was able to observe, as we all do, people watch. I was able to observe people and their families. And it is a great event for families and it will continue to be a great event for families. But observing families, I couldn't help but notice some families disregarded where their kids were. Some families had their kids in hand, watching them very closely. I'm not sure that an additional temptation is going to make any difference to some families. There are going to be people down at the beer gardens and let their kids run free on the-- on the midway. It's just-- it's



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

just something that's going to be there regardless. It's a great event, the State Fair is, and I think the gambling is just going to draw additional volume of people to participate in something that they may never have participated before in the State Fair. They'll find time for the State Fair and I think that's a great draw. So I stand in support of LB371. The Ag Committee has oversight over the State Fair and if the State Fair Board is good with it, then I am as well. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Halloran. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. Speaker. Fellow Senators, friends all, I stand in support of LB371 and I am listening to the debate and I am gravely concerned that we think it's OK to subvert the will of the people. Senator Briese said it very wisely and beat me to the punch that it was clear what the voters of Nebraska wanted. And it is our job to follow up on that and make sure that it happens and make sure that state statute allows us to follow through on their wishes and that we do not subvert the will of the people. I think it's interesting that we are all of a sudden worried about this issue, but I don't see anybody worried about the beer gardens at the county fairs. Because that's an issue, people can get drunk and drive home intoxicated, children could climb the fence and possibly get alcohol. I mean, we-- we can sit here and pontificate all day long on the what ifs, but the bottom line is that this does happen in other states, that what the senator is trying to do is really just shore up the language and we're making something out of nothing. I, too, am worried, Senator Geist, about sex trafficking and that's an ongoing issue no matter what we do, but if you go into casinos, you'll see that they do card people and a child or a young adult going into a casino is going to be watched by security. Whether it is close to a fair or not close to a fair, I don't know if there's any data that shows that that's an increased issue for sex trafficking. What I do know that if we have those concerns, especially when it comes to the county fair and parents not watching those children, that's something that we can talk about. We can talk about do we need more security and not through state statute, but talking to community and county leaders. Do we need more security when it comes to the county fair? Do we need better security when it comes to the beer gardens? But when it comes to somebody wandering from the county fair and possibly walking into the casino, when it comes to the fact that-- that casinos are for somebody who is-- I don't think it's 21 and over, isn't it 19 and over to gamble-- 18 to gamble-- 19. Sorry, Senator Day and I are having a conversation here. But the point being that we have this really bad

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

habit in the Legislature of having personal beliefs about alcohol, about gambling and saying well, it may be legal, but it's not moral. Well, our job is not to be the moral police. Our job is to push forward the will of the people and the will of the people said we want gambling in Nebraska. And now we have a senator here who is trying to correct something because it is not right for us to ask a business to close down during the county fair. Where else do we do that in Nebraska? Do we ever close down any business because an event is going on? I'd be willing to listen to that if you can come up with any examples, but the bottom line is that we keep making bogeymen out of something that it really isn't anything and I think it's ridiculous. If you can't support this bill, I respect your opinions, but I think the senator should be allowed to move this bill forward without us making a circus out of it. With that, I would yield any time I have left to-- to Senator Aguilar.

**HILGERS:** Senator Aguilar, 1:00.

**BOSTELMAN:** Thank you, Senator Blood. Thank you, Mr. President. Just one thing I want to touch on as far as the-- some of the negative comments that have come about. I would point out that those scenarios are going to exist with or without the casinos. And hopefully, as-- as we talked about, we are going to have a separation of buildings where it would be very easy for-- to control access, keep children out of them, and that's our full intent and that's the way it's going to be. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Aguilar and Senator Blood, Senator Moser, you're recognized.

**MOSER:** Good morning, colleagues. Thank you, Mr. Speaker. I was wondering if I might ask Senator Aguilar a few questions about his bill.

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

**AGUILAR:** Yes, I will.

**MOSER:** So this law prohibiting games of chance during the fair applies not only to the State Fair, but every county fair?

**AGUILAR:** Every fair that's on a racetrack.

**MOSER:** Yeah and has it been enforced in the past?

**AGUILAR:** No, Senator, it has not.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**MOSER:** So did somebody discover this discrepancy and bring it to you as a problem to fix?

**AGUILAR:** Yes. The officials at Fonner Park discovered the law and were very concerned about it holding their operation so they brought it to me to fix.

**MOSER:** So the sudden alarm at the passage of your bill would surprise me a little bit, I guess, when it was current practice that gambling continued. You know, I know-- I'm pretty sure gambling continued at the Ag Society in Columbus when the county fair was on and I don't know that they had any particular problems more so than any other time, so it kind of makes me wonder where the sudden opposition came from. I will say, though, buying a lottery ticket or not, your odds of winning are about the same. I did cosign onto Senator Aguilar's bill because I think it's an important bill and I don't have any qualms about the passage of the question by the citizens. It was pretty widely approved and I think that for us to come up all of a sudden and oppose gambling flies in the face of the intent of what the citizens voted on. Thank you, Senator.

**HILGERS:** Thank you, Senator Aguilar and Senator Moser. Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. Speaker. Good morning, colleagues. Good morning, Nebraska. I'm rising today, number one, excited because my husband has gotten his second shot, gone the two weeks. My shield is gone, so I don't need to be wearing that thing anymore so I'm pleased about that. Secondly, I arise in favor of-- of-- of LB371, Senator Aguilar's bill. I have voted against every gambling proposal since I've been in the Legislature and the people spoke loud and clear. So I think this is a good message. I don't understand why we would treat some businesses differently than others just because of where they are sited. We have extra penalties on schools if you do drug abuse or if you sell drugs near the schools, but we don't even have, you know, requirements on-- on where you place liquor stores. So I think this is-- this is a smart bill. I think that he's doing a good job that's making sure that the will of the people is met and that business continues to thrive. So I stand in full support of LB371 and I will give the rest of my time to Senator Aguilar should he want it. Thank you.

**HILGERS:** Senator Aguilar, 3:30. 3:30.

**AGUILAR:** Thank you. Thank you so much. Again, I really appreciate all the support that people are sticking out, coming forward with. A

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

little disappointed in the opposition. None of that was there in the committee hearings. People realize what we're doing and that is following the will of the people, 72 percent to 29 is-- is a pretty true story. Now, we, I feel, owe it to our constituents to respect that. And that's-- that's all I'm trying to do here is keep everything legal and aboveboard. That's all that we're trying to accomplish. We're not expanding anything. The people did that already. They took that into consideration and did that. It's what's out there. Now, I ask that you just respect that. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Aguilar and Senator Pansing Brooks. Senator Dorn, you're recognized.

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

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

**AGUILAR:** I will.

**DORN:** Thank you. Visited with you a little bit about this happening for-- I call it the State Fair and the county-- the couple county fairs. If we do nothing during that time then, if we do not pass this bill, what would happen to either the county fair or the casino? My understanding, some of the conversation this morning is the casino would have to be closed during that time period.

**AGUILAR:** You understand correctly, Senator.

**DORN:** Does this, if-- you visited with the people at Grand Island and such and the-- maybe the location somewhat of where that is located. I think you commented earlier. Could you comment some more on, I call it kind of the separation, what you called it. It's going to be a separate facility. There will be, I call it, restrictions in place as far as who can go in and out of that facility.

**AGUILAR:** Yes, of course. To summarize it, most of the activities at the fair take place on the midway, which is centrally located in Fonner Park. The casino itself will be quite a distance from there in one of the far corners of the facility, the racetrack facility itself, far enough away to keep things and close enough to keep things legal. That's what I would tell you about as far as where locations are.

**DORN:** One other question then. The rest of the county-- county fairs, this bill does not have any-- any implications on them. This does not allow them to continue-- it does not allow them to have any other type

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

of, I call it game of chance or whatever, keno or whatever on their facilities. This only affects strictly those that would have a casino.

**AGUILAR:** And a racetrack. You have to have a racetrack on your facility to have a casino. Yes, sir.

**DORN:** Thank you for bringing that up. Thank you. I yield the rest of my time.

**HILGERS:** Thank you, Senator Aguilar and Senator Dorn. Seeing no one else in the queue, Senator Aguilar, you're welcome to close.

**AGUILAR:** Thank you, Mr. President. Colleagues, LB371 is a preventative fix to a problem that has not yet been realized yet, but which have a significant impact on certain communities if not addressed. LB371 will not intertwine the fair and the casino. It will allow two to operate parallel to each other. It will protect the jobs the casinos create from unnecessarily stopped operation. It will allow Hastings and Columbus and Grand Island to reap the full economic benefits bestowed upon them by the voters in 2020. I believe this is a simple issue and would ask for your support in advancing LB371 to Select File. Thank you. And in honor of tomorrow being St. Patrick's Day, I'd sure like to see a lot of green.

**HILGERS:** Thank you, Senator Aguilar. The question before the body is the advancement of LB371 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 38 ayes, 5 nays to advance the bill.

**HILGERS:** The bill is advanced. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR55 and LR56. Next item, Mr. Clerk.

**ASSISTANT CLERK:** Thank you, Mr. President. If I could, a few items. Your Committee on Education, chaired by Senator Walz, reports LB528 and LB529 to General File, both having committee amendments. Your Committee on Enrollment and Review has examined engrossed LB509 and placed it on Final Reading. Amendments to be printed: Senator Walz to LB529 and-- two amendments to LB529. Additionally, an announcement. The Appropriations Committee will be having an Exec Session today at 10:00 a.m. in Room 2022. Next item, Mr. President. LB324, introduced by Senator Brandt, is a bill for an act relating to Nebraska meat and poultry inspection law; defines a term; alphabetizes terms; provides for animal share sales as prescribed; creates the Independent

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

Processor Assistance Program; provides duties for the Department of Agriculture; harmonize provisions; repeals the original section. The bill was read for the first time on January 13 of this year and referred to the Agriculture Committee. That committee placed the bill-- the bill on General File with committee amendments.

**HILGERS:** Thank you, Mr. Clerk. Senator Brandt, you're recognized to open on LB324.

**BRANDT:** Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. Today I'm bringing forward LB324, a bill that makes it easier for the consumer to purchase meat directly from the producer or processor. It also creates the Independent Processor Assistance Program, which provides a roadmap for increasing local processing capacity and expanding market access for small producers. This is one of the Agriculture Committee's priority bills because of the opportunity for rural economic development. The coronavirus pandemic has disrupted our food supply. Outbreaks have impeded work at many regional packing plants. When these plants reduce line speed, backing up finished livestock on the farm, beef and pork producers turn to local processors to fill the void. This has created a bottleneck at every local meat locker in the state. They simply do not have the capacity or equipment to keep up with demand. Small and mid-sized livestock producers are struggling as a result. Local processors play a fundamental role in a small livestock producer's business plan. Producers sell their meat directly to the consumer and view local processors as a trusted partner. Before the pandemic, a typical producer scheduled locker dates four to six weeks in advance. Now the wait time can be 20 to 24 months and this means reservations must be made before the animal is even born. Uncertainty affects both producers and consumers. Consumers are demonstrating a newfound appreciation and increasing demand for local foods that cannot be met. Families who are now spending more time cooking at home are learning that high-quality local meat provides a better and more affordable alternative. Many people have purchased a freezer only to find out they cannot find meat to fill it. LB324 will help address these issues. It is the beauty of the free market in action. It provides a framework that allows a consumer to buy a share of a producer's live animal, known as animal share or herd share, knowing full well who is slaughtering the animal and exercising their personal freedom to make that purchase. Purchase of a share gives the consumer a claim to ownership under the Nebraska Meat and Poultry Inspection Law and federal Meat Inspection Act. This claim to ownership allows the producer and consumer to do business under the custom exemptions established in Statute [SIC] 623 of the federal Meat Inspection Act.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

This freedom to do business creates new options for the buyer and seller, including the flexibility to decide where an animal will be processed and which cuts will be sold. This bill establishes a set of guidelines to ensure compliance with state and federal law. LB324 is modeled after legislation enacted recently by Wyoming that excludes from inspection meat procured by consumers through animal share agreements. Typically, meat has to be inspected by a USDA employee for it to be sold by the package. Under a herd share arrangement, a producer sells shares in a live animal or herd to multiple owners, whose ownership interest entitles them to a share of the meat when the animal is ultimately slaughtered. Because they are part owners of the animal, a USDA employee does not have to inspect their package of meat. I've passed out a packet of materials that includes a draft of a bill of sale, a summary of the bill, a fact sheet on local food, and the story of someone utilizing herd share. Herd share legislation has precedent. State law permits the sale of multiple animal shares in Wyoming and Oregon. Legislatures in Montana, Texas, and Colorado are currently considering similar legislation. The other major component of this bill is the creation of the Independent Processor Assistance Program. This part of the bill is meant to expand capacity as a way to relieve the bottleneck that has plagued the industry over the past 12 months. Today 16 other states have developed grant programs using CARES Act funding to help local processors manage this unprecedented demand. This list includes Iowa, Kansas, Missouri, and South Dakota. This grant funding will help processors expand capacity and manage a growing business. Qualified purchases range from the basic, such as freezer space, to the forward thinking, such as workforce training and inventory management software. These are investments that will help this industry today while planning for the future. The need for this program is urgent. We give the Nebraska Department of Agriculture discretion to act, but I believe it is important to have a turnkey program in place and ready to go when funding becomes available. This will allow us to turn that money around and get it out the door as fast as possible. In a very welcome, late-Friday-afternoon development, Congressman Jeff Fortenberry called our office expressing interest in the bill and is putting us in touch with his ag appropriations committee aide to discuss funds for the Independent Processor Assistance Program. We look forward to collaborating with the congressman on LB324 to see if funds are available. There is a committee amendment that addresses the fiscal note that Senator Halloran will discuss, but basically we re-- we removed regulations from the bill that would have led to cost to the Nebraska Department of Agriculture. I would like to thank Johnathan Hladik of the Center for Rural Affairs, who brought us the bill, the Nebraska Cattlemen,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

and everyone who turned out to testify at the hearing. With that, I would appreciate your green vote on LB324. Thank you.

**HILGERS:** Thank you for your opening, Senator Brandt. As the Clerk noted, there are committee amendments from the Agriculture Committee. Senator Halloran, as Chair of the committee, you are recognized to open on those amendments.

**HALLORAN:** Thank you, Mr. Speaker. Good morning, colleagues. The committee amendment strikes the original Section 10 of the bill and replaces it with a new Section 10. The committee amendment essentially strikes provisions of the introduced bill that created an enforcement obligation or administrative duties for the Department of Agriculture to monitor and facilitate herd share arrangements, which contribute to the fiscal note. Specifically, AM150 eliminates (1) that the meat is received at the farm where herd share livestock are raised; (2) that the herd share operator register with the department and make an annual report to the department; (3) provisions limiting the number of animals marketed through herd share agreements; and (4) a labeling disclosure requirement. LB342 expressly provides that the meat re-acquired through herd share arrangements, as specified in the bill, are not a sale of meat products subject to the Nebraska Meat and Poultry Inspection Law. While Nebraska does not maintain state meat inspection, processing of meat still remains subject to the regulation by the Food Safety/Inspection Service of the USDA under the federal Meat Inspection Act. It is anticipated that herd share producers will utilize custom-exempt processors and will continue to be subject to federal regulations that govern qualifications for custom-exempt processing. The committee amendment essentially conformed the bill to acknowledge the federal role and not state role in assuring the herd share arrangement meets the requirements of federal law. Finally, AM150 provides that any program to assist meat processors under the Independent Processor Assistance Program is contingent on funds being made available for such program. LB324 would provide express authority to expend funds for the purpose set forth in Section 11 but anticipates that the authority would be available in the event federal funds are provided. The committee amendment intends that the department's authorities do not trigger a commitment of state funds in that any disbursement is limited to the extent of available funding. I would move the adoption of the committee amendment to LB324.

**HILGERS:** Thank you for your opening, Senator Halloran. Debate is now open on the committee amendment. Senator Albrecht, you're recognized.

**ALBRECHT:** Thank you, President Hilgers. And I just have a few quick questions and I'll ask Senator Brandt to answer a few of these



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

questions. But I'd like to know in the beginning, when the consumer decides to go into the agreement with the-- with the rancher or the-- or the farmer, what if they cannot come through with the contract because there aren't enough facilities available to process their meat? And then if they should elect to, say, just get hamburger, what happens to the rest of the-- the meat? Who-- where does it go? Who takes care of it? Who gets to sell it? And I noticed in the committee statement that-- that the Nebraska Department of Ag did come in as an opponent. Has everything been agreed upon with them on how they want to act on this? And, I mean, this is a-- a nice-- a nice bill to-- to bring forward, but I-- knowing how hard it is to get the animals processed today and that we are a year or two out, is the idea just to get more people to open up lockers and to be able to process the-- the meat for the-- the consumer along with us? But I just-- if the-- Senator Brandt could yield to those few questions, that would be great.

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

**BRANDT:** Yes, I would.

**ALBRECHT:** So the Secretary of Ag came in-- or the Department of Ag. Steve Wellman came in and what was his opposition to the bill?

**BRANDT:** Originally-- and the amendment took out the opposition. Originally they had put in an FTE. So we had some additional requirements in the bill for reporting and when we took those away, we took away the objections. We met with Secretary Wellman, Senator Halloran and I did, and they're all right with the bill now as it sits.

**ALBRECHT:** OK, great. So tell me again, when does the ownership-- when does the farmer and the consumer get together to either pick out the animal or just go into an agreement?

**BRANDT:** Sure.

**AGUILAR:** Tell-- talk me through that, how that's supposed to work, and what happens if within that year we can't produce someone to process the meat for the person.

**BRANDT:** Right. So how the system works, if you look at the second page of your packet, we've got a draft of a Nebraska herd share bill of sale. With this, you need two pieces of paper. One, you have to sell herd shares. If I'm-- and I own a feedlot, so if-- if I want to sell some herd shares, I have to find those people before the animal gets

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

processed and the federal law is very explicit on that. So I could sell, let's say, 10 herd shares or 100 herd shares or 1,000 herd shares in my feedlot and I could define the feedlot as 10 head or 100 head or whatever. So that simply makes you an owner. So I could sell you a herd share for \$1 or \$10 and my responsibility as the producer then is to take care of that livestock. The livestock has to go through a custom-exempt facility. It's very similar to what we do today in-- except in today, you sell halves and quarters and that's as far down as you can get. And there's a lot of gray area in what Nebraska does today. This actually gives a lot of definition. What happens here is the whole animal is processed, brought back to my farm. I send out a text to all my herd share owners or I may have texted them ahead and said what do you want? So maybe you'd like the T-bones, maybe Senator Cavanaugh would like the ground beef, maybe Senator Halloran wants oxtail. But we can do that and then we would weigh that up and price it accordingly at the farm and it-- it--

**HILGERS:** One minute.

**BRANDT:** It really helps consumers today because a lot of people just have a tiny little freezer on their double-wide and a lot of people don't want to buy a quarter or a half because of the cost.

**ALBRECHT:** Um-hum. OK, so, again, if-- if we go into this agreement and this contract, we would only do that if we knew that we were able to process the beef before we were able to sell something to them because, I mean, I can-- we can sign up as many people as we'd like, but if we don't have a facility to take them to, to produce the meat, that's my question in-- how does that lock together?

**BRANDT:** That-- that is correct, because on the-- on the first part of the bill, it simply changes-- instead of selling quarters and halves now, we could sell packages of meat and the second half of the bill actually addresses capacity. If we can find a funding source, that sets up the ability--

**HILGERS:** Time, Senators.

**BRANDT:** Thank you.

**HILGERS:** Thank you, Senator Brandt and Senator Albrecht. Senator Ben Hansen, you're recognized.

**B. HANSEN:** Thank you, Mr. Speaker. First I want to thank Senator Brandt for bringing this bill forward. I am support of LB324 and the underlying amendment. I am a cosponsor of it as well. So we had some

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

great testimony in the Agriculture Committee from the Nebraska Cattlemen, from the Center for Rural Affairs, who I believe brought this bill forward, so I appreciate them for doing that; also from the Oakland Processing Plant in Oakland, Nebraska, which is in my district, and where actually-- where I rely upon to get a lot of my meat processing done. And when I get-- have to have to wait two years to get a T-bone steak, then I have a problem, so of course I'm going to cosponsor this bill. So in this day and age of COVID-19, we're always sitting here as legislators trying to understand what we can do better as a government to help the people during these trying times. And so I appreciate the intent of this bill and its free-market approach and allowing the people the ability to help take care of themselves and their family instead of relying upon the government to do it for them. This does up-- you know, the ability for the people and the approach for locally sourced food is another thing I'm very appreciative of. Something that we don't have a whole lot of appreciation for is where our food comes from. And the more locally sourced it is, the better, in my opinion, and we're supporting the people of Nebraska and our farmers as well. And it also does, like what Senator Brandt mentioned, does provide some clarity to a gray area in existing law about how herd sharing works, about how you can get a-- a cow processed through quarters and through halves, so I appreciate that as well. And we are trusting the people to make decisions for themselves and their family for basic needs, which I think they found out they needed more now than ever with COVID-19 and their inability to get food in certain places. And so I think this helps open up that whole aspect of people being able to take care of themselves and so I appreciate that. So with that, I-- I-- I do encourage my colleagues to support LB324 and the underlying amendment and vote green when the time comes. Thank you, Mr. Speaker.

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

**J. CAVANAUGH:** Thank you, Mr. Speaker. I rise in support of LB324 and the committee amendment and I thank Senator Brandt for bringing this amendment. He did a nice job of addressing kind of the nuts and bolts of this. I just kind of wanted to talk about how this would, I think, affect the consumer, considering that that's the side of this that I look at, where I come from. My family lives in Omaha. We have one of those smaller freezers that Senator Brandt referenced. I would probably take the oxtail if Senator Halloran doesn't want it. But we-- last year, we bought a half a cow from a locker in Hooker County, Nebraska, and then we had a real storage issue that that ended up being placed in freezers in several homes across Omaha. What this bill

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

does is allows people like me to make a more specific decision about what they can take and what they want, so it increases options for individuals who don't have as many resources to-- for storage. But as Senator Brandt addressed, it also allows people to buy a smaller increment. You know, you had to get a lot of money together up-front to buy a whole half a cow, but if we could just buy what I could store, which ended up being about-- I think I had about 15 pounds of ground beef in my freezer at one point in time and then a few steaks-- that would be a lot more economical for everyone. So this bill, with the amendment, addresses a lot of those concerns. It does allow people to have-- develop a relationship which a lot more people are looking for these days, as-- as I think Senator Hansen was alluding to, that people want to have that connection with where their food comes from. People are seeking that out and this eliminates hurdles for more people to build that-- that relationship, reach out, find a farmer that they can develop a relationship with, get into a-- a contract and then choose what is right for them. It still, as Senator Brandt said, still will be processed in a custom-exempt facility and of course he's better equipped to address what that means, but my understanding is that there is still going to be the safety oversights that you're looking for in your meat processing. It'll still be clean, healthy, safe. People will know where it's coming from. They will be able to hold their pro-- their-- their-- the person they purchased this from accountable because they will know who that individual is who raised that, they will know where it was processed, and they will know all the-- the history of that animal and that-- that food, which, of course, is what people are looking for. I know we've had a conversation in the-- in this state, in particular, recently about how to promote beef consumption. This is really how you promote getting consumption and con-- produce in this industry. You don't go on the Internet and say let's all eat meat on one day. You make it easier, more affordable, safer, more accessible for people to purchase and consume what they want and what's right for them. And so I stand in support of this bill. I would just point out-- I don't know if Senator Brandt handed out this handout and I just thought this was an interesting fact in there. Buying meat locally means wealth stays and grows in your community. When you spend money on local meat, you multiply your impact to your local economy. Every dollar put into local meat processing can produce an additional \$1.36 in regional economic impact. So this is real economic impact to our communities. It's what people are asking for, it's what people want, and it will help people in their individual homes. And if we can do things that are going to allow people to have better access to cleaner, healthier food, that's what we should be doing. And just for the record, that beef that we did buy is the best beef that I've ever had. I had ground

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

beef last night and every day, whenever I-- I'm excited when I still have some in the freezer. So I think more people deserve to have that opportunity and so I'd ask you to vote for the amendment and for the bill. And if I have any time left, I'd yield to any questions that I may have raised that Senator Brandt might be able to answer. Thank you.

**HILGERS:** Senator Brandt, 50 seconds.

**BRANDT:** Thank you, Senator Cavanaugh. I think we all read in the paper the Governor yesterday declared Thursday, March 20, "meat-out" Thursday or something to that effect, and we definitely support that, not only as a senator but also as a livestock producer.

**HILGERS:** Thank you, Senator Brandt and Senator Cavanaugh. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So having several lockers in my district and close to me, there's-- one of them is a federally inspected facility. One of them is a custom locker and there's numerous ones of those around. I do have some questions for Senator Brandt if-- if he would engage me in some discussion, I have some questions that maybe clarify some of the things, what's possible and what's not under this bill.

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

**BRANDT:** Yes, I would.

**FRIESEN:** So, Senator Brandt, under current law, what-- what is the recordkeeping requirement of a custom slaughter plant when they do a-- you know, they sell split cattle? You can buy a half or a whole. What kind of records are they required to keep as far as that slaughter?

**BRANDT:** I'll do my best here to-- to answer that, but I believe they have to keep a record. You know, if they sold-- typically when I take a beef into one of my lockers and it's quartered, they would keep a record of those four-- four buyers of that beef and their addresses.

**FRIESEN:** And so under-- under your bill, what-- what kind of records would they be required to keep?

**BRANDT:** The only difference would be now I'm taking in a beef that maybe has ten herd share owners. I would take a-- in a list of their names and addresses and they would put that in their file.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**FRIESEN:** OK. If I was a feedlot operator and say I had a 500-head feed-- feedlot, can I share a-- sell herd share in that 500 head of cattle?

**BRANDT:** You-- you probably could. In Wyoming, typically, they would limit maybe-- they would pick out like a number commensurate with the number of herd share owners, so typically maybe you had a steer for every four owners or five owners or something like that, so even though you've got a 500-head feedlot, you might only list 10 head in the herd-- in the herd share contract.

**FRIESEN:** But-- but there's no requirement that it limits it to any certain number.

**BRANDT:** There is no requirement that limits the number, nope.

**FRIESEN:** OK. So, I mean, let's say that we-- we hold the number down to-- to ten and so now you-- and the price is determined between you and the customer on what that herd share amounts to. What kind of-- when banks have a mortgage on cattle and now you've sold a share of that herd, is there any-- do the bankers care?

**BRANDT:** I'm sure they do. In the draft that we had, it actually contains language that says that this livestock is free of liens, but you would have to work with your banker on a-- an agreement that's acceptable to them.

**FRIESEN:** OK, so now I've-- I've taken a couple of head of cattle in. The custom slaughter plant has slaughtered them. The rancher goes and picks up the product and puts it in freezers at his house and then you said you'd contact your customers. They come pick it up. Is that correct?

**BRANDT:** Yes.

**FRIESEN:** And so if-- at that point, if-- you know, the packages are just marked as not for sale. They're not really identified as to which cow it may have come from, but the rancher at that point or the-- the owner of the herd would make sure he keeps that separated for his clients that have an ownership in those cattle that are slaughtered. Right?

**BRANDT:** How-- how I'd envision this is when I have my own beef, when I pick it up at the locker, it says: Not for sale, Tom Brandt. This would probably say the same thing. And when my herd share people come to my farm, they are going to pick out what cuts of meat they want

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

that say, "Not for sale, Tom Brandt," or it might say "Tom Brandt herd share" on it, and we weigh way up the ground beef or T-bone or whatever that customer wants. And this also applies to pork and lamb. We're talking about beef right now.

**HILGERS:** One minute.

**BRANDT:** But you could-- you would then have a price established on that, weigh that, and make the transaction. And this is where, when I was talking to Senator Albrecht, the second piece of paper comes in that you're handing a bill of sale to that individual that said you have purchased some custom exempt meat, you cannot resell this, you knew what you were getting, and then that's the end of that.

**FRIESEN:** OK, let's-- let's say one of those customers goes home and-- and, heaven forbid, there's damaged meat or E. coli. It's-- it's happened before and it can happen again. What happens if-- if one of those customers has some-- some tainted meat somehow? Who does he-- who does he get remedy from? Who does he contact?

**BRANDT:** Well, I would-- I would hope he would contact the person he bought the meat from.

**HILGERS:** Time, Senators. Thank you, Senator Brandt and Senator Friesen. Senator Albrecht, you're recognized.

**ALBRECHT:** Thank you, President Hilgers, and Senator Brandt, I'd just like to engage him with a few other questions

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

**BRANDT:** Yes.

**ALBRECHT:** OK. I think this is-- is going in the right direction, but I just need to know. If someone entered into a contract and, again, only wanted the hamburger and didn't want any of the other pieces of meat. Maybe they didn't have enough room in their freezer; maybe they just didn't want to pay the price. Whatever the case may be, that meat comes back to the farmer or rancher. Would they be-- would you see them-- obviously, we'd have to have large freezers at the place if we are going to engage with several people to do this, or would we, in fact, end up getting a storefront and would we be able to just sell that meat in a-- in a small storefront?

**BRANDT:** You could not sell this meat in a small storefront. You can only-- you can only sell this meat to herd share owners.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**ALBRECHT:** [INAUDIBLE]

**BRANDT:** So even if you did have a storefront, only those people that bought shares in the live animal are eligible to purchase this product.

**ALBRECHT:** OK, so-- so you would make certain that when they're signing this contract, they are buying either the whole animal, a quarter, a half, but the-- the whole animal has to go somewhere.

**BRANDT:** Well, today-- today, and-- and-- and I know you-- you run a large feedlot and I'm sure you-- you probably sell some quarters and halves out of that. Today, in Nebraska, this is essentially the same thing. You're selling quarters and halves. This just takes it one step further and allows that-- that steer to be processed and you just bring it all home. And now instead of selling quarters and halves, you can sell the cuts of the meat to those people that are owners of the herd.

**ALBRECHT:** OK, but just cuts of meat still leaves us with more meat at home, right?

**BRANDT:** Well, it-- it-- I guess that's a business decision. I-- if I'm going to-- if I'm going to go into this process of marketing herd share, I'm going to be talking to my herd share owners before the animal is slaughtered to see what everybody wants. And I think that's how most livestock producers are probably going to approach this because I do not want to have half a steer still sitting in the freezer. I want to be pretty well assured that that's going to walk out the door.

**ALBRECHT:** Correct, and just the timing of getting it done. The other question then would be-- we as farmers and the-- the person who's contracting with us, we would be the only one, the farmer, to-- to send something into the Secretary of State, correct, for the-- to tell him how many contracts we had.

**BRANDT:** You--

**ALBRECHT:** My question to you would be, is there any reason why the-- the person who is, you know, the processor, shouldn't they also have to provide some kind of information that they've, in fact, taken care of those contracts for us?

**BRANDT:** It's like I ex-- explained before. Today, when I take a beef in and it has four owners, the-- they keep in their files at the



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

locker the names and addresses of those four owners. When we go to this system, if I have ten herd share owners and I take that beef in, I take in a piece of paper and they put it in the file that says these ten people are the herd share owners. And so that's-- that really doesn't create any more burden on the locker. If anything, it-- it makes it a little easier for them because I'm hauling the whole beef off and they don't have to sort it four different ways.

**ALBRECHT:** OK, so that last question is-- you're talking about money should be coming into Nebraska in a grant form so that other people can open up these processing plants. Is that right?

**BRANDT:** In the last section of the bill, we have created a program to assist our meat lockers in the state without a funding source at this point in time. I think it would be great if we could use some CARES money. Senator [SIC] Fortenberry contact us last Friday and they're looking to see if there's some federal money available for this, but I know in the case of the lockers--

**HILGERS:** One minute.

**BRANDT:** --in my part of the state and in the testimony we had on the bill, these people are exhausted. They're working six and seven days a week. They're trying their level best to get-- get this product through for producers and right now, there isn't much of an end in sight. They would really like to expand, but it's very expensive. To build new construction, it's about \$100,000 a hook for a greenfield site.

**ALBRECHT:** Well, thanks for bringing the bill. I appreciate it. Thank you.

**BRANDT:** Yep.

**HILGERS:** Thank you, Senator Brandt and Senator Albrecht. Senator Lowe, you are recognized.

**LOWE:** Thank you, Mr. Speaker. Well, I've been contacted by my locker just outside my district, Belschner's meat market, and they're concerned. They're concerned because a law similar to this was passed in Wyoming and it has created a bottleneck with paperwork and-- and with the USDA. Would Senator Brandt yield to a question?

**BRANDT:** I would.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**LOWE:** Thank you, Senator Brandt. Do you see any problems with the USDA on this as far as goes to the meat lockers or the meatpacking plants?

**BRANDT:** I do not. The USDA did a pretty thorough inspection in Wyoming this last year and that's why we modified this bill a little bit from what Wyoming originally had. Originally, in Wyoming, you could slaughter the meat on the farm and sell it on the farm. FSIS said no, you can't do that. It has to go through a custom-exempt facility. And a custom-exempt facility in Nebraska is an inspected facility for health. I mean, that's what most of our lockers are. Now some of our lockers-- maybe your locker has federal meat inspection in addition to that, but that's-- that's a whole nother-- another deal. I'm not aware in Wyoming-- and we talked to the representative that introduced this bill, Representative Lindholm, who was quite helpful, and he said there was-- there was no additional burden on the lockers in that state. So if-- if your locker is telling you that, I'd-- I'd really like to understand what their concerns are.

**LOWE:** OK. And as far as paperwork for the-- the-- the small meatpacker, you know, right now they sell quarters and halves and/or wholes. What happens if a herd share is 20 or 30 or 50--

**BRANDT:** It--

**LOWE:** --and then the paperwork for that meatpacker has to-- he has to keep track of all that now?

**BRANDT:** In answer to your question, first of all, on the quarters and the halves, they have to keep track of it, OK? So now under herd share, I'm just bringing in one steer. They don't have to sort that. I'm going to pick up that steer, but I'm going to give him a list of all my herd share owners. He's going to get a list of 10, 20, however many herd share owners I got, and he can put it in the file and say that steer was butchered on this day and it's going to these herd share owners. There is really-- unless I'm unaware of something, there really isn't that-- any more additional paperwork for that processing plant.

**LOWE:** All right. Thank you very much. I'm going to continue to listen to AM150 and LB324. I appreciate this. I appreciate all the small meatpackers, as I try to buy at least one cow a year and have it divided amongst my children, and also a hog. So I appreciate the locally grown produce that we get here in Nebraska. Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

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

**GROENE:** Thank you, Mr. President. I'm on the Ag Committee and I support this bill, voted it out of committee. Senator Brandt came up with a unique situation addressing some of what we came through with the crisis of the COVID and the packers. Reality is this. I do it. A lot of rural people do it. Senator Cavanaugh says he does it. You know somebody and they have cattle, and they're usually little, smaller farmers, and you make a relationship with them and you buy your beef from them through the locker. Right now, I get a phone call or text message once in awhile from a friend of mine who says I'm taking two head into the locker, do you want a quarter or a half and I say yes. I just broke the law. I just broke the law because according to state statutes now, I have to own that beef in order to take it to a locker and have it slaughtered without that meat inspection. That's how we operate today. Senator Brandt's bill corrects that, makes us law-abiding citizens. You should be paying. That cow should be-- you should have written a check to that farmer that you own that cow or that half of a cow prior to it being taken to the locker. It very seldom-- I don't even know if it ever happens. So this is a very good bill. It expands opportunities for small entrepreneurs who might want to raise organic beef and create a co-op-type situation where you're a member and you can make sure that the beef your family is eating, you know its origin, you know where it was slaughtered, and you don't have to buy it through a grocery store. It's a very good bill. I can see business opportunities for existing lockers to expand now. All business wish to expand, I would think, because now they can have a more certain market, five, six, ten cattle coming in at a time for one customer, slaughtered and then distributed out to the members of the-- I call it a co-op, but that's not the term Senator Brandt used in his bill. But it works. You don't want an entire half. You don't want an entire quarter. You don't-- you just got the-- a refrigerator with an ice box on it. You can't hold that much. So you as a member decide you want so many pounds of hamburger and a few steaks and-- and it all gets out the door because you're part of the co-op. It works; it's common sense. Right now in the meatpacking industry, cattle feeders may be lucky if they make \$100 a head. The huge corporate packers, which is only four in the world right now, pretty much in the United States, are making \$1,000 to \$1,500 a head. It's a captive argument. Any time we can inject a little bit more free enterprise into our market, it helps everybody. So I'm-- I stand strongly in favor of Senator Brandt's LB324 and the amendment was well thought, well discussed in committee and so I stand in support of AM150 too. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

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

**FRIESEN:** Thank you, Mr. President. Senator Brandt, would you yield to some more questions, please?

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

**BRANDT:** Yes, I would.

**FRIESEN:** So let's go back to where we were. I'll kind of start over again where-- so the customers and-- and these herd share owners could be from multiple states across the country. There's nothing to stop you from marketing to someone in Iowa, Indiana, wherever, Georgia. So let's say that one of your herd share customers in Georgia receives some meat, somebody gets terribly sick. What is their-- what is their action that they can take? Who can they go after? Who's responsible?

**BRANDT:** First of all, they have to pick the meat up at the farm. You cannot mail the meat to Georgia.

**FRIESEN:** So you cannot ship?

**BRANDT:** Nope. They have to come-- they have to come to the farm or the processor. And-- and the reason we say processor is some processors, some meat lockers own their own beef herds too, so some of that, you know, could happen there. You know, bad meat is bad meat. You can go to your big box store today and maybe you're going to get hung with some bad meat. You go back to who you bought the meat from and try and get a remedy there. I guess I am not concerned about an outbreak of salmonella or-- or something of that nature. That very rarely happens. This meat's been processed in a approved facility in Nebraska and people that are in this business know how to handle the meat. And I-- I worked eight years in meat packing. I know a little bit about meat claims on very large plants. And to be quite honest, a lot of it is the consumer mishandled the meat.

**FRIESEN:** Again, I'm-- I'm not trying to say that you're going to send out bad meat, but when that happens, I'm-- I'm just curious as to who in the chain of command is responsible if there is a lawsuit. You've got a custom slaughter plant who has given up custody of that chain of command of that meat to that rancher. At that point, is all liability severed from that locker?

**BRANDT:** I would say yes. I mean, it is that niche marketer, it is that businessman that's promoting his meat that should be on the hook for

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

that because they would have to prove that the locker was somehow culpable and I think that's just a big hill to climb.

**FRIESEN:** I-- I would-- that's exactly what I was thinking. I mean, once he's lost custody of that meat, he no longer has control of it. So that leaves that-- that rancher is the sole person that's liable if anything is wrong with that, that product. And so I just want people to be aware of when they're doing this, what a-- some of the things that they need to-- to look out for. I have, you know, always tried to use my local slaughterhouses, the-- the meat plants for-- that's where I go to do business. And I've always said that in the past that those small places like that, inspection is hardly needed because word of mouth will take that plant down if any bad product comes out. That's how sensitive they are to sending out a high-quality product. They are very conscious of that and yet we do have two different standards out there. We have the federally inspected, we do have the custom lots, and there is a little bit of confusion sometimes as to what each can do. So with that, thank you for answering those questions. Thank you, Mr. President.

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

**ERDMAN:** Thank you, Mr. Speaker. I appreciate the opportunity to speak about this bill. Just for the sake of conversation, let me add what I would think would be a solution to some of this and that would be we have state meat inspection and then these local slaughter plants could sell directly to the public. I think Senator Brewer has a bill that would do that. And as you do some research, you find people in this institution that have some history. And I've been told that state speed inspe-- state meat inspections stopped back in 1971. We then, in 2001, tried to implement state meat inspection. It went through the Legislature and passed, got to the Governor's desk, and the Governor vetoed it and the Legislature wasn't able to override the veto. They came up one vote short. Again, in 2011, Senator Larson had brought a meat inspection bill, state meat inspection, and that bill was watered down when it got to the floor. I understand what Senator Brandt is trying to do and I appreciated Senator Groene's comments about what we do now is a violation of the statute because I am just as guilty as he on that. But I believe that perhaps, until we get Senator Brewer's bill to the floor and get it implemented on state meat inspection, this may be an avenue that we can use to accomplish what we need to accomplish, not be breaking the state statutes. Senator Friesen bring up-- brings up some very good points when it comes to the liability of what happens if the meat is tainted or something like that happens,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

and those are concerns that we need to be concerned about. But this is a bill that off-- offers us an opportunity to actually put in statute what we currently do, but I-- I think the end goal is to find a way to get state meat inspection so that these local processors can sell directly to the public. Thank you for your time.

**HILGERS:** Thank you, Senator Erdman. Seeing no one else in the queue, Senator Halloran, you're welcome to close on the committee amendment. Senator Halloran waives closing. The question before the body is the adoption of AM150. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 44 ayes, 0 nays on the adoption of the committee amendments.

**HILGERS:** Committee amendments are adopted. Turning to debate on the underlying bill. Senator Geist, you're recognized. Senator Geist waives the opportunity. Seeing no one else in the queue, Senator Brandt, you're welcome to close.

**BRANDT:** Thank you, Mr. President. Real quick, this is an opportunity bill. This is an opportunity for livestock producers, particularly small producers that produce a high-quality product. Maybe there's somebody out there that just has Berkshire hogs, Blackface lambs, purebred Angus, and this is high-quality meat and they can achieve more compensation by creating a niche market. And hopefully using this program will be a jumpstart into maybe becoming an online meat supplier or going through the regular channels like that. But I see this as an opportunity for rural Nebraska to help out our existing producers and our existing lockers and get more capacity in the state of Nebraska, which is a meat state. So let's not forget that and I would encourage your green vote on LB324.

**HILGERS:** Thank you, Senator Brandt. The question before the body is the advancement of LB324 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

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

**HILGERS:** The bill is advanced. Next item, Mr. Clerk.

**ASSISTANT CLERK:** Thank you, Mr. President. Next item, LB88, introduced by Senator Morfeld, is a bill for an act relating to journalism; defines terms; provides protection for freedom of speech and freedom of the press for student journalists; provides protection for student

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

media advisers; and provides exceptions. The bill was read for the first time on January 7 of this year and referred to the Judiciary Committee. That committee placed the bill on General File with no committee amendments.

**HILGERS:** Senator Morfeld, you are recognized to open on LB88.

**MORFELD:** Thank you, Mr. Speaker. I'm happy today to present LB88, a bill that advanced from the Judiciary Committee unanimously to protect student journalists at public high school and state colleges and universities across Nebraska under the supervision of an adult faculty adviser with several key limitations. The protection of student journalists' First Amendment rights in our K-12 schools and state institutions of higher education is critical in the development of current and future civic leaders. Students at an early age must understand the power and the consequences of the First Amendment in an environment supervised by an instructor and with appropriate boundaries. That is exactly what LB88 does. It provides that careful balance of protecting the fundamental free speech rights of student journalists while providing important guardrails. LB88 would make high schools and colleges and universities' student publications that are under the supervision of an adult supervisor-- usually the instructor or the English teacher allows students that exercise-- to exercise their-- the freedom to exercise their freedom of speech with several important limitations. These key limitations are: if it constitutes libel, slander, invasion of privacy, violation of journalistic code of ethics as outlined in the legislation, violation of state and local-- excuse me, state and federal laws, or creates a material or substantial disruption of the orderly operation of the school, or violates a school policy that is promulgated. These are key limitations. Colleagues, I know that several of you got an email saying there are not any limitations, that this is a blank check. This is not true. Go to page 3, lines 1 through 12, page 4, line 28 to 31, and then page 5, lines 1 through 4. These limitations are explicit. They are important guardrails to not only protect the right of students, but provide for limitations given the students' age and context. It also requires that it be done under the supervision of a faculty adviser appointed by the school. Some opponents have said that there is no adult supervision. That is not true. Go to page 1, lines 6 and 7. The bill explicitly provides that there must be adult supervision and it explicitly provides key limitations, the five or six that I just read to you, key limitations that will allow the school district to make sure that certain content is not published. This is not a free pass for students to write whatever it wants, as suggested by some of the opponents, but rather an important protection

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

of the constitutional free speech rights that provides clear guardrails and limitations. It's a careful balance, a balance that has been passed and approved by 14 other states, including North Dakota in 2015 and '16, respectively, and Kansas since 1992. The parade of horrors that some opponents on this floor have suggested in the past have not occurred in our neighboring states. So why is this important many people ask? Talk to any member of the Judiciary Committee that has sat on that committee because they have heard the testimony. Three years ago, we had over three hours of testimony from students all across the state who wanted to publish run-of-the-mill stories about public health or safety or political commentary, articles that run every single day in the World-Herald or Journal staff that were unnecessarily censored, even though they had been edited and approved by their adult teacher and faculty supervisor. This year, even under the current COVID restrictions, we had no less than ten students testify about censorship and prior review at their schools and how damaging it was to the legitimacy of their publication and the free flow of ideas and thoughts. And colleagues, they brought in the stories that they wanted to publish and I guarantee there was nothing controversial about them. They were the same types of articles that you would read in the Journal Star and the World-Herald today. The censorship of these students knew no political bounds. The students were unnecessarily censored. They were conservatives, liberals, and everything in between and outside. These students were articulate, bright, and fantastic student journalists from all parts of the state representing all political backgrounds. That's why this bill has bipartisan support of senators and organizations across the state. These are the exact type of young Nebraskans that we work to retain and attract every day. Their first experience as young adults should not be the unnecessary censorship by government. I also understand what censorship feels like as a student journalist. While I was at high-- in high school at Sioux Falls, South Dakota, I was nearly expelled for starting an alternative public-- student publication. I-- as a representative that represents the area of the Nebraska's largest university, I represent many student journalists who will be the next generation of civic leaders to build a strong and robust democracy. This starts with protecting their First Amendment rights and government institutions at their earliest age. It is important to note that many students who are censored simply resort to publishing their ideas on nonschool mediums and sometimes even their local newspaper. But other times in formats that are not supervised by an adult teacher or faculty supervisor. I think we would all agree that adult guidance and supervision is preferable. And that is exactly what this legislation provides, that guidance and supervision with important protections and limitations, and it incentivizes them to publish it in



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

the school newspaper instead of in these alternative mediums that are not supervised. In addition to the limitations and guardrails that the legislation has in it, LB88 promotes independence between student media and the educational institution by stating that no publication or expression by the student shall be deemed to be an expression of the institution's policy. It makes it clear. LB88 also requires high school journalists to adhere to the code of ethics from the Society of Professional Journalists, which I will pass out with a page here so all of you can review and read. Beyond immediate implications, this legislation will also foster relationships between Nebraska's high schools and postsecondary institutions. As outlined within the bill, the public high schools shall attempt to form relationships with postsecondary institutions to learn about and train in mass media, law, and journalistic ethics. Something I think we can all agree is important. The First Amendment should not carry with it a political agenda, particularly in government-funded publications. Instead, the First Amendment ensures free press for young Nebraskans and when it comes to exercising their rights in state institutions of K-12 and higher education. It is critical that we teach the incredible power of the First Amendment and its consequences at an early age to ensure informed and engaged civic leaders. Colleagues, this bill was advanced from the Judiciary Committee on an 8-0 vote. I wish every member of the Legislature could witness the incredible testimony from some of our best and brightest young Nebraskans from across the state and from across the political spectrum. I would like to thank Michael Kennedy with the Nebraska Collegiate Media Association, the Nebraska Press Association, Nebraska Broadcasters Association, as long as a student-- as well as the Student Law Press Center [SIC] who have assisted me in this legislation and contributed their careers to ensuring free press for students across Nebraska and the United States. I would like to not only thank the ACLU, but also Americans for Prosperity, for the support of this legislation and my colleagues from across the political spectrum that cosponsored it. And most importantly, I would like to thank the countless students and educators across the state who have reached out to me, many who have testified and sent in their testimony to the Judiciary Committee, Committee, for their commitment to building the next generation of civic leaders. Before I close, I want to reiterate LB88 is not a free pass to student journalists. It provides important protections, but similarly important limitations and requires a supervision by an adult faculty adviser or teacher. Students are not allowed to, quote, print whatever they want. They have to work with their faculty adviser, editor, and any material or content that violates any of the above mentioned criteria, the publication can be halted or the student disciplined as it currently is. It makes clear in statute that student publication is not the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

opinion of the institution or school and it requires that high schools work with colleges to teach--

**HILGERS:** One minute.

**MORFELD:** --journalistic ethics and mass media law. It's important to, to note these things and it's important to read the bill before you get up on the floor and state things that people have been saying via email because those things are not true. And I'm happy to go line through line by the-- in the bill to be able to provide that, that evidence. It's time to ensure that students have a voice and that it is free and not unnecessarily impeded by state and local administrators, regardless of how well-meaning. It is time that students are able to exercise a voice in a supervised environment that balances protections with important limitations and guardrails. Our democracy benefits from the free flow of ideas and teaching young Nebraskans both the power and the consequences at an early age. I urge your support of LB88. Thank you, Mr. President.

**HILGERS:** Thank you for your opening, Senator Morfeld. Mr. Clerk, for an amendment.

**ASSISTANT CLERK:** Mr. President, Senator Clements would move to amend LB88 with AM654.

**HILGERS:** Senator Clements, you're recognized to open on AM654.

**CLEMENTS:** Thank you, Mr. President. AM654 is very simple. It says, "Strike section 2." And Section 1 is talking about the University of Nebraska, state colleges, and community colleges. Section 2, though, if you-- and by the way, I have read through the bill and I still have many concerns about it, especially with Section 2, and Section 2 says, "Public high school means any high school operated by a school district" And that's what I propose to delete. I think in colleges, universities, you'll find students are 18, 19, 21 years and older and might be more responsible and more mature, able to control what their content is with some maturity and some thinking. But in the bill continuing in Section 2, (2)(a) especially, on page 4, probably the key objection I have is that line 10, "All school-sponsored media are deemed to be public forums." And public forums is the real problem. We have public forums out on the sidewalk here at the Capitol. We can't go censor those people. They have free speech rights there and we have that on social media, personal websites, on blogs. Students in high schools have a lot of other outlets for where they can express their opinions in a-- in public forums. But with public forums, my understanding is that the school no longer would really have editorial

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

supervision over the content. And the next line says, "a student journalist has a right to exercise freedom of speech and of the press in school-sponsored media" and that's giving them no restrictions. We'll be finding as we go through this bill that there are some feedback and some advising allowed, but not editorial correction or censorship, which I think even the parents of these students would rather have a little bit more control if parents are giving over the parental authority to these minors to the school. And as a parent, I expected the school to uphold my values and to help guide the students properly and not just give them a blank check on what they can do. So this, in my opinion, removes parental, parental control by turning it over to their freedom of speech in a public forum. I'm wondering if libelous or slanderous statements are made by a student, who's responsible for that? This bill does say it does not authorize-- this is on page 4 at the bottom, does not authorize libelous or slanderous, invasion of privacy of thing-- anything that violates federal or state law or departs from ethical standards. Putting that in this bill doesn't add anything at all. Those, those things are already illegal and it's just restating what's currently illegal for a journalist to do. But the bill does not say that the school then can delete those items. They're just going to have to deal with the consequences and find out who is involved in litigation when those statements come out. And in section (2) (b), it says, "each student journalist is responsible for determining the news, opinion, feature, sports, and advertising content such student produces." And it talks about the adviser. It doesn't prevent an adviser from teaching professional standards or prevailing journalistic ethical standards, but it doesn't give them any authority to edit the content. They can advise and tell them, oh, maybe you wouldn't want to write that, but if the student is determined to write what they're writing, this does not say that the adviser has any editorial authority. If we go on to-- back again to section (3), discussing libel and slander not being authorized, who decides whether it's libel or slander, it's going to be the student without an editorial authority by the adviser. Then we turn to commercial newspapers. They're subject to journalistic ethics, but they review the stories that they get from their journalists with legal expertise and somebody who knows what the case law is and what the law talks about, libel and slander and, and state laws. In the school, you're not going to have a legal adviser like a newspaper would to help the student decide whether they should write this or that and whether it could be edited out. And so I think it's good to say-- to restate what the law is, but in this case, the school would be prohibited from editing the illegal content and just subject to the consequences. Then we go to-- flip over here to section (4), it says, "A student journalist shall not be disciplined for acting in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

accordance with subsection (2)." And so there again, even if there's something illegal, they're not going to be able to discipline the student even for objectionable, objectionable content. So this is too broad. It's open to abuse by a disgruntled student. What if a student gets disciplined for bad behavior in some other activity at school and then they decide to complain about it and rebut the school's discipline in a school-sponsored media, in its newsletter, the Facebook page, a school-sponsored website? There is no editorial ability in this bill. It's called a public forum and they just have to live with it and live with the consequences and it could cause a lot of disruption in that school. And finally, in item (8) on the bottom of page 5, it says the section will not be construed to interfere with a school administrator's ability to provide appropriate professional feedback to a student media adviser. So the administration has a right to give professional feedback, but it's just feedback. They can make a comment that they don't like what they see that's been written. They can tell the adviser we'd rather not see that, but the feedback, feedback is not editorial authority on any objectionable content to the administrator. I noticed in the testimony that the school administrators did oppose this bill in testimony in the committee. And another interesting thing was that, that section about the administrator's ability to provide feedback--

**HILGERS:** One minute.

**CLEMENTS:** --to the media adviser does not say that they can even give feedback to the student by the administrator. Evidently, it has to go through the teacher. And so those are concerns I have when I read through this. I think that in high school, we have students that are not mature. Even middle school, I don't think there's any-- I think student is not defined as a certain level. I think-- we got middle school-- elementary, middle school, high school are all authorized here to be in a public forum to say what they want. And I think it is proper for a school to have some authority over that, just as a newspaper does over the journalists here that cover the--

**HILGERS:** Time, Senator.

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

**HILGERS:** Thank you for your opening, Senator Clements. Debate is now open on AM654. Those in the queue include Senator Groene, Senator Ben Hansen, Slama, and others. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. I stand in opposition to LB88. I fully took a pledge when I became a senator up front there in front of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

a judge and said I shall uphold the Constitution of the United States. First Amendment says no law respecting an establishment of religion or prohibition of the free exercise thereof and I think with the COVID crisis, we found out that one got thrown under the bus or abridging the freedom of speech. We found out about the censorship and things which probably was legit by Facebook and Twitter, or of the press in which I believe LB88 is an attack on the free press rights or the right of the people to peacefully assemble and we found out the COVID crisis also restricted that right. So I-- there is a reason our forefathers put freedom of speech, comma, freedom of the press. They're two distinct rights. A student in any-- anywhere, any American has the right of freedom of speech. A student can write an article they believe in, in English composition. They can get on Facebook. They can get on Twitter. They get on a chat room. They can write a letter to the editor. They can write a letter to their school newspaper editor. Fine, that's freedom of speech. I learned the hard way one time when I wrote an article, op-ed for the Omaha World-Herald 10 or 15 years ago. Good article. Editor told me it was a great article, but he disagreed with the content. So I gave him a speech about freedom of speech and he replied and gave me a quick civics lesson. Yes, Mike, you have freedom of speech to write what you did, but I have freedom of the press. If you want freedom of the press, go out and buy a newspaper. A school newspaper is owned by the people of that district. We hire-- we elect school board members, we hire an administrator to oversee that school and how it represents the community. I fully understand now why-- Senator Morfeld is a very good lawyer, why he added public forum. Public forum would create not, not the press, not teach kids about press, but how to run a Twitter account where anything goes. Yes, it would be freedom of speech then because it is a public forum. But no, we are teaching children about press. They are children and about the boundaries of the press and who owns the press. We had an issue just recently made the national news. Coincidentally, they released it. This group called the Student Press Law Center about an article that a local school editor, high school editor wrote, and it was rejected by the principal, all right? But we were told that-- in the article that the principal censored it, which he had every right to do. He-- as the publisher, he had every right to do, that that did not represent the policies and the positions of that newspaper. This bill takes that away. I will read you an email I got from the superintendent of schools. They made it sound like-- you're going to put one person in charge, folks. At a newspaper, you have an editor, you have an editing board, you have a publisher, you have the readers, and you have the advertisers. We are going to put one government employee in charge of yay or nay on what's printed. This is what happened in North Platte on this issue where the principal is

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

being accused. This is an email I got from the superintendent. The high school principal had several exchanges with the instructor asking for edits, all documented.

**HILGERS:** One minute.

**GROENE:** The principal did not have any conversation with the student. It was the instructor who was misleading the student with false information and made the decision to not to honor the principal's request for some minor edits. In North Platte and in most schools, the principal of the school is the senior editor. Deny a face-to-face meeting with the principal, denied to have a face-to-face. There are many facts in this story that people are being not told. Right now, you have an example of what this bill does. You put one individual who cannot be fired, who may have a political tent and, and, and push her students or their students, his or her students to certain positions. One person, that's what this bill creates. This bill doesn't create free speech, it creates censorship by that one person who decides what's going to be printed in that school.

**HILGERS:** Time, Senator.

**GROENE:** Thank you.

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

**B. HANSEN:** Thank you, Mr. Speaker. First, I want to appreciate Senator Morfeld and his passion and dedication of free speech. And him and I did talk off the mike beforehand. And I do appreciate some of the information he provided and actually some of the work he's been doing on this bill to try to get more senators on board. I just have to express a couple concerns that I do have with the bill, but I first want to read a little bit of the code of ethics that was handed out and there's four points that they make. The-- one is seek the truth and report it. "Ethical journalism should be accurate and fair. Journalists should be honest and courageous in gathering, reporting and interpreting information." Minimize harm, number two. "Ethical journalism treats sources, subjects, colleagues and members of the public as human beings deserving of respect." Number three, act independently. "The highest and primary obligation of ethical journalism is to serve the public." Serve the public or serve a political agenda? And number four, be accountable and transparent. "Ethical journalism means taking responsibility for one's work and explaining, explaining one's decisions to the public." Now if you can argue to me and tell me that these are the current journalistic

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

standards, then you have a better opinion than I do. And this is my concern. Sometimes what we see in the media, whether it's social media or whether it's newspapers, magazines, on the national level, even the state level, my concern is that it will seep into the levels of journalistic standards in our high schools if we allow this bill to pass. And one of the things Senator Morfeld mentioned is that he feels it would decrease actually the use of alternative mediums used by students, students if we allow this to pass and I would argue no. If they have more unfettered access, to a certain extent, there is actually some restraints that they do have. I will agree with Senator Morfeld on that, but we are providing them somewhat unfettered access to voice their opinions. And if they voice in a newspaper, it will be online even more just under the guise of the newspaper now instead of their own personal opinion. So I do have one question for Senator Morfeld, if he will yield.

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

**MORFELD:** Yes.

**B. HANSEN:** And this is just clarifying one of the things that you mentioned in your opening statement. Can a student who doesn't agree with his or her faculty adviser still publish what they want?

**MORFELD:** As long as it does not violate any of the limitations outlined in the bill, yes.

**B. HANSEN:** OK.

**MORFELD:** That being said, they may have a negative consequence of it too because usually the teacher is also giving them a grade. It's a class.

**B. HANSEN:** OK, makes sense. I appreciate it. Thank you. And this is what it comes down to. Really, what kind of restraints, responsibilities, restrictions or the lack thereof do we want as a state to have on our youth? Do you think the current journalistic climate reflects these code of ethics and do you really want our inexperienced high school journalists to wade into this pool without a lifeguard? With that, I yield the rest of my time. Thank you.

**HILGERS:** Thank you, Senator Morfeld and Senator Hansen. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. And good morning, colleagues. I rise today opposed to AM6554 [SIC], but in support of LB88. As a former

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

student journalist myself, I believe in this bill and support it. I believe in it so much, I'm a cosponsor. And so I think it's important and I do appreciate the extended debate we're having today because this is a very important issue when we're talking about the guardrails in place for student media, student journalism. But the fact of the matter is, the simple fact of the matter is, is that these students are free to post whatever they want on Facebook and Twitter, regardless of journalistic standards. So I do think LB88 provides a great framework for a student journalist to express their opinion, to practice journalism all under the supervision of a faculty adviser. And I, I think it is important that when we do have this extended discussion, we don't raise-- we don't see ghosts where they're not there. We stick to the text of the bill and what it would really mean for our students here in Nebraska. Senator Morfeld raised a great point that 14 other states have implemented this or even more liberal policies when it comes to student journalists in our state and the sky hasn't fallen in Kansas the last time I checked, nor has it in North Dakota. So I'd like to yield the remainder of my time to Senator Morfeld to address some of the concerns that have been raised about this bill.

**HILGERS:** Senator Morfeld, 3:20.

**MORFELD:** Thank you, Mr. President. And thank you, Senator Slama, for your support over the last few years. I just want to address some of the concerns that Senator Clements had. Would Senator Clements, please yield to a question?

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

**CLEMENTS:** Yes.

**MORFELD:** Senator Clements, do you have the, the legislation in front of you?

**CLEMENTS:** Yes, I do.

**MORFELD:** OK, if you'll turn to page 4-- so stepping back for a second, one of your concerns was that there's no limitation on this, it'll apply K-12. Correct?

**CLEMENTS:** Correct.

**MORFELD:** So if you turn to page 4, line 3, it states, and let me know if I'm wrong, page 4, line 3, "Student journalist means a public high school student who gathers, compiles." Does it say that?



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**CLEMENTS:** A public high school student. All right.

**MORFELD:** Yes, yes.

**CLEMENTS:** I, I had overlooked that.

**MORFELD:** OK, so I just want to address point by point some of your concerns with the actual text and language of the legislation. And then if we're still on page 4, you pointed out, I believe, to line 10, which says all students-- "All school-sponsored media are deemed to be public forums." And that was a concern of yours, correct?

**CLEMENTS:** Yes.

**MORFELD:** OK, so if you go down to line 26, it states, "This section does not authorize or protect expression by a student journalist that:" and then it has those five or six different limitations, correct?

**CLEMENTS:** Yes.

**MORFELD:** OK. So, yes, it says "All school-sponsored media are deemed to be public forums" on line 10, but there is an explicit exception down on line 26. So I think it's important that we do not-- thank you, Senator Clements. I think it's important that we do not cherry-pick certain parts of the legislation without providing context to the specific limitations in the bill. Colleagues, this is the fourth time that this bill has been introduced. It almost passed about four or five years ago when Senator Al Davis introduced it. We ran out of time that session. And this is the third time I've introduced it. I know this bill well. It does not provide carte blanche authority to be able to go out and print whatever you want. It has very specific and detailed limitations. Now if you cherry-pick certain sentences--

**HILGERS:** One minute.

**MORFELD:** --without going down to the exceptions, then, yes, you'll come to the conclusion that you want to come to, but you must read legislation in its entirety in order to understand the specific limitations. Also when it says that the, the legislation does not protect certain parts of speech or certain aspects of speech, that means, yes, the school district would be able to stop publication because it doesn't protect that. The protections are only the protections in the bill, minus the limitations. And if there's a limitation and it says it doesn't protect it, then the school can censor or stop publication for that type of speech. And that type of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

speech is libel or slander, which, yes, is currently against the law, constitutes an unwarranted invasion of privacy, that's currently not necessarily in the law or with something that applies to other journalists, violates federal or state law, yep, just restating federal or state law, departs from the prevailing journalistic ethical standards.

**HILGERS:** Time, Senator.

**MORFELD:** Is that time, Mr. President?

**HILGERS:** That's time.

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

**HILGERS:** Thank you, Senator Clements, Morfeld, and Slama. Senator Halloran, you're recognized.

**HALLORAN:** Thank you, Mr. Speaker. Good morning, colleagues. We've been down this path before. And the last time I think we had this discussion on, on this issue, I brought up concerns about the Unicameral not being able to give direction to the University of Nebraska in relationship to the budgeting process, which makes a great deal of sense. In other words, Regents-- Exxon v. the Board of Regents very specifically stated that, that, that the Unicameral could not essentially hold hostage, if you will, or give direction to the Board of Regents, give-- make them hostage, held hostage to the budget on-- and give direction to the university on what they could do, how they could manage their operation. Well, at some level, we're doing the same thing here giving-- although we don't directly fund public schools, which we should, and we've been inadequate at that, but the same principle holds true here, I believe. I don't believe that the heavy hand of the Legislature should give direction or mandate to public schools on what they can or should or should not do on this issue or-- particularly, particularly this issue, it should be the authority of the local school boards, should be the local, the local community that has more to say about this than the Legislature. That being said, I think Senator Groene made an excellent point about separating the distinction between, between freedom of press and freedom of speech and with that, I'm going to yield the balance of my time to Senator Groene.

**HILGERS:** Senator Groene, 3:05.

**GROENE:** Thank you. I, I fully understand the passions of youth and what they want to be able to do, but a school newspaper-- and this

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

will no longer be a newspaper or journalism, it will be a public forum after this bill would pass, a Twitter account, a Facebook account, whatever, but they are there to be taught how to be concise if they want to go into journalism, how to compact the story into so many words, how to create a column. And they do that by covering the school, the football team, the basketball team, the student council meetings. That's what most administrators deem what a public school paper is. To learn diction, grammar, how to photograph a picture and pick the best one for the newspaper of the football game. What this bill does is says no, you 16 year old, you can get involved in the abortion debate, you can get involved in the presidential election, you can get involved and you can put your personal opinion in this publication that is meant to teach you how to write a column, how to edit a column. In North Platte, we had that instance, a perfect example how the system works. A young editor wrote an article about something at the school as an editorial. The editor of the paper, which is this principal, said you need to fix this, there's some innuendos here, some personal opinions that don't fit the facts, edit it. That's what an editor does. The student adviser did not relay to the student that the principal was willing to work with him. The student then took it to the local newspaper. The local newspaper printed it.

**HILGERS:** One minute.

**GROENE:** The system works. Did you say time? One minute? The system works. One publication said no, we will not print it, freedom of press. Another publication said yes, we will print it, freedom of the press. It worked. This here is a direct attack on the control of a school board and of an administration to keep the focus of a, of a school paper on what it is, teaching the process of writing a story, have a timetable, have a deadline, how to format a page on a newspaper, how to be precise in your writing. It is not a forum to argue abortion or a presidential election or any other political matter that is best left to the Twitter accounts.

**HILGERS:** Time, Senator.

**GROENE:** That is that simple, folks. Thank you.

**HILGERS:** Thank you, Senator Groene and Senator Halloran. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I stand in strong opposition of AM654 and in strong support of LB88. I am listening to this debate and all I can say is wow, I don't know where

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

so much of this misinformation is coming from. So let's talk about the First Amendment, first of all. So there'd be no freedom of the press, no freedom of religion, speech, the right to petition the government, or freedom to assemble without the First Amendment. So it allows journalists, be they student journalists or adult journalists, to tell the truth and never be afraid to share that truth. So what a powerful lesson for our young people. And we should continue to also thank our veterans, by the way, who served in America's many wars to give us that privilege to enjoy these rights. And your age does not preclude you from having those rights. Now last time we had this bill, I talked a little bit about *Tinker v. Des Moines, Des Moines Independent Community*. So that was a landmark decision by the United States Supreme Court and it said that neither teachers or students shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. So when I hear people pontificate about what a school paper should be and shouldn't be about, I find it really concerning because should a student choose to speak on abortion, a presidential debate, or whatever is now being called a political issue, which, of course, women's bodies have become political issues for decades because apparently men are really interested in, in what we do with them, which always surprises me. I think we should want to, as Nebraskans, really be concerned about what young minds really do care about because those young minds grow up to be adult minds. And so we need to make sure that they have an opportunity to utilize their voice and quite frankly, I am really concerned when we are trying to restrict those voices. You know, we worry about our youth and, and suicide and we worry about our youth and depression. When we oppress their voice, when we say we don't care about how you feel about a topic or a political issue as, as people keep pontificating about, what are we telling them? We don't care about your mental health. We don't care that you have a voice because you're not an adult so you can't have the same rights that I have as an adult. That's a really dangerous message for our young people. So let's talk also about the *Tinker Standard* and the *Hazelwood Standard*. All the lawyers in here should be really excited because we're going to talk about the Supreme Court. So the *Tinker Standard* says can school officials show that their censorship is based on a reasonable expectation that the content would cause a material and substantial disruption of school activities or an invasion of the rights of others? In other words, if there is danger in the language that's being used, schools can do something about it regardless of this bill, which I think that there's been a false narrative saying otherwise. The *Hazelwood Standard*: can school officials show that they have a valid educational purpose for their censorship and that the censor-- censorship is not intended to silence

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

a particular viewpoint that they disagree with or that is unpopular?  
So there's already many, many cases that have gone to the--

**HILGERS:** One minute.

**BLOOD:** --Supreme Court that protect the schools, but yet still protect the voices of the young journalists. I think it's really telling when we talk about freedom of speech, but yet I can't get LB8 out of the Government Committee because people are worried that we're going to, going to disrupt people's freedom of speech because we want dark money to show up in, in how we do our reporting here in Nebraska, but yet we fight for something like this. And I'm going to be watching the votes because some of the same people that won't let my bill get out of committee because we're going to violate dark money's freedom of speech by letting us-- Nebraskans know who they are, but yet we want to prevent the freedom of speech of the young people in Nebraska who have a lot to share with all involved. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Blood. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. I will say that, Senator Morfeld, you have persistence and I can appreciate that because this is, I think, your third time, as you said. I have been in the past opposed to this legislation and nothing has changed, as you're probably not surprised by that, but I would wonder-- I was wondering if you would yield to a question and help me understand something about the bill?

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

**MORFELD:** Yes.

**ERDMAN:** Senator Morfeld, do you have a copy of the bill there?

**MORFELD:** Yes.

**ERDMAN:** On the bottom of page 5, starting at line 23, it says, This section shall be construed to, to interfere-- be constructed not to interfere with a school administrator's ability to provide appropriate professional feedback to the student media adviser consistent with the rules and regulations adopted and promulgated by the State Department of Education regarding the school district personnel. Can you explain for me what you think the rules and regulations that the department may write?

**MORFELD:** Well, it's actually referring to the current rules and regulations that allowed school districts to discipline teachers. So

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

it's just referencing that this statute shall not interfere with the school district's ability to be able to discipline or provide feedback to that teacher, assuming that they follow the guidelines of this law.

**ERDMAN:** So in the, in the bill, it says that they can give feedback to the adviser. Does that mean if they don't like what is happening there, they have the authority to correct that?

**MORFELD:** Yes, they do, particularly if it violates the, the limitations where the act does not protect the school adviser or the, the students.

**ERDMAN:** OK, so the rules that are currently in place by the department and you said they're already there, can the Department of Education and State Board of Education change those from time to time?

**MORFELD:** They certainly could. That's within their power and purview, but I don't think that they would change rules that allow school districts to be able to discipline their teachers when appropriate.

**ERDMAN:** OK, but, but they could change the rules if they, if they desire to?

**MORFELD:** Any-- anything's possible, Senator Erdman.

**ERDMAN:** OK. All right. Thank you. Thank you for clarifying that. I appreciate that. You know, we heard Senator Groene speak about the difference between freedom of speech and freedom of press and I, and I appreciated that. You know, I am very concerned about giving authority to the Department of Education, especially the Board of Education, seeing what their health provided-- what their health education description is coming forward. I would think that we need to be very, very cognizant of what they do there and they may very well change those regulations. So I'm concerned about the opportunity that these young people are going to have that they don't currently have. And they're young people and they're not of age of majority and they need some instruction and having an oversight of a superintendent or a principal to give that instruction, I think makes a lot of sense. I would assume that the University of Nebraska does such a thing now. And in the past, my concern was what happens if we don't do this? And I believe the answer is not much. And so I, I don't know that we need to open this up because as Senator Slama correctly stated, they have Twitter, they have Facebook, they have all of those, Snapchat, they have all those things that they can do now. And I think they have plenty of an opportunity to share what their opinions and ideas are and I don't know that it is the school's responsibility to let them do

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

that on their news-- in their newspaper. One other thing that concerns me as well is this, what you may be able to say or write and be acceptable in your community in Omaha may not be acceptable in Harrison, Nebraska. And when you put--

**HILGERS:** One minute.

**ERDMAN:** --in place one specific rule or regulation or opportunity for students to write something, those students in Harrison may find it very difficult for their community if they write something that's acceptable in Omaha. So I, I think we need to make sure that those people that are in charge of the school-- school's newspaper, the principal, the superintendent have the ability to make sure that those things that are written are compatible with their communities. And so therefore, I won't use the word strongly because I don't know how that applies to this, but I am for AM654 and I'm opposed to LB88. Thank you.

**HILGERS:** Thank you, Senator Morfeld and Senator Erdman. Senator Morfeld, you're next in the queue.

**MORFELD:** Thank you, Mr. Speaker. Colleagues, I, I won't speak too many times on this except to answer questions that folks have because I'm, I'm happy to answer questions on this. I do want to note just a few different things and then also follow up with some of the concerns that were brought by Senator Clements and then also some that I've been seeing via email. First, for those that are looking at the legislation and following along, turn to page 2 and go to line 4. Page 2, line 4, explicitly demonstrates that there must be adult supervision and an adult adviser of these publications. Page 2, line 4 states school-sponsored media means any material that is prepared, substantially written, published, or broadcast by a student journalism at a post-- at a postsecondary educational institution-- also, we have a corresponding statute for the, for the high school as well, prepared under-- this is section-- this is subsection (iii) of, of that line-- or excuse me, of that paragraph, "prepared under the direction of a student media adviser." We then give the student media adviser the ability and the authority if you go to page 4, and Senator Clements read from part of this, but didn't read the entire sentence, and the entire sentence is important. Page 4, line 20, "This subdivision shall not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists." And then Senator Clements stopped there, but if you keep reading on, and ensuring that the school-sponsored media adhere to the prevailing journalistic ethical standards as set forth in the Society of Professional Journalists Code of Ethics as such code existed on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

January 1, 2021. So it gives the student media adviser, the teacher, significant purview and authority to be able to ensure that the publication adheres to that, which means they'll be able to edit. They'll be able to say no, this is not appropriate or this is appropriate and they're also empowered to give those student journalists a grade as well, which is a powerful incentive for many high school students, particularly if you think about the high school students that are engaged in journalism. These are folks that, you know, are usually at the top of their class. In addition, as Senator Erdman pointed out, and I'm glad that he pointed out page 5, section (8), we make it clear that this act will not interfere with the school district being able to enforce certain advisory or disciplinary actions against a teacher that is in violation of the act, that allows something that's libel or slander or tries to allow, that allows something that goes against the school policy, which is one of the explicit exceptions. There are very explicit exceptions in here that balance the interests of the student journalists and of the school district and the community and the faculty adviser. In order for any of these protections for the student journalist to exist, there must be a full-time faculty adviser in order for it to fall under this. In order for it to be a public forum, it must adhere to the limitations that are two sections down. It's important to read the entire bill. It is import-- yes, Senator Slama did bring up a good point, and I think it was repeated by Senator Erdman and Senator Groene. There are other forums that are not school sponsored that students can post ideas, thoughts, and materials. And it's important that we have a school-sponsored forum that is supervised for students to be able to express those ideas, adhering to the highest journalistic standards--

**HILGERS:** One minute.

**MORFELD:** --to ensure that they understand what good media looks like, that they are able to channel their energies in a supervised environment, in a supervised environment with explicit protections, but also limitations. That is the point of our public education system and we should not have government institutions dictating what type of content when it comes to their ideas, when it's done in a respectful way that follows these important limitation and guidelines. Colleagues, this is a well-drafted, well-debated piece of legislation that has been passed in 14 other states. Democracy and student journalism has not collapsed in Kansas or Colorado or North Dakota and it's important that we provide these types of protections with limitations. Thank you, Mr. President.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**HILGERS:** Thank you, Senator Morfeld. Senator Bostelman, you're recognized.

**AGUILAR:** Thank you, Mr. Speaker. I have a few questions that I'll-- that I have that can be answered off the mike or if someone wants to get on the mike and answer them, that's fine. But we'll, we'll go through a few of these questions and comments I have on the bill. I, I do support AM654, Senator Clements, for several reasons, but one, I believe schools can do this already. Applies-- so Section 2 applies to high schools, which is a closed environment with, with required attendance by minors. So the bill makes all school-sponsored media an quote, open forum, end quote, contrary to holdings by the United States Supreme Court. So currently high school sponsored publications are not public forums unless, unless the school specifically state that they are. So if the schools want that, they can do it already from what I read here. If a school wants to, they can have it as an open forum. I think we-- some others spoke about the Supreme Court. The United States Supreme Court made it clear that although students and teachers do not lose their First Amendment rights to free speech and free expression at the schoolhouse door, students' rights when in school are not the same as rights out-- of adults outside of the school environment. And we also have another bill where we're talking about students making appropriate choices, appropriate thoughts. I guess one, one question-- before I go there, let me go back to the bill. On page 4 and go to line 3, if we look through that subsection (c) there, I don't-- I, I read that to mean that any student in the high school is-- can, can submit information, can, can comment on a public forum. And I say that because if you go to page 2, line 11, at subparagraph (c), we specifically define a student journalist as a student at a postsecondary education institution who gathers, compiles, and writes, edits, so forth, of a journalistic nature for dissemination in school-sponsored media; and-- I believe that the school, the university, the postsecondary education, they define who a journalist is, but I don't believe we do-- I may not have the appropriate quote-- we can talk off mike-- appropriate quote on that, but I believe on page 2 for universities, we say they have to be in a journalism program, where a high school, you just have to be a student that has an interest. So if you're writing about a football game, a baseball game, if you're writing about some social event, writing about your English class, whatever it might be, anyone can submit a paper and this would, this would apply to any student who's in high school. That's, that's one comment or question we can have off the mike to address that. The other one-- another question I have is who determines-- I think Senator Morfeld spoke on page 4, line 26, subparagraph (3) (a) through (3) (e), we talk about authorize or protect

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

expression by a student journalist that-- and it lists several items there of violations and that. Who determines that? So if an administrator can't comment, a, a principal or whomever cannot comment on a paper that someone wants to submit or something goes on social media, how then-- who is it that makes this determination that it's not appropriate? Who is it that makes that determination? Because if we took that ability away potentially from that administrator on the original writing of that document, of that paper, whatever it might be, then my question is who is the appropriate authority, a person within that school to make that determination? And then if they do make a determination along those lines, what's the repercussions? What happens?

**HILGERS:** One minute.

**AGUILAR:** I want to go-- last thing I want to talk about is on the code of ethics page, and I'll come back and talk about that one a little bit more. But on the code, code of ethics page that's been handed out, if you go to the very last line, the very last sentence, the very small print, it says, "It is not, nor can it be under the First Amendment, legally enforceable." So that's just a question I have. It's just a comment I have. If you read that whole paragraph down there, the last thing it says-- one, it says it's an ever-changing document and it always changes. And the last thing it says, "It is not, nor can it be under the First Amendment, legally enforceable." Not certain what that means, how that applies to what, what we have written, what we're looking at in this bill, but I do-- I have questions with that and I have questions with the bill in, in general, but especially I do support AM654. And with that, I'll yield the rest of my time back to the chair.

**HILGERS:** Thank you, Senator Bostelman. Senator Flood, you're recognized.

**FLOOD:** Thank you, Mr. President. Members, I am in support of LB88 from Senator Morfeld and will not be voting for AM654. I thought-- this is my chosen profession and one of the things that I think is most compelling to me is a quote from George Orwell. "Journalism is printing what someone else does not want printed; everything else is public relations." That's at the core of what journalism is. My background, and I'm probably not smart for going through this, but I got into the newspaper business as a third grader in 1983 in my neighborhood with the Green Lawn Times. I grew that to 90 subscribers, but I couldn't keep up with the Norfolk Daily News. In high school, I started an underground newspaper to call out the misdeeds of Norfolk Catholic High School and I, I operated that successfully underground

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

for about a week. And then it was pretty obvious who was writing it because I was-- you-- my name was on the intercom every week to come down and see Mr. Bellar, who's still there today. But what I would say is that journalism in and of itself is the curiosity and the questioning and I think we are in the business right now of looking at this as like risk mitigation. What I see here is the learning that comes from students being empowered with the same rights that they have in society and doing it under the roof of the schoolhouse. And yes, it's uncomfortable. And yes, it is not pragmatic. It isn't what an administrator wants to wake up and deal with, but the student asking the questions, even if they get sideways with the administration, even if they get sideways with the community or the local newspaper or whoever, they are learning and they go on to do great things in life because they question. As an employer, I get these kids that come to me at 19 years old and they're in college and they've been in every youth sport you can be in. They've been in every school sport. They've been in every school activity and every step of the way we got our thumb on them and we control them. And they show up at 8:00 a.m. at the school and they go to school till 3:00 p.m. Then they go to practice at 4:00 p.m., they get done at 6:00 p.m., and then they go eat for 30 minutes and then they do a mock trial for three hours. When they come out of school, all they know is your routine, your control, your powerful thumb on top of them. And along the way, they forget to ask questions, they forget to confront authority, they forget to make situations uncomfortable because they don't agree with what's going on. And that's journalism. Journalism is saying no, I don't agree with that or somebody else doesn't agree with that. Why are you doing this? And you know what? If you're the principal, that's not comfortable, but that student is learning and they're learning under your roof. They're learning there even if they're taking you on. If you're in education and you can't handle that, get out of the business. If you're in education because you feast on control, you feast on that authority, you are dis-- you are making it harder for that student to learn. So what I look for in a reporter is I look for somebody that drives to work and sees something on the way to work and is like, why are things like that? Why, why are they doing that? How come you did that? I have a reporter in Nebraska City, Dan Swanson, who has been on the job since long before I started in media. There was a stabbing in Nebraska City and the, the assailant stabbed the victim on Central Avenue. He heard it on the police scanner. He got down to the scene and he was the first person there before the police. And the guy was laying on the ground and the assailant had the knife and his question was why did you do that? It wasn't can I help you or can I render aid or what, you know, it was why did you do that? And that is the job of a reporter.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

**HILGERS:** One minute.

**FLOOD:** And I don't give that example because it's, it's about the health and safety of someone else, I give you that because Dan Swanson would follow a skunk through a forest to get a story and he holds people in a small town accountable. And where do people learn that? They learn it by not always following the rules. They learn it by coloring outside the lines. They learn it in an environment where someone lets them be questioning in a way that isn't always perfect. Every single media organization in America knows that it's an imperfect science. There's times when I see a reporter ask somebody a question and I cringe. There's times when a reporter that I work with asks somebody that I really like, really a question that just is terrible. And you're like, but at the end of the day, it's part of the process. It's part of the discernment. And so for me, yes, it's an imperfect science. What is the benefit of passing this bill? The benefit is that some student somewhere is going to be empowered--

**HILGERS:** Time, Senator.

**FLOOD:** --with-- time?

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

**M. HANSEN:** Thank you, Mr. President. And good morning, colleagues. I rise in support of LB88. Actually, will Senator Flood yield to a question?

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

**FLOOD:** Yes.

**M. HANSEN:** Thank you, Senator Flood. To just finish your point, what was the purpose of this bill?

**FLOOD:** The purpose of this bill, I-- is to grant to students as similar of an environment as they would have in a normal journalism experience, understanding that journalism is more than cutting and pasting pictures on Photoshop. It is about the content and the questioning and the, the getting to the bottom of something with what is fact.

**M. HANSEN:** Thank you, Senator Flood, and thank you, colleagues. Ordinarily, I wouldn't ask a question like that, but Senator Flood, I have to tell you, my wife's watching online and she texted, Yes,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

Senator Flood, with a couple of exclamation points to your speech, so I thought it was appropriate to make sure you get a chance to finish. Colleagues, I rise today-- I'm maybe going to punch my light in again, Senator Morfeld asked for some time and I've already used some of mine. Fundamentally, this issue is, and I think Senator Flood just hit it on the head right there, is do you want school districts to impose more restrictions on student journalists than the government can on regular newspapers? And if that answer is yes, I understand that and I appreciate that, you're really focused on control of the school district. However, don't then frame that or frame this bill as a problem for free speech because you are advocating for the narrower exception the Supreme Court has granted. You are advocating for prior restraint of student journalists, which has been mentioned before, is allowed, but it is something that we can expand upon legislatively. We can grant student journalists more rights than they necessarily have been granted by the Supreme Court and that is what LB88 is attempting to do. If you have been frustrated with censorship, if you've been frustrated with kind of encroachment of free speech, I don't see how you spin that into opposition to this bill because this bill is allowing student journalists the ability to act and behave and be trained more like their adult peers that we hope they grow into, that are going to hold people accountable, that are going to question government, that are going to question, you know, question things, as, as, as a reporter is wont to do. With that, I'm going to hit my light again here because I did promise Senator Morfeld my-- the rest of my time, which I will yield to Senator Morfeld. Thank you.

**HILGERS:** Senator Morfeld, 2:20.

**MORFELD:** Thank you, Mr. President. Colleagues, it looks like we're going to continue debate on this past today, which I'm happy to do. I think this has been actually a really good debate and, and discussion on this important issue. I do want to respond just to some of the questions that I believe Senator Bostelman had. He noted a few different things, particularly who decides? Well, it makes it very clear in the legislation particularly, and I'll, I'll repeat it again, page 4, line 22, that the faculty adviser would be able to enforce and ensure those types of standards. In addition, this bill only protects speech that is covered in here, minus the limitations. If it goes over the limita-- or excuse me, exceeds the limitations or hits on one of the limitations, I should say, then the principal or the faculty adviser or the superintendent or whoever the school official is would be able to limit that speech, would be able to cease publication. So this bill only covers the language or the speech that is protected under the bill. Otherwise, it's not protected speech and the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

principal, the faculty adviser, whoever the case may be, whoever's in charge would be able to stop that publication. So it's important--

**HILGERS:** One minute.

**MORFELD:** --it's important to, to read the legislation and also know that it's a protection, it's an affirmative protection. And if you fall outside the affirmative protections with the limitations, then the publication can be stopped, much like a, a regular publication that's, you know, a private publication. If it violates some of the standards of the editor, they can stop the journalist from, from printing that, whether it be the publisher, whether it be the editor, whether it be the assistant editor, whatever the case may be. This provides explicit protections, but the explicit protections only exist, only exist if they fall within the statute and don't run afoul of any of the limitations. And some of the limitations, quite frankly, colleagues, are a little bit broader than I would like, but I put them in there based on the debate and discussion from last time. So there's going to be some opponents who are going to be opposed no matter what and I, and I get that, but we have provided limitations that are broad in scope.

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

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

**HILGERS:** Thank you, Senator Morfeld, Flood, and Hansen. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. I stand in support of AM654 and I do support the bill if that would pass. I do think this is appropriate for university students who are enrolled in journalism class. Part of my-- you know, and I, I guess I just take it a little different tact than what maybe Senator Flood has taken. And, and when you have kids that are doing the learning experience, that's where I think there has to be some control exercised. And even if you take today's press, today's journalist, they're very controlled and censored into what they can publish in their newspapers by their editor and there's very strict guidelines and the punishment for missing those guidelines, you get fired, you lose your job. You can talk about freedom of speech all you want, but when it comes to publication in something, it's not always free. And so when I, when I look at today's newspapers and how they've-- some of them have been reduced to tabloids with see how fast you can get a story out with a headline that grabs your attention and gets you to click on it, journalism isn't what it used to be. And I, I think, too, that there are some journalists left that still do it

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

right, but anymore, when we say, you know, journalistic standards, I do question what those are. To me, the high school students still need some supervision and still need some guidance because not only can they put things out that can have consequences for later on in life, this is a sanctioned paper from that school and I do believe they should be able to exercise some rights on what gets into that publication. And again, it is a learning experience and you're going to find out from your adviser what can and cannot go. And that adviser still has to answer to somebody higher up, which is the administration who answers to the constituents of that school district. So I do look at, at high school kids as in a different class yet than the, than the university. At the university level, yes, you should be taking some chances. You should be pushing it out there. You can be publishing things that maybe people don't like, but what you learned in high school to get to that point should give you some guidance on what maybe works and what don't. You know, we, we talk about the qualifications in high school and, yes, you just need to be a student. So me in high school, I, I was a student, so to speak and if I would have exercised some of my journalistic abilities, it would not have been good for the, for the department because I didn't exercise good judgment. So I-- mistakes will be made, I get that, but there's ramifications for mistakes. And when we grant immunity basically from following these maybe guidelines, I don't know what they are, it, it opens the door to things happening, the, the unintended consequences of what someone might publish. High school kids can be kind of cruel. So I, I just think that this portion is-- for me, the high school level is one step too far and so therefore I will support AM5-- 654. And if it passes, I will support LB88. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Friesen. Senator Day, you're recognized.

**DAY:** Thank you, Mr. President, and good morning, colleagues. I rise in opposition to AM654 and in support of LB88. And I just wanted to mention I haven't officially been a part of this body for very long, about two months, but I've become very acquainted with a couple of, of things that have frustrated me as a new senator. And I think one of those things that we're hearing a little bit about this morning is some of the paternalism that exists in this body. I think some senators have taken it upon themselves to be the official decision-maker for other people, that, that it's their job to try to protect people, particularly young people, from their own possible poor decisions and I just wanted to say that that's not our job. It's not our job to restrict the rights of other people to exercise their constitutional rights. It's literally the opposite of that. Our job is the opposite. We're here to protect the constitutional rights of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

everybody that lives in this state, including young people. Just because someone is under the age of 18 or 19 does not mean that these constitutional rights don't apply to them. They do apply. And it frustrates me, especially-- I hear this a lot when we talk about young people and, you know, we heard it a little bit just now from Senator Friesen about how high school students are not as capable or maybe don't-- shouldn't, shouldn't be offered the freedoms that a-- an adult journalist or even a university level journalist are offered and I absolutely disagree with that. I think Senator Flood made a great point about the learning process here. The creative and intellectual freedom of a journalist is fundamental to the learning process, right? We're, we're going to restrict how a, a high school journalist can operate and then expect them to feel OK operating on a different level when they get to the university level or when they become an, or when they become an adult. It's frustrating to listen to those conversations. In, in addition to the Supreme Court case that Senator Blood had mentioned earlier in *Tinker v. Des Moines Independent Community School District* in 1969, I wanted to mention another appellate court case in the *American Amusement Machine Association v. Kendrick* in 2001. They stated that, quote, People are unlikely to become well-functioning, independent-minded adults and responsible citizens if they are raised in an intellectual bubble and I think that's essentially what we're trying to do here. We're trying to allow schools and administrators control over how these student journalists operate and I think that we're missing the broader point here. In addition to some of the, the frustrating aspects of the paternalism that I think exists within this body, a lot of the people that are opposed to this bill are the same people that will stand up and cite their, their personal political philosophies in, in limited government and, and, you know, especially as it applies to exercising constitutional rights. And so, you know, either, either you believe in, in freedom of speech and, and freedom of press or you don't. We don't get to decide who gets to exercise those rights and who doesn't. Whether they're 16 or they're 60, they have the same constitutional rights as the rest of us. It's our job to make sure that they can exercise those. So I, I, I--

**HILGERS:** One minute.

**DAY:** --genuinely believe that if you, if you believe fundamentally in the liberty and the freedom of individuals, that belief should extend to student journalists as well. Unfortunately, sometimes good media includes, includes strong and controversial opinions. That's just the way it is. Just because it offends someone or could potentially offend someone does not mean that we should prevent the information from



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

getting out. That's just how, how media functions. So I would, I would encourage a red vote on the amendment and a support of the underlying bill. Thank you.

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

**GROENE:** Mr. President. Let's make it clear here, this bill restricts the right of a school district their freedom of press. It turns-- Section 2 is the heart and soul of this bill. It turns-- it will no longer be a newspaper. It will be a public forum, a public forum. It won't be a newspaper. There won't be journalists. It will be students commenting on a public forum. The Supreme Court has defined what public forums are: public parks, sidewalks, areas that have been traditionally open to political speech and debate. So now in the state of Nebraska, it will be traditional public forums, including public parks, sidewalks, student news-- student publications, and areas that have been traditionally open to political speech. Once you become a public forum, there is very little censorship. This so-called student adviser will have absolutely no right to tell that student what they write because now it is a public forum. If I was on a school board and this passed, guess what? There would no longer be a school newspaper. Now you talk about restrictions, there are no more student journalists anymore, they are free citizens commenting free speech. There is a huge difference between freedom of speech and freedom of the press. Senator Morfeld's bill, and he knows what he was doing, he read the Hazelnut [SIC] case in 1988. Supreme Court said if the school [INAUDIBLE], it is not a public forum, that is why it's in there. They have censorship, they are the publisher, they are the editor, the school is, and they have control of their freedom of the press. Is this what you want, another attack on our freedoms? The freedom of the press will be extinguished in our public schools if this bill passes. We will just have freedom of speech. No checks and balances at all. Oh, of course, freedom of speech has limits, libel, just like Senator-- this bill has a list of them. That's basically the limits we have on our freedom of speech. The kids are in charge. Becomes a public forum, not a paper. And you had to put this in this bill to create this, this situation because the Supreme Court said no. If it is a publication, if it is a paper, the publisher is the school, the school board and the administration, and they have a right to control the content of their freedom of speech in that publication. Not schools' journalists, just a kid spouting off. With no limits, this isn't a newspaper. Senator Flood, if a reporter comes in and, and completely distorts his personal views in a story, he can fire him. He can fire him. I got an email from the editor of The Bulletin [SIC] in North Platte and he said I could talk-- speak about what he said.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

Yeah, he printed that young lady's story that, that the newspaper, the administration would not in the school paper. He said fine. I-- he thought it was a good story, wrote it, but then he said at the end of it, Let kids be teens and learn as they go. And let high school newspaper grapple with the controversy. It will make a mistake, [INAUDIBLE] is the staff better and it will make the readers, readers take it with a grain of salt. That said, I agree with you that a student newspaper is a place to learn. An adult sponsor and administration have the right to alter, or in the worst case, to spike an article.

**HILGERS:** One minute.

**GROENE:** This man used to work for the bigger paper in North Platte, the Lee Enterprise paper. Slept in his car for a while. He started his own newspaper because he thought the press was not covering things. If that young person wants to be freedom of press, start a newspaper like Senator Flood did in his base-- in their basement, but I, the taxpayers own that publication in that public school and we have a right to have the people we employ to run that publication to make sure they control the content. Every newspaper does it. MSNBC does it. CNN does it. Fox News does it. The Omaha World-Herald does it. I gave you an example earlier. This takes away the free press rights of a public school. Now you can babble on about 16-year-olds and you're limiting their rights. Yes, you have your rights limited in this country. They stop at my nose.

**HILGERS:** Time, Senator.

**GROENE:** Thank you.

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

**BLOOD:** Thank you, Mr. Speaker. I wasn't sure if you said Blood or Flood that time. I continue to rise against AM654 and in strong support of LB88 and I would yield any time I have left to Senator Morfeld.

**HILGERS:** Senator Morfeld, 4:40.

**MORFELD:** Thank you, Mr. President. I'll make it pretty brief. Just in response to Senator Groene, I just want to say that yes, the, the publication is the school district, but that is taxpayer funded. And usually when we talk about taxpayer-funded money going towards things, it should be content neutral because that is the taxpayers' money. The government should not be in the business of censoring lawful content

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 16, 2021

and particularly in this case, content that has much more limitations on it than would be in the regular, should we call it forum-- public forum in the First Amendment. And it's important to note that yes, we create a public forum, but it states explicitly that there are express limitations. S yes, a public forum, but we are creating that public forum and we are providing express limitations. And that falls in line with Hazelwood, provides a little bit more protection, and allows us to be able to have those express limitations. So yes, creating a public forum, but with express limitations. And so you can keep saying we're creating a public forum and stop there, but it's not being 100 percent truthful about the extent of that public forum without noting and acknowledging the express limitations. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld and Senator Blood. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Enrollment and Review respectfully reports it's carefully examined and reviewed LB285, LB322, and LB487 and placed on-- those have been placed on Select File, LB322 having E&R amendments. Additional amendment to be printed: Senator Ben Hansen to LB106. Series of name adds: Senator Halloran to LB64; Senator Hilkemann to LB283; Senator Ben Hansen to LB310; Senator Matt Hansen to LB324; Senator Blood and Senator Wayne to LB371; Senator Hilkemann to LR14; and Senator Sanders would be withdrawing her name from LB241. Finally, Mr. President, priority motion. Senator Wayne would move to adjourn the body until Wednesday, March 17, 2021, at 9:00 a.m.

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