

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 17, 2021

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

**HALLORAN:** Good morning, Nebraska. Happy St. Patrick's Day. St. Patrick's Day blessing for all of Nebraskans. May the road rise up to meet you. May the wind be always at your back. May the sun shine warm upon your face, the rains fall soft upon your fields. And until we meet again, may God hold you in the palm of his hand, Amen.

**HILGERS:** Thank you, Senator Halloran. Senator John Cavanaugh, you're recognized for the Pledge of Allegiance.

**J. CAVANAUGH:** Thank you, Mr. Speaker. Colleagues, join me in 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 Cavanaugh. I call to order the forty-fifth day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call.

**HUGHES:** Mr. Clerk, please record.

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

**HUGHES:** Thank you, Mr. Clerk. Are there any corrections to the Journal?

**CLERK:** I have no corrections.

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

**CLERK:** Mr. President, your committee on Enroll-- or excuse me, your Committee on Revenue reports LB2 to General File with committee amendments attached. Nebraska Retirement Systems Committee, Senator Kolterman reports LB16 to General File with committee amendments attached. I have new resolutions, LR64 by Senator Stinner, LR65 by Senator Stinner, LR66 by Senator Stinner, and Senator Hilkemann offers LR67. Those will be laid over. I also have an amendment to be printed from Senator Hughes to LB507. That's all that I have, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Colleagues, Senator Linehan would like to recognize Dr. Russ Bowen from CHI, Omaha, who is serving us as family physician of the day. Dr. Bowen, if you would please rise to be

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recognized by your Nebraska Legislature. Speaker Hilgers for an announcement.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. As I promised last week, I set a deadline for today to announce my Speaker priority selections. As you know, the Speaker, under our rules, gets 25 selections. I received upwards of 100 requests. Unfortunately, not all of the requests could be chosen. I wanted to tell you-- announce those here this morning. We will also be passing these around. I wanted to give you a little sense on the front end of how I try to approach it. So a couple of things. One is anything that was-- there were a number of requests that really were consent worthy. Anything that was consent worthy, I didn't consider for Speaker priority. As I mentioned yesterday, if it's consent worthy, you do not have to resubmit a letter. I'll try to reach out to each of you individually for any Senator from whom that would apply for one of your bills. So you don't have to submit a new letter. That will go on the consent calendar almost certainly in two weeks when we start that. Number two, I try to avoid as much as possible any bill that would really create a lot of controversy on the floor. So a number of requests had split votes or I thought would take a lot of floor time, I tried to avoid those types of issues. I tried to select bills that were representative of the entire body so both urban and rural, and really try to-- try to allow as many people as possible to have a bill selected as a Speaker priority. I tried to not have one person have too many, and I tried, as much as possible, to have everyone who did submit a request to actually have-- have one chosen. Not everyone who did submit a request, unfortunately, just given the way the numbers worked out, did have one. If you have any questions about your particular bill or why it wasn't chosen, please find me. Big picture, though, I try to look for wins for the state of Nebraska, wins that we could all embrace, wins that were not controversial, and things that could really help our state. So with that in mind, I do want to read these off so you all have-- you hear it from me at the same time. And I'm just going to go in numerical order. LB9, Senator Blood's bill relating to annexation requirements was chosen. LB81, Senator Hilkemann's bill relating to clarifying authority for SIDs. LB84, Senator Bostelman's bill that redefines some terms relating to the Imagine Act. Senator-- LB92, Senator Clements' bill regarding residency requirements for certain college tuition purposes. LB143, Senator Kolterman's bill that-- relating to notices for school districts for child placement. LB152, Senator Slama's bill relating to fireworks. LB154, Senator Wayne's bill regarding tracking of student discipline. LB197, Senator Vargas's bill relating to residency requirements for college tuition for AmeriCorps members. LB247,

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Senator Pansing Brooks's bill relating to the Mental Health Crisis Hotline Task Force. LB271, Senator Morfeld's bill relating to the 24/7 Sobriety Program. LB283, Senator Briese's bill regarding year-round daylight savings time. This is the only one I'm going to pause on. Whether I had a question or not before Monday, I don't know. This was the one certainty, I think coming into this week. We're going to have a good discussion on daylight savings. I finally overcame the jet lag from Monday. LB336, Senator Hughes's bill regarding fees for state park entry. LB30-- LB366, Senator Briese's bill relating to the Nebraska Advantage Microenterprise Tax Credits. LB396, Senator Brandt's bill regarding the Nebraska Farm to School Program Act. LB406, Senator McDonnell's bill relating to the Infrastructure Task Force. LB411, Senator Lathrop's bill regarding the sharing of information under-- with the designated Health Information Exchange, NeHII bill. LB423, Senator Lathrop's bill regarding registration of home inspectors. LB452, Senator McKinney's bill relating to the adoption of the Financial Literacy Act. LB497, Senator DeBoer's bill relating to compensation of the Nebraska Crime Victims Reparations Act. LB500, Senator Geist's bill relating to the venue for prosecution of certain offenses. LB501, Senator Flood's bill and related bills from the Uniform Law Commission. LB527, Senator Walz's bill relating to changing provisions to transition services for students with a developmental disability. LB583, Senator Murman's bill regarding electronic prescriptions. LB664, Senator Groene's bill which would change distributions from the Mutual Finance Assistance Fund, and last, LB682, Senator Linehan's bill relating to the New Market Job Growth Investment Act. If you have any questions of any of those, please let me know. I hope that those engender good, positive discussion on the floor. I appreciate everyone submitting a request, all the letters that you submitted. Like I said, when you have almost 100, unfortunately, you have to-- there are more that you can't choose than you can. And hopefully for some that I didn't select, whether it's consent or otherwise, I'm helpful-- I'm happy to help find vehicles as best I can for those that weren't selected. That's all I have. Thank you, Mr. President.

**HUGHES:** Thank you, Speaker Hilgers. Mr. Clerk, we will now proceed to the first item on the agenda.

**CLERK:** Mr. President, if I may, right before that, just a couple of items. The listing of the Speaker priority bills as he just announced, I also have an amendment to LB501 to be printed. Mr. President, LB561 is a bill originally introduced by Senator Briese. It's a bill for an act relating to the State Racing Commission and amends numerous sections. It renames the State Racing Commission. It changes the

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membership of the Racing Commission and provides regulatory authority of games of chance authorized under the Nebraska Racetrack Gaming Act. It changes provisions relating to wagering on horse racing and penalties and harmonizes provisions, repeals the original sections, and declares an emergency. The bill was introduced on January 19 of this year, and referred to the General Affairs Committee. The bill has been advanced to General File. There are committee amendments pending, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Senator Briese, you're recognized to open on LB561.

**BRIESE:** Thank you, Mr. President, and good morning, colleagues. I rise today to present for your consideration LB561, a General Affairs Committee priority bill that reflects the green copy of LB561 and an amended version of my LB560, which is amended into LB561 by AM426. And if I would like to-- if I may proceed with the opening on LB420-- AM426, I'm going to do that now. Thank you. AM426 is a combination of the original LB561 and an amended version of LB560. In November, the voters of Nebraska, by an average margin of 71 percent to 29 percent, provided policymakers-- provided us with a mandate. That mandate is, they want casinos at racetracks, they want those casinos taxed at 20 percent, and they want the property tax relief that they can provide. So what does that mean for us as policymakers? It means that we, as policymakers, have an obligation to ensure that the will of the voters is respected. This amendment is drafted in an effort to ensure that we meet that obligation. The amendment will help implement the language passed in the voter initiative and will keep casino gambling restricted to the racetrack enclosures so that gambling does not expand beyond what was approved by Nebraskans. AM426 provides some additional definitions to the voter-approved language for clarity and guidance. It further establishes the authority of the commission over the governance of the Racetrack Gaming Act. It merges some of the language from the voter initiative with the current Racing Commission to oversee both casinos and horse racing. One key point within the amendment is clarifying in statute that sports wagering is a game of chance. Some may suggest it's not a game of chance, but in Nebraska we have at least two Attorney General's Opinions that declare sports betting to be a game of chance. And so when 70-plus percent of Nebraska voters approved games of chance, they approved sports betting, period. But the bill also provides some safeguards. It limits sports betting to a designated area within the casino itself. AM426 prohibits the use of credit cards for gambling of any kind. It prohibits betting on the individual performance of Nebraska college athletes and on athletes younger than 18 in an Olympic event, among

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other items. The amendment also allows someone to exclude him-or herself from gambling at these facilities. It establishes specific gambling-related offenses and penalties. It raises the age for betting on horse racing to 21 to match the ballot language to help in enforcement issues. The regulatory process will be very important for full implementation of these proposals, and we owe it to the voters to get this in place in a timely manner. For that reason, AM426 grants authority to the commission to bypass the Administrative Procedure Act and provide guidance for operators and participants through the issuance of directives. These directives typically have a public hearing and are authorized annually also at a public hearing. After consulting with the Attorney General's Office and with others, I intend to offer an amendment on Select File to provide more clarity to the process. But I would suggest that the proposed process should provide an expedited means of rule implementation while still respecting the principles of notice-- of notice and public input. But again, we will resolve that issue before Select File and ensure that concerns of those that are opposed to the idea of directives are addressed. But again, this was simply an effort to help the commission do its job in a timely manner. The bill further provides for fingerprinting and background checks for licensees. It also provides a mechanism for a tax lien to be filed by the commission in the event it needs to enforce collection of any amount owed by the licensee. AM426 incorporates many of the provisions in the voter initiative relating to the makeup of the commission. It will be comprised of seven members, all of whom are prohibited from having any financial interest in any licensed racetrack enclosure for the duration of their term. The commission will be made up of five current members of the Racing Commission, with two new at-large members, one with experience in the gaming industry and one who is a member of an organization representing the majority of licensed owners and trainers of horses at Nebraska racetracks. Commission members will be compensated at the rate of \$1,000 per month, plus expenses. The commission also will have the authority to employ deputies, investigators, inspectors, agents, security personnel and others necessary to administer and enforce the provisions of the act. Some of these will hold deputy sheriff designations as is allowed under 84-106. They will be bonded and insured as required by 11-201. Additionally, the committee adopted AM119 into this priority bill. This amendment was brought to us by Senator John Cavanaugh and it makes changes to allow keno to be played on an electronic ticket or mobile app, as well as paper tickets. At the hearing on LB560, legal counsel for Big Red Keno testified, asking for this amendment to allow them to modernize how keno is played and to benefit businesses licensed to offer keno across the state. In the amendment, credit cards are prohibited from being used in keno, and

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playing the game using the mobile app or electronic ticket can only be done in person at a licensed keno facility, as is currently the rule with paper tickets. Licensed locations must use location detection procedures, sometimes referred to as geofencing, to establish permitted boundaries for play, and any attempt to purchase an electronic ticket for play outside of these boundaries results in the purchase being rejected. The amendment also establishes the legal age for keno at 19. AM119 was incorporated into AM426 on a 7-1 vote. LB560, as amended into LB561, was moved with a 6-2 vote, and LB561 was voted out of the General Affairs Committee to General File as a committee priority bill with a 7-1 vote. Thank you, Mr President.

**HILGERS:** Thank you for your opening, Senator Briese. Senator Lowe, for what purpose do you rise?

**LOWE:** Divide the question.

**HILGERS:** Senator Briese and Senator Lowe, would you approach, please? Colleagues, there's been a request to divide the question. The question being AM426, the committee amendments from the General Affairs Committee. I find that the question is divisible. I'm going to call on the Clerk here in a second who will read the order of the amendment. Senator Briese has chosen the order as AM639, then AM640, then AM641. Each of these will be treated as-- for the new members here, each of these will be treated as committee amendments. And so Senator Briese will have the opportunity, if he so chooses, to open on each and we will take them in order as if they were just normal amendments to the bill. Mr. Clerk.

**CLERK:** Mr. President, just to amplify on what you just told the membership, AM639 will be the first. That is the portion relating to the keno specifics of the committee amendment. AM640 will be the provision that relates to sports betting. AM641 will be the balance of the committee amendment as originally proposed. Members, you'll find these AMs on your laptops, if not now, very soon. Senator Briese, I understand you'd like to open on AM639, which is the keno provision.

**HILGERS:** Senator Briese, you're recognized to open on AM639.

**BRIESE:** Thank you, Mr. President. AM639 essentially contains the provisions brought to us by Senator John Cavanaugh relative to some adjustments to the keno statutes. It makes changes to the Nebraska County and City Lottery Act to allow keno to be played on an electronic ticket on a-- or on a mobile app in addition to the paper tickets, as is currently allowed. At the hearing for LB560, legal counsel for Big Red Keno spoke as a proponent asking for this

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amendment to be brought to allow them to modernize how keno is played and to benefit businesses licensed to offer keno across-- across the state. The amendment would allow them greater ability to compete with gambling as approved by the voter initiative. Cities and licensed keno operators are concerned about a drop in revenue from keno, from the opening of casinos and other forms of gambling in the state. In the amendment, credit cards are prohibited from being used for purchasing tickets and playing the game. Using a mobile app or electronic ticket can only be done in person at a licensed keno facility the way it is currently played with paper tickets. Authorized methods of purchasing tickets are cash, coins, a debit card or a direct link to an account with a financial institution in the name of the player, which mirrors the language used in LB560 for gambling at casinos. Licensed facilities must use location detection procedures, sometimes referred to as geofencing, to establish permitted boundaries for play, and any attempt to purchase an electronic ticket for play outside of-- from outside of these boundaries results in the purchase being rejected with notice sent to the player. The amendment also reiterates the legal age for playing keno, that the legal age is 19 or older. I found myself in support of this amendment after it was brought to us by Senator Cavanaugh out of concerns over what I thought was fairness to the keno operators and also out of concern for the revenue for the cities generated by keno. That revenue is substantial. A drop off in that revenue could impact their ability to undertake community betterment projects. And I felt it was worthy of including it within this bill for-- for those reasons. AM119 was adopted with a 7-1 vote out of committee. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese. Debate is now open on AM639. Senator Lowe, you are recognized.

**LOWE:** Thank you, Mr. Speaker. I want to explain what I'm doing here today with these different amendments, and just get it on the record some of my thoughts as we are going to get started here on these amendments. As you can already see, I've asked that we split the question when it comes to committee amendment AM426. Going forward, that amendment will be moved into three different amendments for discussion today. Those amendments are: AM639, which separates out the language dealing with expanding some options with keno gambling; AM640, which deals with betting on sports; and lastly, AM641, which is everything else that was added by committee in the original amendment. I want to be clear this morning, I have no intentions on voting against the will of the people. I'm not a fan of expanded gambling in Nebraska, but the people of Nebraska spoke in November. They made it very clear that they wanted to add certain types of casino games at

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horse tracks in Nebraska. That means, at the end of the day, I'll be voting green on AM641. Again, AM641 brings in the language to regulate what the citizens of Nebraska supported in November. However, I will be making the case that citizens of Nebraska did not vote on the language that exists in AM639 or AM640. That is why I asked for the question to be separated. To make this conversation easier for everyone, I have decided to hand out copies of AM639 and AM640 to your desk. My thinking here is, these are the amendments that myself and others want to discuss the most, and it may be easier if you have a hard copy in front of you instead of on the computer. I have no issues with AM641 and fully plan on voting for that amendment. That is why I did not hand out the hard copy of that one. Besides that, we would kill another tree. Lastly, I want to thank Senator Briese for his work on LB561. We don't agree on every aspect of it, but he worked very hard on this bill and these amendments. I work-- I look very-- I look forward to having an engaging, spirited conversation today about each and every one of these new amendments. Thank you, Mr. Speaker.

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

**J. CAVANAUGH:** Thank you. Thank you, Mr. Speaker, and thank you, Senator Briese. I don't know if I could say it better than Senator Briese did and I-- first off, I want to thank Senator Lowe for the conversation here and specifically how he's handled this issue. He has been very direct and clear with me about what his issues are and how he wanted to handle this, so I appreciate that clarity and forthrightness from Senator Lowe. Ultimately, as Senator Briese said, we had a hearing on LB560 and LB561, and there was testimony at that hearing about how these bills will affect the keno industry in Nebraska. I had the conversations with individuals after that addressed-- to address my concerns about how this would affect the keno industry. And ultimately, we settled on bringing this amendment. So this was-- this specifically was brought up at the committee hearing. I think one of the reasons we have committee hearings is to identify problems with bills and to identify what solutions we could bring to change the bills in such a way to address those concerns. And so that's exactly what happened here. That's exactly how the process should work and I think that that's-- that this would make this bill better for Nebraska and for everyone involved. The voters did vote to legalize gambling and we have an obligation to regulate it, and that's what LB560 and LB561 do, but we also have an obligation to make sure that we do not undermine businesses and communities that have already made investments under the current law before gambling was legalized. I just wanted to point out there's-- well, I could list out the



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counties, but specifically in 2019, there was \$100 million in keno wagering placed in Douglas County and \$48 million in keno wagering in Lancaster County. Many other counties have keno wagering in the amounts of millions of dollars, and those businesses where those wages are made have made investments in their business in anticipation or in compliance with the keno law as it was. And they stand to lose some amount of money as a result of the expanded gambling. I don't think that there's anyone who really believes that, when you provide other options, that it's not going to take away from one of the games or opportunities that people are participating in. And so in consideration of helping preserve those businesses, helping preserve those revenues that are going to those local communities that they rely upon, that's why I brought this amendment, and that's why I think it's important to be included in this package as part of the overall conversation we're having around expanded gambling and all of the regulation and impacts of that. And so I'd ask that-- that you vote to keep AM639 as part of the package. I think it makes the package better as a whole. I think that it mitigates the loss in revenue that local communities are going to feel when we expand gambling. And I-- I know Senator Groene, if he's here, has spoken previously about how the casino gambling bills focus a lot of money into the communities where the casinos are going to be. The lottery revenue that comes from keno is spread more equitably around the state. And so any diminution in the lottery revenue as a result of losses in keno gaming is going to be spread around the state, which I think is another reason why it's important to make sure that they can remain competitive going forward. And I would yield the remainder of my time. Thank you.

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

**ALBRECHT:** Thank you, President. Good morning, colleagues. I rise today to talk about the keno and the electronic versus paper tickets and how it would be-- electronically it would be kind of connected with the people's bank accounts. Currently, I understand that if you want to play keno, you have a paper ticket and you pay cash. Again, I think it just allows people to spend their money quicker, faster, and not have the money to take home to their families, could possibly lose a job because of it, could possibly lose a marriage because of it, could possibly not be able to feed their children because of it. But more importantly, if this bill was not heard in committee and just assumed by the-- the committee to just insert it into this bill without the public being able to come and comment, that's, I believe, a violation of the fundamentals that we have here in the Unicameral. It's not something that you should be able to just-- just insert without a

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public hearing. And for that reason, I would be opposed to it at this point. I would like to ask Senator Briese a few questions if he would yield.

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

**BRIESE:** Yes.

**ALBRECHT:** OK, so when these people can electronically use their telephone, right, their phone to gamble, to do the keno--

**BRIESE:** Yes, it would have to be directly linked to a--

**ALBRECHT:** An app?

**BRIESE:** --a bank account, yes. And I think something like Venmo would work for that, is my understanding.

**ALBRECHT:** Um-hum. And would it also allow the keno tickets to be purchased with the debit card, you said, or a direct link to their financial bank?

**BRIESE:** Yes.

**ALBRECHT:** And I know that when we were putting things together before, with the games of skill versus chance, it was resounding in-- in this body that they did not want people to be able to use a credit card or a debit card, but to use cash. So-- so does this mean that someone has their bank account linked to their phone they could, you know, basically play and gamble with it as often as they like and--

**BRIESE:** Well, it does still retain the restriction on no less than five minutes between games, so the games will not occur more quickly. I think-- I think in this body we had a bill a few years ago, perhaps Senator Larson introduced, if I can use your time here.

**ALBRECHT:** Sure.

**BRIESE:** Senator Larson, I think, used a bill to speed up the play of keno. And we-- we opposed that at the time. We thought that was too much of an expansion of gambling within our state and-- and we opposed that and we successfully fought it. This here is-- is different. It-- the five minute restriction is left in place.

**ALBRECHT:** Um-hum. OK, so these provisions on the keno were not in your bill when it was introduced and they were added in Executive Session, correct?

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**BRIESE:** That is correct.

**ALBRECHT:** And so there was no hearing whatsoever on the keno, correct?

**BRIESE:** It was discussed at a hearing--

**ALBRECHT:** It was--

**BRIESE:** --but not this particular amendment, correct.

**ALBRECHT:** So it was-- it was, say Big Red Keno said, boy, we'd sure like to get in on this deal. So-- so just automatically you just decided to allow something like this to be brought forward. What was your reasoning?

**BRIESE:** I believe they presented the idea for this amendment at that hearing. I'd have to get the transcript to see exactly what was said. But, yes, they brought the idea to the hearing and asked for it at the--

**HILGERS:** One minute.

**BRIESE:** --hearing.

**ALBRECHT:** Well, again, I-- I just disagree with the fact that somebody can just arbitrarily throw something else in a bill when it hasn't had an opportunity to be heard by the public. And, you know, in the-- in the end when this is discussed and talked about, the people of Nebraska did speak and they did ask for the gambling. But I believe it's for us, as a legislative body, to make that decision whether we just allow all that everyone wants to have in it, be put in this bill without going through the proper channels. Now, next year, if you want to bring it back and you want to talk about having keno brought in, that's one thing, but I do believe that it's important to follow the rules and allow the public the ability to come in and talk about it. We had 680 bills that were heard. It wouldn't have taken anything to put this into writing--

**HILGERS:** Time, Senator.

**ALBRECHT:** --if this was truly something that somebody wanted to have.

**HILGERS:** Time, Senator.

**ALBRECHT:** Thank you.

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**HILGERS:** Thank you, Senator Briese and Senator Albrecht. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker, and good morning. Sat and listened to the conversation here. I-- I have a few questions. I am a person who never has and never will pay that voluntary tax called keno. It's a voluntary option, and I volunteer not to do that. So I'm very unfamiliar with how keno works, so I would like to ask someone a question about that, and perhaps I could ask Senator Briese a question or two about keno.

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

**BRIESE:** You bet.

**ERDMAN:** Senator Briese, thank you for answering questions. So tell me how currently keno works, because I have never played that and I don't plan on ever doing so.

**BRIESE:** Well, great question, Senator Erdman. I'm not that familiar with it myself. What I have seen done is you choose a set of numbers and then those numbers-- and a variety of numbers are drawn and your winnings correlate to how many of the drawn numbers you have matched with the ones you chose.

**ERDMAN:** OK.

**BRIESE:** Beyond that, I'm not much of an expert on it.

**ERDMAN:** Is it kind of like pick five? In the Nebraska lottery you pick five numbers and if those numbers come up, you win.

**BRIESE:** I would compare it to something like that, yes.

**ERDMAN:** OK, maybe I should ask Senator John Cavanaugh. Maybe he understands this better.

**HILGERS:** Senator John Cavanaugh, would you yield?

**J. CAVANAUGH:** Yes.

**ERDMAN:** Senator Cavanaugh, you heard my question to Senator Briese. So I go into an establishment that has keno and I want to-- I want to play the game of keno, so what-- what do I do? Go to the clerk and buy some numbers or how does that work?

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**J. CAVANAUGH:** Well, Senator Erdman, thank you. My understanding, I've played it before, but I'm not a person who's played a lot. So here's my understanding is you go, generally a bar in my experience--

**ERDMAN:** OK.

**J. CAVANAUGH:** -- and you go up to the bar and the bartender is there and you fill out a card. And I think your analogy to pick five is-- is fairly apt where you can pick any number of numbers between, I think one and something like 50, and depending on the number that you pick and the number that you-- that come up, that those odds relate to what your winnings would be.

**ERDMAN:** OK.

**J. CAVANAUGH:** Currently, that-- you do that by going up to the bar and paying cash, actual dollars for that. What this amendment would do is allow you to do the same thing inside the bar, betting the same style of game, but you're able to do it from an app on your phone inside the bar, sitting at the table with a debit card, which is actual cash, but not credit.

**ERDMAN:** OK. All right. So, OK, I think I'm getting it. So what you're asking us to approve is they no longer have to go up to the cashier or the facilitator of the game, and just do this transaction from their phone to save them time from going back and forth?

**J. CAVANAUGH:** More or less, that's correct. Yeah. They would be able to still do it inside the same bar, the same establishment. You can't do it outside or at a different place or at home. You would only be able to do it inside of the establishment, but you'd be able to do it sitting at the table or at the bar without interacting with another person.

**ERDMAN:** So if I'm at a bar, and it's summertime and I'm at the outside portion of the bar, can I play it from there?

**J. CAVANAUGH:** So that would depend-- they would have to establish what I think Senator Briese described earlier as geofencing, which is actual physical electronic devices that would set a designated area that would fence-- would be a fence, that it would only operate inside of that fence. So if the bar has a beer garden that they've included in the geofencing, I think that would be included. However, the parking lot of that bar establishment would not.

**ERDMAN:** All right. So in the bill, in the AM639, I'm on page--

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**HILGERS:** One minute.

**ERDMAN:** --4, on line 22, and let me just read this and see if I can understand what it is. Any location detection procedure to reasonably detect that the dramatically-- and dramatic-- dynamically monitor the location of the player attempting to purchase a ticket for a keno game, a player outside the perimeter-- the permitted boundary shall be rejected and the player shall be notified. So evidently they're going to have an opportunity to play this game as long as they're inside of the-- of the perimeter that has been prescribed by the keno operation?

**J. CAVANAUGH:** That's correct.

**ERDMAN:** OK. So who will determine whether that perimeter is set up?

**J. CAVANAUGH:** Well, the-- the geofencing itself would be established at the facility. My assumption is that the keno companies would do that in conjunction with their licensees. So whether it is at keno facility--

**HILGERS:** Time, Senators.

**ERDMAN:** Oh, thank you.

**HILGERS:** Thank you, Senator Briese, Senator John Cavanaugh, and Senator Erdman. Senator Murman, you are recognized.

**MURMAN:** Good morning. I'm not totally opposed to the passage of this final bill, LB561, either. I was opposed to expanding gambling-- expanded gambling during the pre-election because I am very concerned about the social ills that come from gambling and didn't think we need-- needed to have those happen in Nebraska. Senator Albrecht mentioned some of those increase in divorce-- divorces, loss of savings, child abuse, even loss of house-- their houses and farms because of excessive gambling. So I'm not totally opposed to that. The voters have spoken and want casino gambling in the state by quite a margin. But I am concerned about, we don't need to expand gambling any more than what was allowed for on the ballot. And in that vein, I would like to ask Senator Cavanaugh a few questions, Senator John Cavanaugh.

**HILGERS:** Senator John Cavanaugh, would you yield?

**J. CAVANAUGH:** Yes.

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**MURMAN:** Senator Cavanaugh, were there any bills related to the Nebraska County and City Lottery Act or, in other words, keno introduced this year?

**J. CAVANAUGH:** Not that I'm aware of.

**MURMAN:** If not, why did the committee-- I know this has been covered a little bit, but why did the committee include an app for keno in the-- in the bill? And I'm not sure, was that-- was that covered then by a public hearing?

**J. CAVANAUGH:** Thank you for the question, Senator Murman, and so my-- what happened was-- and Senator Briese spoke about this-- we had the hearing on LB560 and LB561 and we had hours and hours of testimony. And that testimony included testimony as to how this will affect the keno act and the keno facilities. And in that testimony, they requested a change to the statute along these lines. I asked some questions about that and then I followed up after the hearing as well. So this was discussed in the hearing. It was brought up in the testimony, and it was brought up in the context of a criticism or-- or issue with the-- how LB560 and LB561 will affect established businesses in the state of Nebraska. And so I brought the amendment because my understanding of the committee process is that it's designed to hear bills and hear the positives, the negatives, the criticisms and why we should pass those bills and what changes we should make to them to make them better. And so in this particular instance, this was an issue that was specifically raised in the hearing as to a way to make LB560 and LB561 better and to mitigate the damage caused to these specific businesses by the adoption of expanded casino gambling and the expansion and the regulations in LB560 and LB561. So the-- specifically the reason that this amendment was brought on these bills is because these bills do affect these businesses. The issue was raised at the hearing. It was discussed at that hearing and this is the amendment to address the concerns that were raised in that testimony.

**MURMAN:** So I wasn't privy to the hearing and what was discussed there. I'm wondering how would-- I guess it's an electronic app on their phone, how would that help keno in the state?

**J. CAVANAUGH:** Well, I assume that's a question to me again, so I'll answer it. The-- obviously I don't operate a keno facility--

**HILGERS:** One minute.

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**J. CAVANAUGH:** --but my understanding is that it will make it easier for businesses, the keno parlors, to transact the transactions where people participate in the game. That means the person at the desk or counter won't have to make every bet in cash. It'll allow people to do it more conveniently, more safely, especially in times like COVID, because there won't have to be a person-to-person interaction, and so I think it just makes it-- it streamlines it a little bit and makes it just a little bit easier. I don't think it's going to cause a huge increase in betting. I think it'll just make the bets that are already happening just a little bit easier, a little bit safer, and a little more efficient.

**MURMAN:** Thank you, Senator Cavanaugh. I-- again, I'm not totally opposed to expanded gambling. The voters have spoken. I just don't want to expand it any more than what the-- the ballot initiative said, so thank you very much.

**HILGERS:** Thank you, Senator Cavanaugh and Senator Murman. Senator Arch, you are recognized.

**ARCH:** Thank you, Mr. Speaker. I sit on General Affairs, as a member of General Affairs along with Senator Lowe, Senator Cavanaugh. Yeah, I do-- I was at the hearing. I was in all of the discussions on these various amendments and bills and I'm trying to refresh my memory. So if Senator Cavanaugh, if you would stand for one more question, please-- John Cavanaugh.

**HILGERS:** Senator John Cavanaugh, would you yield?

**J. CAVANAUGH:** Yes, I will.

**ARCH:** Thank you. As I recall the discussion on-- on this-- on this particular issue with the keno and-- and-- and-- and back to Senator Briese's opening comments, he talked about leveling the playing field, I recall that comment in our discussion. The leveling of the playing field was-- was it not-- was this issue raised as a result of our discussion on sports gambling? In other words, that if sports gambling is implemented, then it put keno at a disadvantage and so therefore we needed to do something with this issue. Was that-- is that your recollection?

**J. CAVANAUGH:** Well, Senator Arch, I-- I-- thank you for the question. I think there was a conversation around-- I mean, there was a lot of conversations, you're correct, that we had about this. And there was a conversation specifically around sports betting on the-- the phone or the apps, and that we are allowing that under LB560 and LB561. And



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there was a question of fairness of allowing other forms of betting to undertake similar apps if we're going to allow it on-- under the statute as-- as written.

**ARCH:** You know, that's-- that's what I recall in that discussion. Unfortunately, now with-- with the separation of the issues here, we've-- we've disconnected. And so if-- if as a result of our next amendment that we discuss on sports gambling, if that-- if we do-- if we choose not to view that as an expansion of gambling and we go ahead with this one, they're obviously disconnected. But I just wanted to clarify that in my own mind and my memory that-- that this particular issue was a leveling of the playing field with the sports gambling issue, that if that goes through, then we felt as though that this was a fairness issue. So with that, thank you very much for your question. Speaker, I yield the rest of my time to the chair.

**HILGERS:** Thank you, Senator Cavanaugh and Senator Arch. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. I stand in opposition to AM639, the keno portion. And in reading through this, I see on page 3 especially about how financing goes. It shows that currently only cash can be used to purchase a ticket. And this amendment adds coins, a debit card or a direct link to an account with a financial institution. And then it does say a credit card shall not be accepted. I'm wondering if all of the clerks at keno locations are going to know how to distinguish a debit or a credit card. I pulled out a debit card and a credit card out of my wallet. They both say Visa on them with my name and the debit card does say ATM and check card, but the credit card doesn't say credit card on it. And I suppose there's electronic devices that can read which is which, but it's a concern of mine that even though we say that a credit card shall not be accepted, it's-- things-- transactions happen quickly and it could be a possibility that a credit card would be used, which we definitely don't want people going into debt that way. Also, the direct bank link in the system in the bill means that the clerk does not see the player. You don't have to go up to the counter to make a purchase. I'm concerned that an underage person, a child, a friend could get my phone or somebody else's phone who has the app on it and spend a lot of money just directly debiting out of their checking account. Or what if I misplace or lose my debit card? Not sure. Don't remember that-- I haven't used it for a while and I don't know where it is and somebody else is able to take my debit card and play keno with it and use quite a bit of my bank account that way. I think that's another danger. Then in section 31, on page 4, it says any purchase shall be made in person

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at the location of the lottery operator or a licensed sales outlet location. And it seems like it would be easy for the next request to be online from home. It doesn't say that in here, but we're talking also today probably about online sports betting. And I think we're taking down some protections that we have had, and the next thing would-- could be online keno. And so it does-- bill does say the operator shall use reasonable safeguards to ensure that individuals 19 years of age or older are doing the gambling, but the telephone is pretty easy to pass around from a 19-year-old to a younger person. I think we've seen that with alcohol sales that there's-- nobody can drink-- supposed to-- the law says you can't drink if you're underage, but it definitely happens. I don't think the wording in here--

**HILGERS:** One minute.

**HILGERS:** --is going to prevent that abuse. And the final one I find at the bottom of page 4. The permitted boundary must be established that such access is not regularly available outside the property in which the game is purchased. I heard about the geo-- not geocaching-- geofencing, and I just question the ability to completely wall off those signals. There's a lot of hackers that have a lot of experience with tapping into networks, and I just don't think that it's that secure. I would just urge you to vote red on AM639. Thank you, Mr President.

**HILGERS:** Thank you, Senator Clements. Senator Blood, you are recognized.

**BLOOD:** Thank you, Mr. Speaker. Fellow Senators, friends all, I stand in support of this particular keno amendment, and actually I stand in support of everything that we're going to talk about today. I do want to address the keno geofencing. It's a convenience and it does not expand the game, and it needs to be done on the premises, as we've talked about. But it's optional for the operators to decide if they want to do it or not. So what is geofencing? Let's be really clear on what that is. That is a virtual perimeter, and part of that perimeter is a location-aware device. So I know sometimes when we talk about technology, we act like it's so foreign and hard to understand, and geofencing is really easy to understand. There's not going to be somebody taking that phone and gambling outside of the premises because once you leave that geofencing area, you do not have the ability to do that. I just want to remind everybody the importance of keno dollars to Nebraska. Community betterment funds come from keno. And as Mayor Sanders knows, and former Mayor Sanders knows and former Mayor Moser knows and I don't know what other mayors we've had in here, community betterment funds are very important to municipalities,

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especially when the state has thrown down a lot of mandates and taken away funds when their budget was tight. That community betterment fund, those community betterment funds have helped build parks, have helped build buildings, have helped community services, all for the greater good of those municipalities. Now I know people are going to come back and say, well, whenever we support anything that has to do with gambling, then we're supporting something that is bad for Nebraska. Well, I got to remind you, three-fourths of Nebraskans voted for gambling, voted to expand gambling. We are here to do the work of Nebraska voters. We are not here to stand on the mike and talk about our personal likes and dislikes. I'm not a big fan of gambling, but I am a big fan of community betterment funds. And quite frankly, if I were to gamble, keno is not super exciting. But a lot of people like to-- it's true, right, Senator Walz? But it's kind of nice to grab a beer and some French fries and sit there and play keno from when I talk to some of my retired friends. But what you have to understand is that this community betterment fund-- these community betterment funds are starting to-- starting to be depleted and they're going to be depleted the more that we bring into the state. And so we need to be making sure that we accommodate not only keno, but the other avenues that we're going to be talking about. And I'm going to take this opportunity to say this on the mike now, because I want to make sure that we get this on record today. So I want to say, though, in the short term, the data shows that other states have raised additional revenues due to expansion of gambling activities and new facilities. And I think it's really important to get on record today that historically the same data shows that, in the long run, the growth in state revenues from gambling activities eventually slow down. So sometimes it reverses and sometimes it declines. But I support all of the underlying bills, all the amendments, but want to make sure that we all understand that this will not be the end-all solution to our property tax relief problems any more than forcing mandates on our municipalities or counties will be this year. So if you look at our competing states like Iowa, we're going to see them constantly finding new forms of gambling that they have authorized, and that just happened in Iowa, right? Other states impose higher taxes on those entities, but no matter how you look at the results, we're going to have short run yields on this. And because of term limits, we're not going to have the legislative memory that's needed--

**HUGHES:** One minute.

**BLOOD:** --when the budget is addressed earlier. I'm going to finish this later, but I just want to make sure that we get on record that this is great for Nebraska right now, but this is not a long-term

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solution. With that, I would yield back any time I have left to the Speaker.

**HUGHES:** Thank you, Senator Blood. Those in the queue are Senator Linehan, Erdman, Albrecht and others. Senator Linehan, you are recognized.

**LINEHAN:** Good morning, Mr. President, and good morning, colleagues. I rise to support AM639 to LB561. I am not a fan of gambling. I've never been in a keno parlor. I've never played keno. I've never bought a lottery ticket. The few times I've been to Las Vegas in the last 20 years, I never gambled. I don't like gambling. I voted against it this fall when it was on the ballot. I have worked with the people that have fought against this for 30 years, but we lost. We lost big. So at some point we got to kind of move on from here. I-- I-- if I was in charge-- queen-- I would do away with all of it. I'd do away with the lottery tickets, I'd do away with keno, I'd do away with gambling, but that's not where people are anymore. And I think it's sad. And I trust Senator Briese knows that we're going to have issues that come with it. I'm sure he's a very thoughtful senator, that he is parking money aside to deal with some of those issues. But the reality is, I live in Douglas County, and I think I'm right on this. If I get up in the morning and drive over to Council Bluffs and download an app on betting, I can drive back home and bet all day from my family room. I never have done that. I don't foresee that I ever will. But we lost, like in a very big and clear way. So I would yield any time I have left back to Senator Briese if he wants it. Thank you.

**HUGHES:** Senator Briese, you're yielded.

**BRIESE:** Thank you, Mr. President, and thank you, Senator Linehan, for that. I appreciate it. Just a couple brief comments. You know, I use my phone to make phone calls and texts. I-- I've never bought an electronic ticket on it, probably never will. But allowing folks to do that really reflects the realities of today's commerce. And as Senator Cavanaugh said, it's about convenience. And in this environment, in the middle of a pandemic, it's about safety. And again, we're not allowing credit transactions, not allowing credit cards. And again, this-- well, for me, this is about fairness and protecting the revenue stream for those that need the revenue stream from keno for community betterment projects. And I understand the horse tracks, you know, they're already doing this at our-- at our horse tracks, allowing electronic tickets, geofencing to ensure it's done from that area. And I understand-- I don't hear reports of problems. I don't understand or don't know of problems arising because of that. I think it's a reasonable way to do things. But I guess I would suggest at some point

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here, let's maybe, in the interest of time, our time is valuable, maybe we should keep this moving along and, you know, let everybody debate--

**HUGHES:** One minute.

**BRIESE:** --and discuss and say their piece, but probably get a vote on this before too long or we'll have more issues in front of us. If you want to take up additional time, we can certainly do it on that, but-- so I would urge your support of this amendment and keep things moving along. Thank you, Mr. President.

**HUGHES:** Thank you, Senators Linehan and Briese. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. I appreciate the opportunity again to-- to ask some more questions. Let me-- let me ask-- I don't know who I should ask, but I'm trying to determine who the department is. Senator Briese, will you yield to a question? Maybe you know the answer to that one.

**HUGHES:** Senator Briese, will you yield?

**BRIESE:** Yes, I will.

**ERDMAN:** So Senator Briese, in the bill, it says that the department shall designate the areas and-- and then the department will be the one you file a claim to. What department are they speaking about?

**BRIESE:** Yeah, this would be the Department of Revenue. I believe it's called the Department of Revenue Lottery Division, Senator Erdman.

**ERDMAN:** OK. So I may not have any more questions, but thank you for answering that. So let me-- let me share a story with you, a situation that happened last year. I had a constituent that had gone to another far-and-away country like Scotts Bluff County, and they were playing a machine, and I'm not sure exactly what kind of machine it was, but during the day, they had played this machine several times. And they had won, and then they hit an opportunity to double up and they won again. And it was their impression that the most they could win was \$11,000 and they were at \$11,000, and they doubled up on that and it went to 22-- \$22,000. They went to the proprietor and said, there's something that I don't understand is how can I win \$22,000 when I thought the maximum was \$11,000. And the operator said there must have been a mistake, and the machine must have malfunctioned; and he unplugged it. And so they didn't get any money at all, and so they

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called me and they filed a complaint with-- and I believe it was with the Gambling Commission. And they came out and reviewed what had happened, and they advised them that if you want to proceed forward, get a private attorney and sue the proprietor. I don't know whether it was ever resolved or not, but they didn't even offer him the \$400 back that they put in. So I'm-- I'm at a real quandary as to who's going to supervise this and who's going to be responsible for complaints that are filed because, if they're handled in the same manner that that complaint I just described to you was handled, some people aren't going to be happy. So Senator Briese, maybe I have another question, if you would.

**HUGHES:** Senator Briese, will you yield?

**BRIESE:** Yes.

**ERDMAN:** Senator Briese, who's going to be responsible to check to see if the-- the-- the geofence is correct and-- and people are adhering to that?

**BRIESE:** I would assume that it would be the Department of Revenue Lottery Division. That would be my assumption at this point.

**ERDMAN:** So will they have to go to every location that sets this up and check to see if they're-- if they're-- are they the ones that are going to set up the fence or-- or will--

**BRIESE:** No.

**ERDMAN:** --the proprietor be the one that does that?

**BRIESE:** No, I believe the establishment will have to submit a plan for that, and it will have to be approved by the department. I would assume that they would not go out and immediately check every location, but at some point, perhaps they would.

**ERDMAN:** So if the proprietor is the one that sets up the fence, they could also expand that fence if they so chose?

**BRIESE:** Well with-- they would have to stay within the parameters of this legislation here. But yes, they could do whatever they want, but they're going to have to stay within the parameters of legislation or risk having problems with the department.

**ERDMAN:** But if-- if no one goes and checks them for a period of time, they could do whatever they wanted in the meantime until they got caught, would that be correct?

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**HUGHES:** One minute.

**BRIESE:** There could be a measure of self-enforcement necessary for a time. But I-- again, I would assume the department would go out and check on probably all of them, at least at some point in time.

**ERDMAN:** OK. Well, that's basically what I did when I tried to help that constituent. I assumed that someone would take his best interests at heart, but they did not. And so we can assume things, and you know what happens when you assume. But this is-- this is a problem. I think Senator Clements very well-described what may happen to your phone if one of your grandkids gets ahold of it and gambles with keno. And don't think those little guys aren't able to do that because I got a 4-year-old granddaughter that can change my screenshot on my phone and I can't change it back. So it's very obvious those kids are very apt at running my phone and doing what they need to do, and they very well could be gambling on keno and I--

**HUGHES:** Time, Senator.

**ERDMAN:** --I don't even know about it. Thank you.

**HUGHES:** Thank you, Senator Erdman and Senator Briese. Senator Albrecht, you're recognized.

**ALBRECHT:** Thank you, President. Again, I just want to rise and-- and again, say AM3-- or AM639 would be a red vote for me. LB561 without this would probably be an OK. But I just wanted to-- to basically talk about the fact that, you know, the people of Nebraska voted for casinos at racetracks. They did not vote for casino-- for changes to the keno program. So again, I would like to ask Senator John Cavanaugh a question if he'd yield.

**HUGHES:** Senator John Cavanaugh, would you yield to a question?

**J. CAVANAUGH:** Yes.

**ALBRECHT:** Thank you. Thank you, Senator Cavanaugh. I'd just like to ask, would you consider bringing something like this back next year so that the people of Nebraska can have a chance to talk about it?

**J. CAVANAUGH:** Well, thank you for the question, Senator Albrecht, and certainly if we don't adopt this amendment, I would bring it again. And for the same reason that I brought it is, it's a question of fairness and a question of maintaining those community funds that Senator Blood so eloquently spoke about. And you are correct, I think,

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in saying that the voters didn't approve expanded keno this year, but the voters did approve keno, I believe, in 1990. And then since then, we have been asked to regulate it. And this is a regulation that did not-- was not required to go before the voters on that ballot initiative. But it is implicated in that ballot initiative in the sense that these businesses that people have invested in and these communities that are relying on these dollars are going to see an effect to their dollars as a result of this expanded gambling and in the passing of LB560. And that's why these two issues are intertwined, and that's why it was brought up in that committee hearing, and that's why we discussed it. And so it was--

**ALBRECHT:** Well, something else I'd like to just visit with you about. Let's just say-- I don't even know how they obtain the app-- if they went to Apple play, could they get the app there?

**J. CAVANAUGH:** You know, I'm not a technical person either, unfortunately, but my understanding is that you would-- you have an app that then you'd have to download, which would only work within the geofencing of the particular establishment.

**ALBRECHT:** OK, but how would-- how would the Apple or however you-- you obtain this app, how would they be able to know if you're purchasing that app with a credit card or a debit card? I mean, those are some things. And I'm concerned too with-- with Senator Clements talking about, you know, debit card versus a credit card. You know, that there could be fraud. What if somebody has lost their card and somebody is able to just use it? I mean, I-- I still say that the cash is what we've been doing. Why would you not want to just keep it the way it is and ask them to use cash instead of-- it's just too easy in my eyes to allow people to-- to gamble with the cash that they have in their bank and go home with nothing. And it's not something that they're going to bring home a lot more money than they took. There's-- that it doesn't work that way. But I do understand that Senator Patty Pansing Brooks would like some time, so I'd like to yield the rest of my time to her.

**HUGHES:** Senator Pansing Brooks, 1:35.

**PANSING BROOKS:** Thank you, Mr. President. I'm just rising with a great-- just a tiny bit of concern, I guess. And I-- I'm taking on the role of the old fogey stogie, I guess in the Legislature today. I am concerned about the fact that there was not a hearing on this issue. And I-- I know the Speaker is contemplating what to do about that. And I think it's easier if I stand up on this issue, which is something that I generally will support, but I am concerned if we do not have a hearing. This is not a good precedent to begin--



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**HUGHES:** One minute.

**PANSING BROOKS:** Thank you. This is not a good precedent. And of course, this is-- Senator Cavanaugh, I did talk to him and, you know, I understand that it was brought up and mentioned in the hearing, but there was really not a hearing on that. So I have to play the old fogey stogie and just say, no matter the issue, no matter who it is, no matter how much we care about a person in this body and the success of that person, we have to follow the rules, and we have to have hearings on issues. I think that's why Senator Albrecht said, are you willing to bring it up and bring a bill next year. I will be supportive of that as well, but I just-- and I'm sorry to bring this up, but I do think that it's really important that we follow our rules and have hearings on bills that we are-- and let the-- let the second house speak. So with that, thank you, Mr. President. Thank you, Senator Albrecht.

**HUGHES:** Thank you, Senators Albrecht, John Cavanaugh, and Pansing Brooks. Those in the queue are Senator Matt Hansen. Groene, Hilgers, and others. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President, and good morning, colleagues. I'm going to do a couple of things in my speech, and I don't intend to speak on this bill much-- much at all. Those of you who have known me and worked with me on this issue in the past, know that I have voted against most gambling initiatives brought in this Legislature during my tenure here. That was something that kind of-- I have some kind of split and some personal debates with myself, I suppose, on how exactly to view gambling and what role it should play and how expansive I'm comfortable with. And it was easy for me to say I'm deferring to the will of the people. I felt that it would-- been clear in my district that they were opposed to expanding gambling and so that was an easy thing to take my personal, you know, personal debates and defer to the voters in a very clear way. As several others have said, we now have a pretty clear opposite swing from the voters this fall. I think having-- the voters are now very clearly encouraging expanded gambling and-- and that does change the lay of the land for me. So that is how I'm grappling with LB561. Certainly, I think the regulations piece seems to be consensus and when we get there, I'm excited to talk about it or to listen to it. I probably won't talk. That being said, I didn't intend to talk about process when I punched my light but since it's been coming up, I, too, am wary of new issues that get brought up without a hearing. And I think that's something we should be mindful of. But we also-- I want to flag for everybody, flag for the committee chairs, want to make sure we're not going to a precedent where if a

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committee amendment changes the bill too substantially, it all of a sudden is unpassable or a violation of our rules or gets ruled out of order or whatever we're kind of hinting at or trending at with this keno amendment. I think it's something we see in a lot of committees that have pretty-- including sometimes that have pretty substantive or technical matter. You know, you will take bills, you will hear stakeholders, and you will shepherd it to what you think is a good public policy coming out the other end. And if that looks different than the green copy, normally that's OK, because that's what our committee process is for. And we're taking a hard line that committee amendments can't necessarily take direct testimony from the hearing and try and address that. That's something I just want us to be mindful of. I guess I'll support whatever way the body goes on that one, but I would hope that that's a standard we take, start taking today, start taking on this topic. That's something we're mindful of, whether it's a Revenue bill, whether it's an Education bill, what have you, is that if we wade into a complex subject matter, we decide to grab a new section described-- decide to grab a new policy, it doesn't necessarily kill our attempts to solve it on the year. So with that, I just wanted to add those two cents on a-- on the policy procedure. I very appreciate Senator Briese. I know we've been of similar mindset on gambling bills in the past and appreciate his thoughtfulness in trying to make sure we have some regulations and frameworks now that there's kind of been a shift in the mood of the state of Nebraska. So with that, I'm planning on supporting LB561 at the end of the day and will be listening to these three amendments. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Matt Hansen. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. I'm on that General Affairs Committee, and I reluctantly voted yes on these issues because it was a-- approved by the voters. I don't like gambling, but Senator Briese convinced me that we needed to fence it in the best we could by statute. And his staff and worked with individuals where they fenced it in. It's only allowed inside the casinos, the sports betting, because we heard a lot of testimony and a lot of information that games of chance were approved and the sports betting was also approved. So therefore, it was going to happen if we liked it or not, and it was going to happen out on the racecourse and around the area-- from a distance, you know, even because if you could do it by phone, why not do it in North Platte and bet on a horse in-- or bet on a game in Omaha because you could connect with the sports betting institution or whatever or the gambling institution there that had a sports betting venue. So he fenced it in and he did a good job of fencing it

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in within the insides of the confines of the casino itself. On the lottery-- on the keno, we did have testimony from-- on a fairness issue from somebody with a keno association. And-- and if we were going to allow electronic, then we ought to allow phone betting on keno. And then I don't know how the-- I don't remember the part where we drug in the credit cards, because I kind of disagree with that. I agree with the opponent-- opponents of LB639, that if you got the cash and you want to spend it, go ahead. But, or even a ATM, where you got cash in the checking account, but the credit card thing, I mean, but the credit card thing is good, I guess, in reality, but I don't believe that's allowed now. Maybe it is that you can get cash off your credit card and gamble for keno. Probably is, I don't know. But I did get some shocking-- shock texts from some friend-- a friend I have who is involved in keno, that they weren't involved in this and they're concerned it might threaten their priority that they are licensed keno operators, that maybe the casinos now can start their own keno outlet and have keno in the casino. So I believe the amendment was accurate because it was heard in committee. And as long as it was-- had a hearing and we've-- since I've been here, we've always considered if a topic is brought up at a hearing and fully debated in the hearing, therefore it can be amended by the committee into a-- a-- even if it was debated in another bill and an amendment comes to the floor, as long as that topic had a hearing, it's legit. I fully agree with that issue. I have nothing wrong with this amendment and I have nothing wrong with a floor amendment that is based on a debated issue or had a hearing. I'm leaning now towards no on AM639, and let the keno operators themselves come in and testify at a hearing. That didn't happen. One of the representatives-- and you could tell he was hurried. He probably hadn't talked to all the keno operators that he thought-- if they thought this was a good idea. So anyway, I don't like it at all. And if I-- I don't like-- not a big fan of too much alcohol. I'm not big fan of too much gambling, but I ended up on the committee that handles it so a lot of--

**HUGHES:** One minute.

**GROENE:** --votes I've taken reluctantly, because the people said that's what they wanted. Thank you.

**HUGHES:** Thank you, Senator Groene. Senator Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I want to just touch on a couple of points on this particular bill. One is the question of whether or not we're going to have a hearing or whether this is new material. In the past, bills that-- or amendments that do either bring in a new population or new material can have--

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necessitate hearings. I have had a conversation with Senator Briese about this, and I will yield my time when I'm done to Senator Briese so he can speak to this and I don't put words in his mouth, but he has agreed that if I AM639 does get included, that the General Affairs Committee will hold a hearing on this material. So I want to be very clear that has happened in the past. Whether it tightly fits within the definition of the type of instances we've had in the past or not, in this case, we are going to-- we are going to have a hearing if this gets on. So I want to make that pretty clear for AM639. Beyond that, in general, I will just speak briefly on the gambling in the petition, implementing the petition. I-- I think like I-- I think I heard Senator Linehan. I agree with Senator Linehan. I have not-- I have not supported, I've always opposed bills that have expanded gambling. I do think the citizens in Nebraska spoke very loudly and very clearly, but I do want to say that they spoke on a specific series of petitions. In other words, I do think it's our task and our responsibility-- responsibility to implement the petitions that were passed by the people. That does not necessarily-- it does not necessarily follow, if it follows at all, that we then have to just expand gambling in any other context that-- because the citizens of Nebraska expanded gambling here, we need to expand gambling over there. So one of the reasons I was a no vote on Senator Aguilar's bill yesterday is actually I thought it went beyond the scope of the petition because it did expand, in a very small way, gambling in a way that wasn't necessarily approved by the voters. In contrast, LB561 in general, I think, implements what was passed by the voters in November. So in general, I plan on supporting LB561. When we get to the sports gambling amendment, I will have some thoughts to share on that and in particular the provision relating to the APA, but I'll save that for that amendment. But big picture, I intend to vote largely for LB561, depending on the precise amendments that get on and whether or not they go beyond the scope of what the voters in Nebraska passed. And secondly, I wanted to inform the body that if AM639 does get on, we will have a hearing in the General Affairs Committee. And with that, I'd yield whatever time I have left to Senator Briese.

**HUGHES:** Senator Briese, 2:40.

**BRIESE:** Thank you, Mr. President, and thank you, Speaker Hilgers, for your comments and sharing some time here. And so we are talking about a gray area here. I think, if I understood Senator Groene correctly, you know, he also felt that this was some-- these are some items that were discussed fully in the hearing that probably are suitable to be amended in here. But again, it's a gray area. We include-- in the interest of efficiency and trying to keep things moving along, we did

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include this into our amendment, the keno provisions. But I don't have any problem with having a hearing on this. And if we do advance this, I think we should have a hearing to allay some of these concerns. And-- and having a hearing would arguably be more respectful to the process, and I think the process is important, as several of-- several Senators have pointed out. So, yes, I'd be agreeable to having a hearing if we do advance this. But thank you, Mr. President.

**HUGHES:** Thank you, Senators Hilgers and Briese. Those in the queue are Senator Friesen, Blood, Murman, and others. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. Again, I-- I do support LB561. The-- you know, when the-- when the option was placed on the ballot, there were numerous options that a person had to vote for. I was one of those that voted against the gambling, but in favor of using it for property tax relief. And lo and behold, the population said they wanted gambling. And so I think Senator Briese has done a really good job of doing what the people asked for. As we go through each of these amendments, I'll be looking at them. I'm not sure how I stand on each of them yet, but in the end, I think what was passed on the ballot initiative was pretty clear that gambling should be allowed. And so as we go through the process of creating the rules and regulations and-- and the parameters by which we're going to allow that, I'll be looking at each one of these amendments. The bill in general, I supported. I continue to support. We'll just keep looking at these amendments and see once if they follow the will of what the people intended for us to do. When you look at the gambling issue, it basically boils down to, you know, your-- your individual desire to be responsible and make wise choices. Some of us, we go gambling to-- it's like dinner and a movie. You-- you set aside \$100, you go play the blackjack table or you play the slot machines; and when your money is gone, you go home. You had a night of entertainment. You watched people. It's an entertaining evening, and-- and then you're tired of it and you leave. And I've also sat at the blackjack table with people who probably didn't have the money to gamble, and they constantly went to the ATM machine to get more, and they kept losing more and more, and they doubled down; and they obviously had a problem. Some people think they can go gamble and they can buy shoes for the kids when they're done, they're going to win money. They're going to buy a new house. That's not what gambling is. The house wins. I approach it from a different angle. I-- it's entertainment and so I-- we-- we realize there's problems that are going to be had with this bill, and I think they're going to set money aside for treatment for people who do get into trouble. But again, it boils down to individual choices, and people

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have to make responsible choices. And it is up to each of us to make that responsible choice in how we approach our finances and everything else. So I look at this as a-- again, it boils down to how people want to be entertained and, in the end, they have to make wise choices or there's going to be problems. So with that, I do support the bill. I'll keep looking at the amendments and see if I support those, but with that, I think the people have spoken and we need to-- we need to make sure that we get this process completed. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Friesen. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. President. Fellow Senators, friends all, I love, as you know, to always speak when I have an opportunity to talk about technology, because although myself and others that are 60 years and older here on this floor, I think we can do a better job of understanding what technology is about when we talk about bills such as this keno bill. I do stand today in support of this amendment and eventually the underlying bill as well. But I do want to address, first of all, the apps issue, Senator Albrecht. So when it comes to apps for keno and for casinos, those types of apps are usually downloaded for free. You don't usually have to pay for these types of apps. So I think that's really important that you know that. And so when you're in this perimeter, this geofenced area, they run special SSL encryption services and the risks are really very, very low for malware or viruses. And so you need to know that the online gambling that they have is really not very different than how it will work for the apps that are going to be used for keno and for anything else in the future, by the way, as we move forward to make gambling accessible for people that tend to be more techie. And you have to understand that millennials and Gen Xers don't gamble the way baby boomers do or did, and they're not as interested in the gambling. And that's why you're going to start seeing the revenues fall, by the way, in gambling is because the demographic is not that interested unless they can use technology. So I think it's really important that you understand that the same safety and security that's used for online experiences is also the same type of safety and security that is going to be used for these keno apps. So I think when we come to the mike and we bring up these bizarre scenarios of phones being stolen and how expensive are the apps going to be, and, you know, we need to take a step back and look what's being done in other states. We need to do our research before we bring questions like this forward because, with all due respect, some of this is nonsensical. These are not things that happen. These are not issues we have to be concerned about. You know, your phone is a computer. When we were-- when we were growing

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up, the computers were supposed to be bigger and bigger and the better the computer, the bigger it was supposed to be. But actually that ended up being the opposite, right? The first known computer had less power than what we have in our smartphones nowadays. And yes, anything that has to do with technology can be open to logic bombs and Trojans and Smurf attacks, but that's how technology works. But that is also why they hire good IT people. And quite frankly, the IT in the Legislature-- no respect to the staff-- is less secure than you're going to find in any keno parlor or any casino, because there are things that I can't do when I-- when-- when I take my work home that has to do with the Legislature because the securities certificate is not as high of security as what I have at home. So if you're worried about anything when it comes to technology, you ought to be worried about what's going on in our own Capitol. But I would not worry about the apps. I would not worry about how they're going to be downloaded and if they're not going to be secure or not, because I think, if you look at the track record of other states and the type of IT that's involved with that, that it's going to be as safe as what their online experience is currently. And to be really frank,--

**HUGHES:** One minute.

**BLOOD:** --I don't remember if you were reading in Forbes magazine, but the really big scandal, when it came to the Internet, was when somebody put a smart thermometer in--in the late, I want to say like 2018, in an aquarium. I don't know if anybody remembers that. So I mean it-- really, I think you need to be worried about-- more about what putting-- people are putting around you to spy on you and to take data than you need to worry about any geofencing area, because that is secure and that does not change. Thank you, Mr. Speaker.

**HUGHES:** Thank you, Senator Blood. Those in the queue are Senators Murman, Erdman, Lowe, and others. Senator Murman, you're recognized.

**MURMAN:** Thank you. I'd just like to say I really appreciate the discussion today. Everyone's really sticking to the subject. I think there are some good ideas that are being exchanged and-- and a lot of the things we're talking about will just make our process, legislative process stronger. And maybe some-- some things that we're talking about haven't really-- it's kind of new ground in the legislative process. It's really not new ground, but something that doesn't come up very often so I appreciate that. There's-- there aren't any personal attacks being done and-- and everyone's sticking to the subject. So in that vein, I would like to ask, well-- well, first of all, I should say that I've heard from constituents that are very concerned about expanded gambling. You don't really hear the other

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side of-- of expanded gambling very much. You know, you hear a lot about someone that won, the winners and so forth. But it's-- it takes a lot of courage to-- for someone that's-- that's lost-- especially that's lost a large amount of money or their wealth to-- to talk about it. So I appreciate those that have spoken to me about it. But one of the persons that is-- that's spoken to me about it a lot happens to be a friend of mine that's a banker. And, you know, so he sees the results of gambling from many of his-- or at least some of his clients. So in that vein, I would like to ask Senator Clements if he would yield to a question.

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

**CLEMENTS:** Yes.

**MURMAN:** The terminology in the bill or the amendment, I believe, too, also says-- and we've talked about it already-- coins and debit cards can be used and also a direct link to an account with the financial-- financial institution-- institution in the name of the player. I'm very concerned about that. Senator Albrecht has mentioned that that can make it maybe faster or easier for a player to access their account. And I'm just wondering, isn't it really dangerous for that ability to tap right into a bank account with, I guess it would be a debit card? Credit cards aren't used, but could this also be-- this debit card-- I guess it would be a debit card-- be used to access a savings account?

**CLEMENTS:** Yes, the debit card can be set up for either checking or savings. And yes, there is, in my opinion, an added risk, an ability to access money for gambling much faster and in larger amounts than when you have to just use cash.

**MURMAN:** Sure, most people are responsible or fairly responsible in keeping only a limited amount of funds in their checking account, but when a savings account can be accessed, there's a lot more risk there. How about in a retirement account, is that possible, Senator Clements?

**CLEMENTS:** At my bank we do not attach debit cards to retirement accounts, and I'm not sure that the bank would really honor it-- the transaction, but I'm not sure. It's possible. It's just another account number at the bank, but generally, debit cards, our debit cards--

**HILGERS:** One minute.

**CLEMENTS:** --are not attached to retirement accounts, no.



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**MURMAN:** Thank you, Senator Clements. That's very concerning to me that-- that not just a checking account can be accessed, but also a savings account. You know, there's possibly more funds in those accounts. And if it's a joint savings account or a couple saving for retirement, that's very concerning that those accounts could be accessed to gamble with. And I-- I would yield the rest of my time, if there is any left, to Senator Ben Hansen.

**HILGERS:** Senator Ben Hansen, 0:12.

**B. HANSEN:** All right. Great. I'll be sure to ask my question later. I had a question of Senator Briese, just a clarifying question about another hearing on this bill. But I'll ask that, I guess, again later, so thanks.

**HILGERS:** Time, Senator. Thank you, Senator Ben Hansen, Senator Clements, and Senator Murman. Senator Erdman, you're recognized, and this is your third opportunity.

**ERDMAN:** Thank you, Mr. Speaker-- my third time already. I was listening to Senator Pansing Brooks when she spoke about having hearings, and I also heard Senator Hilgers say that if this bill advances, they're going to have a hearing. So I was wondering if Senator Briese would yield to a question on that matter.

**HUGHES:** Senator Briese, will you yield?

**BRIESE:** Yes, I will.

**ERDMAN:** OK. Thank you, Senator Briese. Senator Briese, did you-- did you say that we would have a hearing on this keno amendment after the vote?

**BRIESE:** Yes, if it advances, we will have a hearing on it and before it would come to Select File, yes.

**ERDMAN:** OK. So let's-- let's talk about that for a second. So all of those keno operators, and one comes to mind-- he used to sit right here in front of me-- keno operators had not been given an opportunity to have input at a hearing. So let's-- let's say that this amendment passes 38-6. All right? And so now your committee sets up a hearing schedule. And I am a keno operator from a far away land like Columbus, and the vote was already 38-6, and you're going to have a hearing. And I say to myself, I can drive to Lincoln for a hearing on a bill that already had 38 votes. What benefit would that be to me? And then I would just stay home. So here's my question then about that. If you're

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going to have a hearing, would it not make sense to withdraw this bill from consideration today, have the hearing, and then bring it back after you had a hearing?

**BRIESE:** No.

**ERDMAN:** OK. And why not?

**BRIESE:** I don't plan on doing that.

**ERDMAN:** OK.

**BRIESE:** But relative to that hearing, Senator Erdman, the hearing would allow those individuals to come in and testify. We would have a committee statement then that folks had referred to, and we, as a committee, would have the benefit of that testimony, as would the rest of the body. And it could change-- could very well change the complexion of this conversation. So it would-- it would be beneficial to all involved.

**ERDMAN:** Right. I think it makes more sense to have the hearing before we vote, because once I get-- if I am-- if I'm the person sponsoring this amendment and I get 38 votes, there's a great chance that that bill is going to continue to pass no matter what the testimony at the hearing is. And so I can respectfully disagree, and we can go on about our business, but I would think the hearing needs to happen first. I would yield the rest of my time to Senator Ben Hansen.

**HUGHES:** Senator Hansen, 1:45.

**B. HANSEN:** Thank you. I think Senator Murman actually did clarify the question that I was going to ask of Senator Briese, and so I appreciate-- I appreciate him yielding me the time and explaining that a little bit further. So with that, I'll yield the rest of my time back to the chair.

**HUGHES:** Thank you, Senators Erdman, Briese, and Hansen. Those in the queue are Senator Lowe, John Cavanaugh, and Friesen. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President. I am a no vote, surprising-- surprisingly, on AM639, but I want the majority of LB561 to go through. We need some regulation. Senator Cavanaugh from District 9, would you answer a-- or answer a question for me?

**HUGHES:** Senator John Cavanaugh, would you yield?

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**J. CAVANAUGH:** Yes.

**LOWE:** Senator, in your amendment, it says that-- on lines 23 through 28 on page 3-- it says that he or she pays for such a ticket or wager with cash, coins, a debit card or a direct link to an account with a financial institution in the same name of the player. For the purpose of this section, cash shall mean United States currency having the same face value as the price of the ticket or a wager. A credit card shall not be accepted for payment for any wager on keno. Why-- why did you put that in there that credit cards should not be accepted for payment for any wager on keno?

**J. CAVANAUGH:** Well, thank you for the question, Senator Lowe, and for clarify-- the opportunity to clarify. So in the broader LB560, LB561 package, we put a limitation on credit cards for gambling. And like many people, I have a-- I guess, a mixed relationship with expanded gambling in the state. But I do feel strongly that people-- we should restrict it to people not being able to gamble with-- on credit. So this-- this is written and I think LB560 and LB561 includes a restriction on gambling on credit, but so we explicitly put that in there to make sure that people could use monies that they have in their accounts. They can withdraw, they can use a debit card, but they could not use credit, and so that's why it's explicitly placed.

**LOWE:** Thank you, Senator Cavanaugh, for your answer. During the testimony, during the hearing, it was expressed that if a credit card is allowed, you can get cash advance on that card. If it is not allowed for the bet, there may be ATM machines located close by and fees for enhanced ATM machine are set by a third party operators of that machine. And claims that 15 percent of casino revenue comes from people getting cash advances from their credit cards, most places that's your profit from people going into debt. So you can't place a bet with a credit card, but you can walk ten feet to the side, put your credit card in an ATM, withdraw the cash, walk right back and place a bet. Well, that's a two-stage thing. But there is a problem with going into debt and gambling. And I fear that, with some of this legislation, what we are doing, we're allowing the ATMs, which are already there at the horse tracks, for people to go further into debt.

**HUGHES:** One minute.

**LOWE:** Thank you, Mr. President. By separating it out, a credit card shall not be accepted for payment for any wager on keno. And walking five feet and getting an ATM to spit out \$200 or \$100, depending on what the limit is or what you have left on your credit card, for that chance to win, that's what we're looking at. Debt is one of the number

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one causes for suicide, so we should all be concerned. Thank you, Mr. President.

**HUGHES:** Thank you, Senators Lowe and John Cavanaugh. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. I just wanted to speak again to clarify-- correct a conversation I had with Senator Murman where I told you I didn't recall any other bills that pertain to keno, and I didn't mean to diminish a bill that Senator Moser brought, but we did have a hearing on a bill brought by Senator Moser that was specifically-- and a keno operator from Columbus, I believe, came and testified about their concern about their-- their loss in revenue as a result of the expanded gambling. I personally didn't like Senator Moser's bill. I apologize, Senator Moser, now that you know that, but-- but I didn't-- I didn't like how that would address that issue. And so that-- that hearing, in conjunction with the testimony on LB560, it was the reason I brought this amendment is that it was clear that there was testimony to me about the effects that these bills will have on keno and that we did need to address that in some way. I'm happy that if this passes, we will have a further hearing. I do think that individuals will come and testify about it on both sides and we will have a good discussion. We've had a great discussion here today and I appreciate everybody's conversation around this. And I would ask everybody for their green vote on AM639 and if I have any time left, I would yield to Senator McKinney if he had anything he wanted to say.

**HUGHES:** Senator McKinney, 3:35.

**McKINNEY:** Thank you, Senator Cavanaugh. I rise in support of AM639, but I also wanted to, as one of the youngest individuals in the Legislature, point out the advancements in technology that we're leaving out of this conversation. It's hard to access your parent's credit card on an app. You have to-- there's facial recognition, there's passwords; it's-- it's very difficult. These apps also can limit transactions to just checking accounts. There are so many built-in protections that we have to think about, that already are in place, that are being left out of this conversation. It's not easy to access resources on your phone through apps. You-- if you have a banking app, you-- most of the time you've got to go through three steps to even get into your account. If you have an account with a-- like, say, TD Ameritrade or something like that, it takes so many steps to get into these accounts to-- to do these transactions. It's not easy. And I just wanted to point out that technology is already in place that protects against some of these concerns that we heard this

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morning. And I yield the rest of the time to Senator Cavanaugh if he'd like to speak.

**HUGHES:** I don't believe you can yield time you've been yielded, Senator McKinney.

**McKINNEY:** Oh, OK. Well, I'm done. Thank you.

**HUGHES:** Thank you. Senator McKinney and Senator John Cavanaugh. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. Senator Lowe, would you yield to a question?

**HUGHES:** Senator Lowe, will you yield?

**LOWE:** Yes, I will.

**FRIESEN:** So I take it this is your amendment, correct?

**LOWE:** The-- the Clerk actually drew up the amendment for us.

**FRIESEN:** OK. Just-- I guess somebody can answer a question a little bit, but on the last page of it, it says, you know, if there's a complaint that can-- has not been addressed by the lottery operator, you can notify the department of such complaint. Are there-- is there-- if something happens and there's-- there's a process, is there a place where somebody who feels they've been cheated by the machine or whatever can file a complaint and actually get something done?

**LOWE:** My guess it would be toward the Lottery Commission.

**FRIESEN:** OK. Do they-- do they have the teeth to actually make something happen or is there someone else you'd prefer that I ask?

**LOWE:** You might ask Senator Briese on that one.

**FRIESEN:** OK. Thank you, Senator Lowe. Senator Briese, would you yield to a question?

**HUGHES:** Senator Briese, will you yield?

**BRIESE:** Yes.

**FRIESEN:** So, Senator Briese, on the last page of this amendment, at least it talks about an easy and obvious method for a player to make a complaint to enable the player to notify the department if such

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complaint has not been addressed by the lottery operator. So if someone has a complaint about a lottery operator, who-- who does that complaint go to and what method do they have of getting satisfaction?

**BRIESE:** Well, I think the procedure that is required there might consist simply of a posting of email addresses or email address or phone number, excuse me, phone number for the Department of Revenue Lottery Commission. I think that would satisfy the procedure requirement. And it would be my understanding then that that complainant could contact the Department of Revenue.

**FRIESEN:** And so what would-- what would that department do then to help settle that complaint?

**BRIESE:** I'm not sure what their procedure would be. They would have to adopt a procedure or a rule-- rules as to how they would handle that.

**FRIESEN:** OK, so there's-- there's nothing in the legislation right now requiring them to set up an appeal process or a complaint handling process?

**BRIESE:** I don't believe that the legislation does require that.

**FRIESEN:** OK. Thank you, Senator Briese. Again, this is kind of one of the questions I looked at when there is a complaint process here, but it doesn't say where that-- where the complaint goes to, how it gets handled and addressed, or whether you have to end up going to court to help solve that problem. So we'll keep looking at the bill. Don't know where I'm at yet, but I do see some issues maybe that we need to address down the road. Thank you, Mr. President.

**HUGHES:** Thank you, Senators Friesen, Lowe, and Briese. Senator Moser, you're recognized.

**MOSER:** Good morning, colleagues, and thank you, Mr. Chairman, for recognizing me. Since I have gotten drawn into this discussion, I thought I might respond and explain the bill that I brought, bill LB580 was a bill to seek some clarifications in gambling law because the petition had a clause in Section 2-- I forget the exact reference, but the-- the paraphrase of what the language was in the petition was that gambling-- games of chance would only occur at licensed racetracks. And some of the keno operators, or one of the keno operators, was concerned that this language might preclude other forms of gambling. And in other words, he thought it was an unintended consequence of the ballot question. So that's the reason I brought that bill. Then once the bill was entered, the Attorney General

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offered an opinion. And in general, I can boil down his ten-page response to a sentence or two, that he didn't feel that the petition limited gambling as it existed already, that those forms of gambling had other ways of being authorized and so they were not being infringed upon by the ballot language. So we left LB580 in committee. I didn't press for it to move forward because the Attorney General's Opinion pretty much answered the question that I-- that I wanted to ask. So-- and then as far as not having a hearing on AM639, generally when you have something as substantive as that, you would have a hearing on it before you bring it to the floor. And I think, in my opinion, that would have been preferable. Once you approve it and then send it to-- back to committee to have a hearing, it's pretty much a done deal already that it's gotten-- you know, if it gets 38 votes or 35 votes, there's not much reason to listen to anybody in the hearing when it's probably going to be approved already. And, you know, might be getting married first and then going back and trying to get one spouse to sign a prenuptial agreement. I mean, it's pretty much a moot point after you've already voted on it. And so, you know, you might satisfy the letter of the law, but I don't think it is-- I don't think it follows the spirit of our process, which is to let everything have a hearing so opponents can come in and-- and offer their views before we vote on it. Thank you very much.

**HUGHES:** Thank you, Senator Moser. Those in the queue are Senators Hunt, Flood, and Albrecht, and others. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. I wasn't going to speak on this bill, but I've been listening very closely to the debate. And I've been reflecting a lot about what this amendment means, like not just the content of the amendment, but the process that we've gone through. I have some really complicated views about gambling. I think that Senator Matt Hansen shared his views, and I-- I relate a lot to what he said. I'm not against gambling. I am not against people using their money in a way that they want. If we had a bill or an amendment on the floor today where people were debating how many guns someone should be allowed to own, you would all be up in arms, so to speak, you know, going out of your minds about how much we're restricting people's freedom. But when it comes to gambling, which is just another way that people can choose to spend their money-- and yes, bad things can happen, but, you know, that goes for a lot of ways that we spend our money. You know, how much are we going to let the nanny state come into Nebraska? How much are we going to, you know, have this concern, from a place of morality, about if people are spending their money in the right way,

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on the right things, if we approve of it? That is-- so the reason I have reservations about gambling is not because I think it's morally wrong or that we need to prevent people from hurting themselves, it's because whenever we debate things like this in the Nebraska Legislature, it's the people saying, well, we-- we shouldn't allow people to gamble because debt is the number one cause of suicide, which is something Senator Lowe said. Well, yeah, and a lot of people have a lot of student debt, and a lot of people have a lot of medical debt, especially after this pandemic, but in the Legislature, we aren't serious about alleviating any of that kind of debt. We aren't serious about the kinds of, you know, social safety nets and benefits that people could really benefit from when it comes to other lifesaving issues and other things that-- that folks really struggle with. And so I'm always hesitant to say, as a legislator, yeah, go gamble and spend your money and we know that this can be an addictive practice. We know that this can lead to a lot of, you know, depression and other bad things, while at the same time in the Legislature, we're not going to do anything to-- to strengthen other social supports for people who are struggling. So if we, as a body, were able to create a culture that was more supportive of the people who struggle the most in our society, the people who have the fewest advantages, who have the least opportunity to get ahead, then I would take more seriously questions like this. I also agree with what Senator Linehan said and what Senator Hilgers kind of talked about, which was, regardless of how we feel about gambling, you know, my-- my feelings are complicated and I know many of yours too-- it's a fight that's kind of over. I mean, the-- the voters decided. We had this ballot initiative, and the voters of Nebraska have told us what they feel about gambling. But at the same time, of course, I would also say that about medical cannabis. The medical cannabis position got 182,000 signatures, and so when we talk about going by what petitions say, again, we're using morality to pick and choose which issues we listen to the voters on. There are many, many issues that are popular with Nebraskans, that more than 60 percent of Nebraskans support, that their state senators and legislators do not support. The state Legislature is way more conservative than Nebraskans actually are on the whole, politically. So again, like when we're talking about, oh, we're so concerned, we don't want people to get in trouble, but then we don't do anything for the people who are in trouble, or we say, oh, this is the will of the people, we have to listen to the people, but then we're not listening to the people on other issues, it's just a little bit hypocritical for me and--

**HUGHES:** One minute.



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**HUNT:** --I would like all of us to reflect on that and think about that, and if the positions we have are being consistent. I'm also a little bit weary of the process or wary of the process. If we are putting a lot of stuff into amendments that don't have hearings and then, when it's caught, we say, oh, well, we'll just have a hearing later, I don't know if that's great. At the same time, I don't want to take away the latitude for committees to do their best work and to craft amendments that address solutions to the issues that we talk about. Perhaps we should pull this amendment, let it have a hearing and then put it back on for debate later. Proponents and opponents of this issue contain multitudes, right? Like people are supportive for different reasons and people are opposed for different reasons. And I just ask the Legislature to have moral consistency and integrity when we talk about who we're concerned about and how much we need to extend the offer of government--

**HUGHES:** Time, Senator.

**HUNT:** --to help them. Thank you.

**HUGHES:** Thank you, Senator Hunt. Senator Flood, you're recognized.

**FLOOD:** Question.

**HUGHES:** The question has been called. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote aye; all those opposed to vote nay. Senator Flood.

**FLOOD:** Mr. President, I'd like a call of the house.

**HUGHES:** Colleagues, there's been a request to place the house under call. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 27 ayes, 9 nays, to place the house under call, Mr. President.

**HUGHES:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Groene, would you please check in? Senators Stinner, Lathrop, McCollister, and Bostar, the house is under call. Senator Lathrop, would you please check in? Senator Flood, all senators are accounted for. How do you wish to proceed?

**FLOOD:** Call-- roll call vote, regular order, please, Mr. President.

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**HUGHES:** There's been a request for a roll call in regular order on whether or not debate should cease on AM639. Mr. Clerk.

**CLERK:** Thank you. Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch voting yes. Senator Blood voting yes. Senator Bostar voting yes. Senator Bostelman voting no. Senator Brandt voting yes. Senator Brewer voting no. Senator Briese voting yes. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Day voting yes. Senator DeBoer voting yes. Senator Dorn voting yes. Senator Erdman voting no. Senator Flood voting yes. Senator Friesen voting yes. Senator Geist voting yes. Senator Gragert voting yes. Senator Groene voting no. Senator Halloran voting no. Senator Ben Hansen voting no. Senator Matt Hansen voting yes. Senator Hilgers. I'm-- just a second, Senator. Senator Hilgers voting no. Senator Hilkemann. Senator Hilkemann, I'm sorry, would--voting yes, thank you. Senator Hughes voting yes. Senator Hunt voting no. Senator Kolterman voting yes. Senator Lathrop voting yes. Senator Lindstrom. Senator Linehan voting yes. Senator Lowe voting no. Senator McCollister voting yes. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Morfeld voting yes. Senator Moser voting no. Senator Murman voting no. Senator Pahls voting yes. Senator Pansing Brooks voting no. Senator Sanders voting yes. Senator Slama voting no. Senator Stinner voting yes. Senator Vargas. Senator Walz voting yes. Senator Wayne voting no. Senator Williams voting yes. Senator Wishart. 30 ayes, 16 nays to cease debate, Mr. President.

**HUGHES:** The motion passes. Senator Briese, you're recognized to close on AM639.

**BRIESE:** Thank you, Mr. President. I appreciate the discussion this morning. We covered-- covered a lot of ground. And, yes, I share many of the concerns I heard from some of the opponents here and-- and yes, we will have a hearing before Select if this advances. It's not an ideal process, but it is a process, nonetheless, that hopefully can allay the concerns of those-- expressed by those concerned about the lack of a hearing in the first place. So I'd urge your support of this and we'll move on to the next one. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Briese. Colleagues, the question before us is the adoption of LB639. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 26 ayes, 18 nays on adoption of that portion of the committee amendments.

**HUGHES:** The amendment is adopted. Next item.

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**CLERK:** Mr. President, could you raise the call, please?

**HUGHES:** I raise the call.

**CLERK:** Mr. President, Senator Briese, as Chair of the General Affairs Committee, would offer AM640.

**HUGHES:** Senator Briese, you're recognized to open on LB-- or on AM640.

**BRIESE:** Thank you, Mr. President, and good morning again, colleagues. Appreciate the discussion we had on the last amendment. Many concerns were raised. And again, as I said a little bit ago, I share many of those concerns also and-- and I really appreciate Senator Lowe's consistency in his opposition to expanded gambling and the consistency of others. And-- and that's a position I've shared with the opponents of expanded gambling and continue to share. We've fought the expansion of gambling on this floor several times and we've won. But I do work for Nebraskans and they sent me-- when they sent me to this body, when they speak, I must listen. And they spoke loud and clear on November 3, when roughly 71 percent of them versus 29 percent said that they want casinos at racetracks. They want it taxed at 20 percent, and they want the revenue going to property tax relief. By a margin of 71 to 29, they delivered a mandate. To me, it couldn't be more clear. This provision would essentially allow sports betting in those casinos with some parameters, and I have an Attorney General's Opinion that sports betting is a game of chance. We have at least a couple of them from previous years. And when Nebraskans signed off on games of chance, they signed off on sports betting at these casinos. And I drafted this bill in an effort to clarify what Nebraskans approved in November and to establish some parameters around this activity, parameters and limitations that are consistent with what the voters approved, and parameters and limitations that I feel are consistent with Nebraska values, such as the limitation on the types of bets excluding proposition bets on individual college, Nebraska college athletes, such as the limitation on betting on any sporting event in which a person under 18 is a participant, such as the requirement that sports betting can only occur in a designated area within the casino itself, such as the requirement that sports wagers be placed in person in that area, such as the requirement that operators submit a floor plan of the sports wagering area and plans for location detection procedures. These are all items that need to be kept together, and if you don't adopt AM640, we eliminate these safeguards this bill puts in place-- this amendment puts in place. And I also note that one individual very knowledgeable of the sports betting industry, of the gambling industry in general, suggested a 20 percent tax rate on sports betting is not friendly to the sports betting industry. As I look at tax rates across

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the other jurisdictions, I see what he's getting at. And I see locally, Iowa sports betting is taxed at 6.75 percent, Colorado at 10 percent, Kansas at 7.5 percent, Missouri at 9 percent. South Dakota's is proposed to be at 9 percent. So 20 percent is high relative to our neighbors. But folks, that's what Nebraska voters signed off on, and it's my intent to keep 20 percent in place and keep it there. Twenty percent may not be friendly to the sports betting industry, but I submit it's friendly to our property taxpayers. Keeping this in place now helps ensure that we keep this at 20 percent, which will benefit all Nebraskans. Keeping this in place, AM640 also ensures that the parameters and safeguards contained therein are established. It's our obligation as policymakers to help define what sports betting looks like in Nebraska. The parameters and safeguards in this bill allow us to meet that obligation, and I would ask for your support of AM640. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Briese. Those in the queue are Senators Albrecht, Groene, Pansing Brooks, and others. Senator Albrecht, you're recognized.

**ALBRECHT:** Thank you, President Hughes. Oh, where do I start? Still a little perplexed about the last vote. I do remember when the-- when the ballots were coming out and Lance Morgan, the CEO of Ho-Chunk, owner of multiple casino sites, and he also helped sponsor the ballot initiatives, he stated in an article that all forms of Las Vegas style in gambling would be allowed except sports betting. And he said the reason-- Morgan said-- is that Nebraska has limitations on how much you can authorize in one measure. Having sports betting in there created a risk. He added, it could be made up later. And also in KMTV Channel 3 news in Omaha on July 2, 2020, said if the voters passed casino gambling in November, sports betting will not be allowed. Organizers with Keep the Money in Nebraska hoped the Legislature would then pass a bill allowing sports betting. So I guess I-- my question is, how did sports betting become a part of this bill? Who brought it? And if it wasn't part of the original package, how did we get here? So if Senator Briese would oblige me, yield, please, to some questions?

**HUGHES:** Senator Briese, will you yield?

**ALBRECHT:** Can you let me know--

**BRIESE:** Yes, I will.

**ALBRECHT:** --Senator Briese, how-- how did sports betting become part of this bill?

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**BRIESE:** Because the plain language of the ballot proposal approves games of chance at these racetrack casinos, and games of chance include sports betting.

**ALBRECHT:** So who brought this to the committee for approval?

**BRIESE:** Yes, I-- I--

**ALBRECHT:** Who asked for it specifically?

**BRIESE:** Nobody.

**ALBRECHT:** You just felt that--

**BRIESE:** Yes.

**ALBRECHT:** --it was in the privy. So there was a hearing and--

**BRIESE:** Yes.

**ALBRECHT:** --who brought-- who brought that bill to the hearing?

**BRIESE:** I-- I brought the bill, yeah.

**ALBRECHT:** OK. So tell me about your bill, and why did you bring that?

**BRIESE:** Brought the bill because the plain language indicates sports betting is part of it. And I actually had-- again, I had somebody in the industry tell me that 20 percent is too high on sports betting. And the industry did not ask me to include sports betting, I think, because, I think, 20 percent is too high. And so we have to ask ourselves, what's their intent? What are they going to do going forward if we don't put in place sports betting in these establishments? It's hard to predict what they might do, but I would suggest it's quite likely they will devote time, energy, and money into quite possibly a new initiative to get sports betting lined up the way they'd like to have it lined up. And I'm sure-- and it wouldn't have a 20 percent tax on it, I don't believe.

**ALBRECHT:** Well, again, I just-- I feel like, you know, when people take an initiative to the vote of the people and they overwhelmingly support it, we as a legislator-- legislation, have to be putting things into place that will work for-- for that particular-- no diff--, I guess no different than Medicaid expansion. It took us a long time to figure out what we wanted to do with this, but trying to understand sports betting and what-- if they say that it was not part

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of the casino gambling aspect of it, I guess I don't understand why we would just arbitrarily just decide to put it in the bill and--

**HUGHES:** One minute.

**ALBRECHT:** --and I just wish that we would take some time with this and understand that, you know, if no one really brought it, is there really a reason that it has to be put into the law right now? And especially, you know, the 20 percent versus everybody around us a lot less, is it just because, Senator Briese-- another question-- is it just because other surrounding areas are a lot less? They decided if we say it's a lot more, then they'll go ahead and-- and do it for us. Would they put it in the bill just because? Just a question, if you can answer that, please yield to a question, Senator Briese.

**BRIESE:** I'd be happy to answer a question and what was it again? I-- I missed it.

**ALBRECHT:** Why-- why would we have put it in at 20 percent? Just-- I mean, did you have a discussion? Were there-- were there are a lot of people attending that particular--

**HUGHES:** Time, Senators.

**ALBRECHT:** Thank you.

**BRIESE:** Sorry about that-- sorry about that.

**HUGHES:** Thank you, Senator Albrecht and Senator Briese. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. Again, the sports betting, I'm not exactly for it, but I believe we put some curbs into it and I voted it in committee to be part of the committee amendment. Of course, we divided it, but it's, you know, concern was brought up. Senator Wayne had a lot of good points in the committee about, you know, you can bet on somebody, you can bet on anything, on how many yards a quarterback is going to pass, how many yards a running back's going to run in a game. Will-- will somebody who is injured be able to play? But I believe we restricted that if-- maybe Senator Briese can jog my memory, but we restricted that, that it has to be on the outcome and on-- on betting. So 'cause you know, when you start betting on a player, then there's then Joe Jackson, Shoeless Joe Jackson, and you start bribing players to throw the game-- but if anybody knows the history on that. But we-- it is what it is. I just hate saying that phrase, but the people want gambling and 71 percent of them, and it is

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a free choice. Like Senator Erdman said, he's never paid that voluntary tax because he hasn't done it. I had my name in the queue on the prior amendment because I thought we didn't finish debating that. I still-- I ended up voting against it because I-- I've got to say, that's just not really a good idea to pass legislation and to admit to the state of Nebraska that we haven't studied this issue enough and we need to have a hearing. Then why the heck are we voting on it? It made no sense to me; still doesn't. There's a lot of-- I've heard the term the horses are out of the barn already on the gambling. Well, my gosh, we-- we're going to have a hearing on an amendment that's already out of the barn. Absolutely makes no sense. You know, I have a real concern on some of these things. You know, I've been accused sometimes of delaying the hearings because I ask a heck of a lot of questions. I still like to think I'm five years old and I have a lot of questions. And I've had some dirty looks from committee members who wanted to go to dinner. But I didn't ask enough questions on this. A point was brought up to me today about debit cards. They say debit cards are cash. Well, wait a second. Cash is in your pocket. If you have a joint account with your significant other, you've already decided how much cash you got in your pocket, but if you're sitting at a casino and you take that debit card and you clean out the account, you have not cleared that with the other person's name on that account. Maybe we need an amendment that says, if you're the only holder of that account of that debit card, yeah, you can use it, but if there's two names on it, you got to show evidence that the other party who owns that money agreed that you can use it to gamble. We didn't talk about that in committee, and I think that's a very pertinent point that needs to be discussed here. That's the same thing with a credit card, which we did eliminate credit cards, but that debit card bothers me, too. So anyway, at the end of the day, I think I might talk to Senator Briese about-- about that debit card a little bit. But we need to get something enacted because the people have put it in our Constitution. And our job is to define the rights the best we can and make it work for the-- you know, one of the reasons we do things is 29 percent didn't vote for this so we do have a duty to that 29 percent to make sure that the statute we--

**HILGERS:** One minute.

**GROENE:** --we pass take their concerns into constitutional rights, too. So anyway, thank you, Mr. President. But that debit card thing came up. And one more thing about the lottery and keno. It's in our statutes that lotteries are for charitable uses. That's completely different than what passed on gambling. So where do we draw that line now where a lottery is a game of chance? And can a casino have a

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lottery now because it's a game of chance? But over here our-- our existing Constitution says lottery is defined as a game-- as a charitable practice. There's some things we have to clear up here. And I know it's hard to do all in one session, but thank you, Mr. President, and that's where I stand.

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

**PANSING BROOKS:** Thank you, Mr. Speaker. Wow. See what can happen in the Nebraska Legislature. I have voted with the people that vote against me most of the time on everything that's going on, so I'm enjoying this day significantly. First off on the hearing, I fully disagree with-- with the action that we took. We have had-- you know, it's fine on this issue, which is-- is following what the voters have said, but if it were on something more significant, a more controversial-- controversial issue, making abortion more expansive, hindering rights of LGBTQ people-- without a hearing, people would be screaming bloody murder. So that was-- that was wrong. And I'll tell you what, I'm not as good at all the rules and messing around with everything with what's going on with the rules, but if Senator Chambers were here, this would-- we would be at a dead halt. We would be at a dead halt. There was not enough discussion, in my opinion, on the bill. Senator Groene had some good points on the debit card. What if the debit card is owned in joint by a husband and wife, and one of them takes it off and spends out all the money? Senator Linehan made a good point. Don't have joint accounts with your spouse. That's true. But these are all issues that are important. And to go further and to refer to the sports betting issue, I have two issues on that. Number one, the-- the bill says that it shall not include-- let's see. This is on page-- actually read through this, page 35, lines 7 through 15. It talks about that sports-- what sports wagering shall mean, but it-- and then it says, but it does not include (a) placing a wager on the performance or nonperformance of any individual athlete participating in a single game or a match of a collegiate sporting event in which the collegiate team from this state is participating. So clearly the attempt is, and I think rightfully so, to exclude our colleges. But I'm concerned, number one, on the definition. If you look up collegiate, there is a difference between collegiate and university in the definitions, in our statutes. Universities are-- are institutions that provide usually doctoral and master programs. The-- the-- not all colleges-- colleges usually don't provide doctoral programs. So I am worried about that language because does that mean just the colleges are exempt, but not the University of Nebraska? I don't think that's what Senator Briese means on this, but I think it needs to be clearer



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in this-- in this statute or people are going to go, OK, well, we can-- we can bet on the Huskers. We just can't bet on Peru State or Doane. That's my-- that's one of my concerns. The other concern is I'd like to get collegiate betting completely out of it. I know this-- I'm, you know, supporting the nanny state. I have my friend, Senator Morfeld, giving me grief about, you know, pushing all this and, you know, the old fogey stogies, you know, they're doing it anyway. But I feel like we put enough pressure on the kids today. And that's, of course, because I'm a mother and I see what happens, and I see the pressure that-- that young students and young people are under. And to add the pressure and some people say, well, it's already happening--

**HILGERS:** One minute.

**PANSING BROOKS:** --but to have to get on to Facebook and say-- and have somebody call you and say, well-- or-- or write on your Facebook page, well, I spent \$1,000 on you, you'd better play right this week. And-- and-- or I-- I put \$1,000 on you to-- to lose and do an instant message and say, I'll give you a half of it if you mess up a bit. I mean these are kids. We know when the brain develops is not that the-- that the brain does not fully develop until you're 26. So I just want to say I have qualms about this. I do know that the Speaker has voted, but I do also believe that this is expanding. I know that you can say that sports betting is a game of chance versus a game of-- of-- what's the other game? No, it's game of chance versus the game of knowledge.

**HILGERS:** Time, Senator.

**PANSING BROOKS:** Oh. OK, thank you.

**HILGERS:** Thank you, Senator Pansing Brooks. Senator Wayne, you are recognized.

**WAYNE:** Thank you, Mr. President. I wasn't even going to come down here today. I had a lot of work. I had court. And then I started watching the debate and we just-- we just lost our minds. I won't even get into the hearing. I'm just going to skip that, and we'll just get to Senator Albrecht's questions about why do we need this. Colleagues, I passed out two General-- Attorney General's Opinions. I think I passed them out. I think the page did. Yep, I see them on-- it's really simple. The petition that was passed by the voters is self-acting. We don't have to pass anything. We could vote this down and there will be casinos, once they're built, going. Period. And there will be crap tables. There will be sports betting right now under the law. Now, we can say what the people who wanted to pass the petition said in the media, we can say, what-- what editorials say, that this doesn't

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include sports betting. They're wrong or they flat out lied. You can decide which one it is. But the plain language of our Constitution says game of chance, and that's what they passed, game of chance. And our Attorney General and our Supreme Court, multiple times, has ruled sports betting is the game of chance. So if we don't pass anything with any regulations, this bill that regards sports betting allows the commission to actually come up with regs. So if we don't have that, they will start betting on whether Adrian Martinez is going to throw the next pass for a completion. So if you don't like gambling, which some of you don't, clearly, you need to vote for this amendment or you're going to open up sports betting wider than it's ever been interpreted, because we don't put any regulations around it. That's why this amendment was brought. That's why we talked about it a lot in committee, because the Attorney General has said games of chance and sports betting are the same thing. What passed by the initiative, the plain language, is game of chance. So I'm not trying to be lawyerly, I'm talking as lay as I can because, as everybody knows on this floor, I don't even think sports betting is a game of chance. I think it's a game of skill and I think we should pass it and regulate it. And I struggled on this bill because by voting for this, I'm acknowledging that somebody may say, well, Justin thinks it's a game of chance. I don't. But I also acknowledge that the Attorney General, not just one, different Attorney Generals, that our Supreme Court and court cases around the Eighth Circuit and court cases across this country have acknowledged sports betting, sports wagering as a game of chance. So whether we pass this whole bill or not, and that includes the underlying bill, casinos will be built. And we have the option right now to put some regulations around it or not. So this isn't about whether you like sport-- sports betting. This isn't even about whether you like gambling or not. This is about if you don't like gambling, we should have some regulations around it, and if you really don't like sports wagering, you should support this amendment to make sure we put some parameters around it, because if we do nothing, it's going to be here anyway. That's the plain language. And again, either-- in campaigns, they either intentionally misinformed the public or somehow they didn't know. And I just don't believe that people who own law firms who backed this petition didn't know what the plain language meant. So you can take that for what it is. I think a bigger issue we got to talk about is whether somebody can buy an election and have all the contracts around here for the-- the industry in which they bought the election for. And we'll have that conversation on Select because I don't want to tie it up here.

**HILGERS:** One minute.

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**WAYNE:** But the reality is, if you do nothing, it's still going to happen because it's a game of chance. So the question is, do you want them wagering on individuals in college or not? Do you want to put regulations around it or not? It isn't about whether you like sports betting at this point or not. That ship sailed. It's a game of chance. It's out of the barn. It's about whether you want regulations around it to limit it in any capacity. That's what this amendment is about. And if you don't believe me, ask for a new Attorney General Opinion, and he's going to reference the two that I just handed out, saying it is a game of chance. Thank you, Mr. President.

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

**M. HANSEN:** Thank you, Mr. President, and good morning, colleagues. Yes, let me-- let me start by saying-- and I didn't even have this decision made up when I walked in here today, so I do appreciate the debate on the floor. I do think at this point I am supporting all components of the General Affairs Committee amendment that was divided in deference to the committee, who seems to have genuinely taken kind of diverse perspectives in gambling and tried to create a workable framework for our new normal in Nebraska of allowing casino gambling. And specifically on this provision on sports betting, I do agree with Senator Wayne of-- I don't-- I don't-- something either has to be a game of chance and game of skill, and if all games of chances are allowed at the casinos, they're allowed at the casinos. Or if it's a game of skill, it's not regulated and could also be allowed at the casino. Either way, there's going to be a lawsuit on that, I presume. And personally, for me, I would err on the side of having clear statutory framework in place. And, you know, if I get proven wrong by the Supreme Court, the worst we've done is, you know, made a good faith effort to make sure it is regulated and understood with some guide rails. On that being said, what I originally put my light on earlier, is I just kind of wanted to talk process for a little bit. I was really appreciative of Senator Flood calling the question earlier. And I realized this was probably one of the first times, if not the first time, we had question called in session. And I know sometimes as a new member, things happen around you and it's not always clear what is-- why it's happening. So I just kind of wanted to walk through some of what I've seen. You know, obviously calling the question is a motion that's common to our body, it's common in Robert's Rules, other organizations, but it ends debate on the top item or the current item, which in that case was AM639. And in our body, it needs a majority vote, 25 vote to be adopted and end debate and allow the introducer to close. As we saw, a number of people were not in the Chamber or not

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voting, so Senator Flood asked for a call of the house and a roll call vote, as is common, when you get to a situation like that where you're pretty close to 25, but people aren't in the room, what not; that's a pretty standard thing to do. And I'm just saying all of this just in the sense that there's a new member I know occasionally when it's your own bill, people aren't paying attention. Sometimes you're being asked to make rules, decisions real quick and you might not know. So that's something common. If you think you have 25 votes and you're stuck at 21, 22, whatever, and, you know some people are down in their office, in the lounge, a call of the house is a very appropriate thing to do at that point. And it's your right to just kind of make sure you're recognized by the President, make sure you're recognized by the Clerk, and ask for it. Similarly call of the house-- sorry, calling the question-- we've had some debate over this in past years. I don't want to relitigate all of that, but I think it's a very appropriate motion when, kind of, the debate on an issue, especially an item like an amendment has gotten to the point where we're repeating arguments, people are speaking for their second and third time and whatnot. It's ultimately up to the Chair, in terms of whether or not debate has been accomplished, and I appreciate Chairs, you know, weighing those options, kind of looking at the queue, looking at what the topic of debate is and moving forward. Similarly, as you'll note, calling the question only is on the lowest thing on the board. We haven't necessarily got to a situation yet this year. We've-- we've had two amendments and a motion and a motion to reconsider. We will at some point the session, I have no doubt, but again, calling the question is just to the very bottom of the board. So the most-- lowest thing, which if there's anybody ever leading a filibuster-- I feel like I have to share this in Senator Chambers' absence-- is why you always want an amendment or a motion pending on a filibuster, because otherwise they could just call the question on the bill. So with all of that-- I know it was a little professorial and nerdy in rules debate-- but I felt like that was a good time to share to the body because I think that calling-- specifically the call of the house, when you get stuck just short of 25, is a good thing for individuals to know so they don't get stuck at a different point, say, like in a final vote on an amendment or a final vote to advance to Select File. Wanted people to be aware that that's a right that they have and they can ask for. So with that, thank you Mr. President.

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

**ARCH:** Thank you, Mr. Speaker. I am opposed to AM640, and I-- I am very supportive of-- of LB561 without AM640 in it. We need to pass a bill

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that regulates and implements what the-- what the voters have-- have chosen. I serve on the General Affairs Committee, was present at the hearing and all of the discussions, and I'd like to explain my reasoning for my votes. I voted no on LB560 and there was-- LB560 and LB561 were two of the bills we discussed. LB560 contained the language concerning sports gambling and-- and I rise in support of the amendment to strike that sports gambling language, or I should say the -- this, I rise in opposition to this amendment to include it. The debate today concerns whether the inclusion of sports gambling language is necessary to enact the will of the people from the ballot initiative. And we had a-- had a very, very serious discussion about that in our committee on several occasions. It wasn't one vote, wasn't one discussion and one vote. We discussed it several times as to whether or not the inclusion of sports gambling was necessary to enact the will of the people or whether it is an actual expansion of gambling. And the goal of this legislation was to enact the initiative, and there are valid arguments on both sides of this issue. But I want to share where-- where I landed. First of all, I want to go back to the Initiative measures 429 and 430, because I think it's instructive. The-- the Initiative 429 read: Shall the Nebraska Constitution be amended to state that laws may be enacted to provide for the authorization, regulation, and taxation of all forms of games of chance? And that's-- those are very important words. Initiative 430 uses the same language: Shall a statute be enacted which (1) allows games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures? So the definition of games of chance is very important. And I refer you now to LB561, AM426, which-- which defines on page 34, 16 through 18, games of chance, which is already in our statute by the way. Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game or card game. Period. That's what-- that is what currently is the definition of games of chance, which is in our statute right now. In addition to that, the words "or sports wagering" were added. And then sports wagering then is defined and-- and-- and other-- other-- other lines are added specific to sports wagering. But it is not in our current definition. So as-- as the initiatives are passed, the games of chance is by definition already in our statute, did not include sports wagering. Interestingly as well, supporters of the ballot initiative were quoted prior to the-- the election that it did not include sports gambling. And I-- and I will just read one of those quotes and this is, quote, all forms of Las Vegas style gaming would be allowed except sports betting. The reason, said Lance Morgan, who's the CEO of Ho-Chunk, is Nebraska-- quote, Nebraska has limitations on how much you can authorize in one measure. Having sports betting in there created a risk. He added,

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quote, It could be made up later. So there was even a recognition early that sports wagering, sports betting was not going to be included in the games of chance and could be addressed later on a-- on a separate issue. As well, interestingly, there was an editorial in the Omaha World-Herald on February 7, 2021, that called sports gambling an expansion. And I'll just read a quick-- some quick lines from that: Nebraska casinos to be located at horse tracks and on Native American property haven't even opened but already interest groups have leaped forward to press the state for further--

**HILGERS:** One minute.

**ARCH:** --gambling expansion, namely sports betting. Nebraska has enough on its gambling policy plate without needlessly adding the complications of the sports betting issues. So again, World-Herald editorial. So I don't agree that it's necessary. I-- I do believe that-- that adding the language is an expansion and I believe it's prudent to implement what's necessary first and consider sports gambling as an expansion, not simply implementation, so I will be voting no on AM640. Thank you.

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

**LOWE:** Thank you, Mr. Speaker. Today, I rise in opposition of AM640, but hope to support LB561 in the end. The main elements of the bill I have come to live with. The people in Nebraska have spoken on many aspects of gambling at horse tracks, and while I disagree with that decision, I respect their choice. However, I do not believe that the people in Nebraska have voted on the concept of sports betting. And I am willing to make that argument because one of the individuals who sponsored, as we heard just a minute ago from Senator Arch, the ballot initiative for casino stated to the media that he does not believe the language he helped write, legalized sports betting. The person who helped write the legislation does not believe it includes sports betting. In an article-- in an article entitled Casino Measures Aim to Keep the Money in Nebraska, from July 25, 2020, it is stated that all forms of Las Vegas style gaming would be allowed except sports betting. The reason, said Morgan, is Nebraska has limitations on how many-- how-- on how you can authorize in one measure. The Morgan in question here is Lance Morgan, CEO of Ho-Chunk, Inc., one of the two main entities behind the gambling petition effort. Again, this is one of the main leaders of the gambling initiative passed by the citizens of Nebraska. He is one of the key players in the drafting of the language and, in many instances, the face of the effort. But maybe that one article is not enough to convince you. There's another article from the KMT [SIC] entitled Casino Gambling Likely Coming to

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Nebraska Ballot. As supporters say they have enough signatures. In that article, it states: If the voters pass casino gambling in November, sports betting will still not be allowed. Organizers with Keep the Money in Nebraska hope the Legislature would then pass a bill allowing sports betting. So they're predicting what we are doing at this time, even though they said that their measure did not include sports betting. Again, colleagues, it is made clear by the people who pushed the gambling initiative that they did not believe their efforts would allow sports betting. If colleagues want to push LB561 and AM426, then more power to them. However, we should be upfront about what's going on here. The voters did not vote on sports gambling. In fact, the voters were told specifically that they were not voting on sports betting by the people who sponsored the initiative. The sports betting elements to LB561 and AM426 are not required to go above and beyond the citizens-- what the citizens of Nebraska voted for. So in multiple different articles, it was stated that this would not allow sports betting, the initiative.

**HILGERS:** One minute.

**LOWE:** Then why are we doing this? Why are we adding it into the language? The language states game of chance mean any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game or card game. At the end, we add, or sports wagering. Which is what the initiative writers wanted us to do. The initiative didn't include sports wagering. They knew we would fold. They knew we would cave in. They knew we would go with it. And that's what we are going to do, I assume, today.

**HILGERS:** Time, Senator.

**LOWE:** Thank you.

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

**B. HANSEN:** Thank you, Mr. Speaker. I do want to say I appreciate Senator Briese and the General Affairs Committee for their hard work and making sure we, as a legislative body, are doing our due diligence to make sure we can regulate and put in the proper guardrails in place to uphold what the people of Nebraska voted on last year, which is, I think, what we're doing here with good debate. I just need to maybe provide a little clarity and preface some arguments with maybe how I voted last time. I did not vote on the last amendment, which I was a no vote. Probably should have been a present, not voting. I was hoping there would be a little bit more discussion, a little more debate. I

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was still kind of deciding on where I was going to lean, but ultimately I decided no, because I had-- still had some questions about the implications and regulations when it pertained to expanding-- expanding keno gambling. And in this aspect, I think there's some gray areas that I think would like to be addressed. And maybe with the hearing that's going to be coming between now and Select File, that might clear up some of those questions that I have. Some of the things that Senator Groene raised were-- were-- made a lot of sense to me. So when I do the charity, when it comes to keno gambling and bars versus a casino and the use of debit cards, I'd be kind of curious to see how those are brought up if there's a hearing coming up here soon. Because I play keno, you know, not very often, but when I'm-- when I'm out and about sometimes with friends, I'll play a game or two. I enjoy it. So I can't be too hypocritical to say that I don't play keno or that I have never gambled before because I have. But with this amendment, with AM640 right now, I am leaning yes on it because some of the arguments that Senator Wayne also laid out just does-- it is seemingly a little more straightforward and a clarification of sports betting as opposed to last amendment and how it will take place in casinos. I feel that people did vote on sports betting with the ballot initiative. And however this vote goes, it may not even be up to us as a Legislature, but may end up in the courts, which is maybe where it deserves to be. So I think we can at least hash this out best we can by being the voice of the people before it does go to the court, if it does, to determine maybe where we want to go with it as well. So just want to explain a little bit about my vote on the last amendment, possibly where I'm leaning on this one. And ultimately, I will be voting for LB561, the underlying bill. And with that, I will yield the rest of my time. Thank you.

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

**WAYNE:** I understand if this-- thank you, Mr. President. I understand if we're just going to be against a bill to be against a bill, but I think we should deal with real facts, and that's where I'm struggling, and I'm-- and I'm-- I'm just struggling because it just doesn't make sense some of the arguments that I'm hearing and-- and I can't figure out the gap between the plain language and what people are saying. We weren't told the truth during the campaign. That happens in every campaign. There's a negative flier that takes one thing and says it's something else. There is a positive flier that says something, and you look back and, like, ah, there's a little nuance to that. That is what happened. Call a spade a spade, that is what happened. You may not like it, but that's what happened. So Senator Lowe, the section that was added is Section 5 and it says, this section of the cons-- of the



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Constitution. Now, let's talk about legal-- legalities here for a second. Constitution is first. Statutes are second. So if a court is going to see something, they're going to look at the Constitution first, regardless of what the statute says. They're going to look at the plain language of the Constitution. And Section 5 was added, shall-- this section shall not apply-- I'm going to keep going-- blah, blah, dot, dot, dot-- then it says, taxation on all forms of game of chance when such games of chance are conducted by an authorized gaming operator with the-- within a licensed racetrack enclosure. All forms-- all forms. Everywhere else in the Constitution in this section it says, lottery, it says this, it says that; it specifies. This last section that was passed, says "all." And when you think of all forms of game of chance, sports wagering is one. And we want to talk about what the intent of the-- the drafter says, you don't get there unless there is ambiguity. There's no ambiguity in the word "all;" it's all. You can't say, well, could all mean a few? Can all just mean everything but sports wagering? No, all is all, so it makes sense. And how do I know it makes sense? Because the people who were against it-- and this is a document you guys can go look at, an information pamphlet handed out by our Secretary of State who was against the gambling initiative, but handed out by him an official document. And it reads what the opponents-- when it talks about arguments for and arguments against 429, it talks about all games of chance will be legal, including online slot machines, table games, cell phones, etcetera, etcetera-- all games. The voters knew what they were voting on, and, yes, was this a gray area? Yes. Did people play politics in a-- in a petition? Absolutely. They knew sports wagering was probably divisive. So of course, they're going to say, well, you know, it's really not included, but the language is "all." This is clear, so if you vote this down, there will be-- there will be sports raising operations, it's going to happen. And I look forward to being that attorney because I'm going to say, Supreme Court, the word is "all." That changed. Before in this section of the Constitution, it says, lottery is this and defined as this. Parimutuel racing, which was considered a game of chance, had to be added for horse tracks. So it's specified. But then this year, last year, we passed language that said "all." So we can splice it as much as we want, Senator Lowe, but--

**HILGERS:** One minute.

**WAYNE:** --we can't get around the word "all." All means all. And that's what we're trying to regulate now, is all. So the biggest anti-gambler in this body should be supporting this amendment to make sure you're not voting on college Husker games. That can change everything. That's

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what Tom Osborne said, allowing people to vote on college football will change the game. Allowing Adrian Martinez to-- whether he's going to complete a pass or not, the last second could be betted on if we don't pass this. Senator Briese and I went back and forth about whether that should be allowed, but I believe in some regulation on this. So if somebody can tell me the definition of "all" doesn't mean all, then we can have that conversation about the will and the intent and-- and--

**HILGERS:** Time, Senator.

**WAYNE:** --what people might have voted on. Thank you, Mr. President.

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

**GEIST:** Yes, Mr. Speaker, thank you. I've been enjoying the debate and-- and I know what Senator Wayne has been talking about versus just the general, was this really intended? This was what I was thinking and discussing with my staff before we even came out here today to discuss this bill. And I guess a lot of us don't like to think that politics are played in-- in a situation like this or or in a-- in a ballot initiative. I guess it's naive to think that it's not. However, in looking at the language of the bill and adding sports wagering to the language, and needing to add that, is what was the final straw that pushed me one direction to say that I'm not going to support this amendment. I do support 100 percent LB561 and-- and the regulations and all of that. But I'm not in favor of sports betting. I am a gambling moron. I have-- I'm-- Senator Linehan and I, I think, have a very similar experience, which is none in gambling. And so I can't speak as a-- as a pro on this issue of how things work and all of that. That's not-- however, in a matter of policy, it seems to me if you have to add something to the statute-- and even though it says all, if it means all, then why do we need to add language to the statute to make sure that it's included? So again, that's-- that was the final thing that-- that pushed me over the edge to think that this is an addition. This is an expansion of what the voters actually thought they were voting for. So with that, that's how I made my decision that will explain my vote in the no. And that is pretty much all I have to say on this matter. So thank you. It's been a good discussion and I appreciate it. I'll have to add, I do appreciate the-- the work of the committee. I know that Senator Briese has worked really hard and, in the sense of how this has taken sports betting and very much made it prescriptive and narrow, I do appreciate that. So should this pass, with regret, I would say, too bad. However, I appreciate the work of the committee. They've done what they feel that

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the voters have asked and they've done it well. So with that, I thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Geist. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR57 and LR58. Mr. Clerk, for items.

**CLERK:** Mr. President, amendments: Senator Flood to LB255; Senator Kolterman to LB250; Senator John Cavanaugh to LB320, those to be printed. The Executive Board reports LR29 back to the Legislature for further consideration. Enrollment and Review reports LB83 and LB371 to Select File. New Resolutions: Senator Wayne, LR68, that will be laid over; LR69 is an interim study, that will be referred to the Executive Board. Announcement: Government Exec Session at noon today in Room 1507; Appropriations at noon today in Room 1301. Name adds: Senator Slama to LB84; McCollister to LB320; Ben Hansen, LB376; Brewer, LB452; Blood, LB661; Matt Hansen, LR29; Walz, LB241 (SIC withdrawn). Mr. President, Senator Aguilar would move to recess the body until 1:30 p.m.

**HILGERS:** Thank you, Mr. Clerk. When we come back from recess we'll keep the queue, which is Senator Briese, Senator Lowe, Senator John Cavanaugh, and Senator Hunt. Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. We are in recess.

[RECESS]

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

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

**FOLEY:** Thank you, Mr. Clerk. Mr. Clerk, do you have any items for the record?

**CLERK:** I have nothing at this time, Mr. President.

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

**LINEHAN:** Thank you, Mr. President. I rise today with very sad news. Dwite Pedersen, who served in this body from 1993 until 2008, passed away this week. I first heard of Dwite the morning after the 1992 primary. I was the executive director of the Douglas County Republican

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Party. Dwite was in a three-way, three-way race for the Elkhorn legislative seat. The race included a Democrat, a Republican, and Dwite, an Independent. When I went to bed that night late, thinking I'd done such a great job, I woke up the next morning and found out that not my Republican candidate, but Dwite, this Independent I didn't know, had beat us. And then what I noticed is Dwite did not have widespread support across the district, but in three precincts he garnered almost every vote. I'd never seen that kind of support for anyone before. So I called him and asked him if he would consider becoming a Republican. And since he was running against a Democrat, it was in all our interests and he said yes. And we were political allies ever since. He-- he helped win, well, whenever I was working on a race he helped. And when I decided to run for this office, he endorsed me and did all the things you need people to do. I know many of you knew Dwite. He had a heart of gold. He's the kind of gentle man that you expect to go straight to heaven. I really doubt Dwite will spend any time in purgatory. While in the Legislature, Dwite sat on Transportation Telecommunications Committee and served as Vice Chair of the Judiciary Committee. He was also named Chairman of the Committee on Committees. After being term limited, he did not give up. Senator Pedersen ran for the Learning Community Coordinating Council, where I think he served with Justin Wayne, and Senator Chambers, and Rick Kolowski. As a matter of fact, Rick Kolowski, our former Senator Kolowski and Senator Pedersen won a seat on the Learning Community in a crowded field of 11 candidates. And Dwite would be very mad at me if I didn't say this. Dwite married "Poe" Priscilla Dougherty on April 3, 1970. He-- she was absolutely the love of his life. They were married at the Holy Name Catholic Church in Omaha. After living in Omaha for two years, Poe and Dwite moved to Elkhorn and became members of St. Patrick's Catholic Church, where I would see him every once in a while. And I just saw him like maybe three weeks ago. They raised four amazing children. Dwite's beloved wife passed away in 2011 after 41 years of marriage. Dwite was a licensed alcoholic and drug addiction counselor and a career counselor for private practice. The reason he won all those votes in those three precincts is because he was who parents called when they had kids who had issues and who were in trouble. He was beloved. He worked with troubled youth for nearly 40 years, being a member of the Nebraska National Associations of Alcoholism and Drug Abuse Counselors. So we'll all pray for you, Dwite. His visitation is Monday, March 22, from 5:00 to 7:00 p.m. at St. Catholic, excuse me, St. Catholic's-- St. Patrick's Catholic Church in Elkhorn, and his funeral will be on Tuesday, March 23, at 10:30 a.m., also at St. Patrick's. So thank you, Mr. President.

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**FOLEY:** Thank you, Senator Linehan. Members, we're going to pick up where we left off this morning with the discussion of the second division on LB561. In the speaking queue are Senators Lowe, Hunt, and Briese. Senator Lowe, you're recognized.

**LOWE:** Thank you, Lieutenant Governor. Once again, I rise and I am opposed to AM640 basically because I don't believe the initiative raised sports betting. And it was pretty thorough with all the articles that were published saying that sports betting would not be included. So I believe the public interpreted that as sports betting was not included. But right now, I'd like to ask Senator Briese a few questions.

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

**BRIESE:** Yes.

**LOWE:** Thank you, Senator Briese. On page 1 of the AM640, line 19, what is the definition of a simulated game that would be allowed to be bet on?

**BRIESE:** Well, I would assume it's a virtual game, perhaps computer driven. These-- this particular definition was derived from Iowa statutes, and they've been doing sports betting for some time, and we felt that was a good place to start. And we incorporated some of these items, again, to establish some parameters that we thought were important and consistent with the Nebraska values. And some of these will certainly reflect that. And as far as virtual games, simulated games, I'm assuming Iowa does that. I'm fairly confident New Jersey does something like that with their sports betting. But it would be a computer-driven game, might be similar to NB-- NBA 2K or Madden, one of the Madden games.

**LOWE:** OK, thank you very much. And then on line 20, the amendment states that a fantasy sports contest is not an authorized sporting event. Does in this way, does it any way ban fantasy sports leagues in Nebraska?

**BRIESE:** No. I would say that that would simply-- does not authorize that within the context of these racetrack casinos. That, in my view, does not ban fantasy sports in Nebraska. That's a different issue. And to the extent fantasy sports are played for compensation or paid-- or played for a prize with consideration given, there's certainly an argument that they are not yet legal or authorized in Nebraska anyway. I don't think this adds to that except in the casino context.

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**LOWE:** Could someone still have a fantasy NFL league or a NFL league on ESPN if-- could they enter one of those?

**BRIESE:** Yeah, that-- that-- that would depend on who you ask. There's still the argument that fantasy sports are predominantly skill based, but to the extent someone pays admission or an entry fee in that and is playing for a prize, it might-- might not be legal in Nebraska.

**LOWE:** How about like the NCAA bracket if this was enacted?

**BRIESE:** Well, gambling in Nebraska is defined as an activity that entails a chance, prize consideration. And to the extent that that bracket entails payment of consideration and the potential prize, then technically it would probably not be legal. If-- if you didn't have to pay an entry fee or if it wasn't for a prize, then it'd be a different story, I would think.

**LOWE:** All right.

**FOLEY:** One minute.

**LOWE:** Thank you, Lieutenant Governor. On-- then again on line 20, the amendment states that a fantasy sports contest is not an authorized sporting event. What is the difference between a simulated game and fantasy sports contest?

**BRIESE:** Well, I would assume that, well, the simulated game, to the extent it is an authorized game here, that would be a game of chance. And many people would argue that a fantasy game is more so a game of skill. Again, that's subject to debate. We've debated that very question, I think, in committee and probably on the floor of the Legislature. But one would be perceived as a game of chance, the other maybe more so with more of a skill element.

**LOWE:** All right. Thank you, Senator. Briese.

**FOLEY:** Thank you, Senator Lowe and Briese. Next in the queue is Senator Hunt. Is Senator Hunt on the floor? I do not see her. We'll pass over Senator Hunt and move to Senator Briese.

**BRIESE:** Thank you, Mr. President, and good afternoon, colleagues. Nebraskans overwhelmingly approved the ballot proposals in November, and I feel it's our job to ensure that the voters' will be respected. If I felt AM640 was an expansion of gambling beyond the voters' mandate, I wouldn't be bringing it and I wouldn't be supporting it. And whether it was intentional or inadvertent, sports betting was on

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the ballot in November and Nebraska voters overwhelmingly adopted it. And some might ask, still might ask, why should we recognize that? Because as policymakers, we have an obligation to ensure the will of the voters is respected. And I've had folks suggest to me that they may someday resort to the court system to clarify this if we don't. But we are the legislative branch. We are the policymakers. And instead of letting lawyers and judges decide an issue, it is incumbent on us to take the necessary steps to implement the will of the people. And even if you don't like sports betting, I would suggest that we should lock it into the racetrack casinos, tax it at 20 percent, and place some parameters around it, parameters like that are in AM640: a restriction on proposition bets on events involving Nebraska teams; restrictions on betting on games in which kids below 18 participate; requiring sports bets to be placed in person and requiring it to occur, sports betting, to occur within from a designated area within the casino; and requiring location detection procedures to ensure off-site betting doesn't occur. And someone earlier did reference an Omaha World-Herald editorial from February. And I recall reading that editorial. But on March 4, the same editorial board published an editorial applauding the General Affairs Committee for the restrictions in AM, in the amendment that we put out. They also recognize that when the voters approved the measures, quote, as a technical matter of law, they quite likely also gave the go ahead to sports betting, unquote. They also said that, quote, Briese and others are probably correct, that given the legal realities, the Legislature must now address sports betting. And I do note they even suggested that maybe we're being too restrictive with our amendment, stating that, quote, restricting sports betting to designated areas of the casino seems overly restrictive. And so again, I think it's important that we put these restrictions and parameters in place. This is our opportunity to do so. And it's important to ensure that the will of the voters is respected. And I would encourage your adoption of AM640. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Briese. Senator Lowe, you're recognized, your third opportunity.

**LOWE:** Thank you, Lieutenant Governor. If Senator Briese would answer a few questions for me again.

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

**BRIESE:** Sure.

**LOWE:** Thank you, Senator Briese. I want to continue asking you a few of these questions that I have. On line 23 in page 1 of the amendment,

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LB560, what is the thought process of someone betting on-- on allowing somebody to bet on the Kansas City Royals, but not on a Sarpy County based minor league team?

**BRIESE:** Yeah. No, that's a good question, Senator. And again, these are based on Iowa statute. But it's-- it is my understanding that most sports books do not have a line, so to speak, or accept bets on minor league, on minor league games. I understand it's-- it's difficult for the oddsmakers because of the nature of minor leagues to basically establish a line, I believe. And so it's typically not done in the industry, is my understanding.

**LOWE:** All right. Thank you. And once again, on line 1 or on page 1 in line 23, it states that a person cannot make a bet on a sporting event in which a person under the age of 18 is a participant. Why did you choose the age of 18 when the age of majority in Nebraska is 19?

**BRIESE:** Again, based on Iowa, but it's my understanding also that most states limit sports betting to activities, prohibit sports betting on activities involving participants under the age of 18. I think 18 is kind of the standard across the industry, I've been told.

**LOWE:** OK. To continue on with that point. I want to touch base on something like professional soccer, here in the United States is a sport in which younger athletes are often allowed to play. For instance, Sporting KC, Kansas City soccer team, had a player on their team that signed a contract at the age of 15. He played in his first Major League Soccer game at the age of 16. How would a sports book be required to deal with this?

**BRIESE:** Yes, and that also is a good question, Senator. Again, based on Iowa statute, but it is my understanding that the age, that can be problematic in the industry, and that is an issue that a lot of states and jurisdictions have wrestled with. You know, it might be better to categorize sports as professional, collegiate and perhaps international, separate them out from anything else, for example, high school or other categories. There might be a better way of doing that, because I think you do point out a potential problem there in enforcement and application. But also much of this probably could be addressed through the rulemaking process and which-- which would be fine also, I think, as long as we're not limiting our rule-- rule-making body by legislation we've put in effect.

**LOWE:** All right. Thank you, Senator Briese. I appreciate your answers. Just to let everybody know that I gave Senator Briese a heads-up on all of these questions so I would not hit him blindsided because I



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wanted him-- wanted these answers on the record as well as the questions, because I know tennis has many players and golf has many players that are under the 18-- the age of 18 that play professionally. There is also--

**FOLEY:** One minute.

**LOWE:** Thank you, Lieutenant Governor. There is also hockey. And so I just-- over the lunch hour, I looked up the top 100 best hockey players under the age of 21, and I only went through the top 25. Below that top 25, there are many, many, many more. But there's Jack Hughes. He's, at the age of 18, he's position number 6 on the top 100. He plays for New Jersey in the NHL and he was drafted in 2019. There's Aatu Raty. He's 16. He plays for the team from Finland. He was drafted last year. There's Shane Wright, who is 15, he plays for The Kingston OHL.

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

**LOWE:** Thank you, Lieutenant Governor.

**FOLEY:** Thank you, Senator Lowe. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Mr. Lieutenant Governor. Thank you, Senator Brieser, for bringing the committee bill. To everybody that's listening, welcome to the General Affairs Committee. It's a really fun committee. We do liquor, cigarettes, gambling, cemeteries, and libraries. So it took us three weeks to get over the hurdle on this bill. And you all get to experience this. And it was a simple question. Did the voters of the state when they approved this vote for sports betting? And we came to the conclusion that they did and that we would put guardrails on it, and knowing whichever way this goes, there will probably be a court challenge to it. So I stand in support of this. I would urge your green vote on AM640. And with that, I would yield the rest of my time back to the chair.

**FOLEY:** Thank you, Senator Brandt. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. I was looking back at a bill from last year, LB971 in 2020. And I wanted to read from testimony from Tom Osborne, who had some insights that I think are important to hear: Tom Osborne. I'm testifying in opposition to LB971. So I'll mention a few things here. First of all, my opposition is based on the fact I've always seen gambling as being based on a fraudulent premise that the gambler will make money over time, and oddsmakers make sure that this is mathematically impossible. And I think we all know that over time

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you don't really make money. Back to his statement: Gambling produces nothing new which is of value. It redistri-- redistributes wealth often to outside gaming interests and usually impacts most-- impacts most those who can least afford it. It is the equivalent of a highly regressive tax. And so the other thing I'd like to mention is this. Legalizing gambling greatly increases the number of gamblers, as people who would shy away from illegal activity now choose to gamble because it is given the stamp of approval by legal authorities. And so in states where they have legalized sports gambling, the number of sports gamblers has increased exponentially. In countries such as the United Kingdom and Australia, which has legalized sports betting, gambling advertising has flooded the airwaves. Research has shown that in the UK, most young people associate sports with gambling because the number of ads has increased to such a degree that more gambling ads than other kinds of ads are on sports events. One half of UK teenagers believe that gambling on sports is a good way to make money, again because of the influx of advertising. Often fans demonstrate their loyalty to their team by betting on the team. Such bets are based more on emotion than reason and often entail amou-- amounts of money the fan can ill afford to lose. And so if you're a big Nebraska fan, sometimes you want to emphasize your loyalty like by placing a bet. And sports fans are inundated with information about Nebraska and they don't know much about the other teams and they have just assumed that maybe Nebraska is going to win. And so legalizing sports gambling will make it easier to bet on such things as first downs, turnovers, yards gained in football, whether a free throw will be made or missed in basketball, whether a baseball batter will get a hit or strike out. And so I think I'm going to stop with that and ask, would Senator Briese yield to a question?

**FOLEY:** Senator Briese, will you yield, please?

**BRIESE:** Yes, I would.

**CLEMENTS:** Senator Wayne stated that all games of chance were authorized by the voters. I disagree. I believe this bill is defining the term games of chance. I don't think they wanted to authorize dogfights and cockfights and other type of gambling that was the intent of the voters. Do you think all games of chance were authorized by the voters?

**BRIESE:** Thank you for the question, Senator Clements. When they authorized-- the plain language would suggest that games of chance are authorized.

**FOLEY:** One minute.

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**BRIESE:** As far as some of those other examples you gave, I won't harbor an opinion on that. I haven't really studied that issue. But relative to sports betting, I submit that the plain language of what they approved entails and includes sports betting.

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

**FOLEY:** Thank you, Senator Clements and Senator Briese. Senator Wayne, you're recognized, your third opportunity.

**WAYNE:** Thank you, Mr. President. Would Senator Clements yield to some questions?

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

**CLEMENTS:** Yes.

**WAYNE:** Senator Clements, would you-- do you know that dogfighting is actually illegal in the state of Nebraska?

**CLEMENTS:** Did you say illegal?

**WAYNE:** It's a, yeah, it's illegal-- dogfighting.

**CLEMENTS:** I wasn't sure.

**WAYNE:** Yes, it is. So it's the underlying event that's illegal. So therefore, you can't bet on an illegal activity. Second, do you invest in stocks?

**CLEMENTS:** Yes, I have.

**WAYNE:** Explain to me the difference between investing in stocks and placing a sports wager.

**CLEMENTS:** Well, I expect to make a gain on the stocks based on history and analysis, and I expect to lose in gambling.

**WAYNE:** So don't you think a sports-- you don't think a sports better or wager expects to win and looks at the overall game and what's going on in-- analys-- does an analysis on the game itself?

**CLEMENTS:** I think the risk is much higher. They may think they're going to win, but I believe the oddsmakers prevent that.

**WAYNE:** And so if that's the case in the stock market, are there high-risk stocks you can buy and low-risk stocks you can buy?

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**CLEMENTS:** Yes.

**WAYNE:** So in the sports world, if there's a number 1 seed versus a 154th seed, that would be considered a low risk, whereas a number 1 versus a number 2 might be a high risk, which is what the odds actually set on how much that risk is. How is that different than the stock market?

**CLEMENTS:** Well, I'm not really a gambler. I can't really identify that, but I think the point spread's going to be set accordingly by someone.

**WAYNE:** Just like speculation in the stocks, right? Like you-- Wall Street says we project that Union Pacific is going to gain four points in their earnings this year. And that's a speculation, correct?

**CLEMENTS:** If that's how you're investing, yes.

**WAYNE:** So, again, it's OK to invest, but not OK to gamble. But essentially they're the same thing. We're-- we're taking a chance on the market. Right?

**CLEMENTS:** I would compare what you're talking about more as day trading. And I think an investor is looking at long term where it's pretty hard to bet on the long term over five or ten years.

**WAYNE:** OK, so even if we broke that down, we would say day trading. So you said you were unsure if the voters meant all. Can you give me a definition of all that doesn't mean all?

**CLEMENTS:** What I'm-- let's see. What I'm saying is maybe they did say all games of chance, but games of chance then I believe the Legislature defines-- put the definition on games of chance. I think that's what the bill is doing.

**WAYNE:** So you're a-- you're a banker and words in your industry mean a lot. And so if I sign up for a mortgage and you say list all your income, does that mean all my income or just what I think is relevant?

**CLEMENTS:** That means all of your income, yes.

**WAYNE:** So why is it in banking you-- you assume that I know what all means in a-- in a contract, but we don't assume that voters know what all mean in the Constitution?

**CLEMENTS:** I'm saying the definition of income was what I'd be going with there, all your income. You might say income needs to be defined.

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**WAYNE:** So let's-- let's go a different direction. You agree that the Constitution carries more weight than a statute.

**CLEMENTS:** Yes.

**WAYNE:** And you agree that if the statute is in conflict with the Constitution, the Constitution shall prevail.

**FOLEY:** One minute.

**CLEMENTS:** Yes, I would have to agree to that.

**WAYNE:** So if the Constitution says "all," the-- the senators or the Legislature can't take the word "all" and define it more narrowly, would you agree with that?

**CLEMENTS:** I'm trying to define games of chance, but all does mean all.

**WAYNE:** OK, so games of chance have been defined by the federal government, by multiple people, as anything that has a chance. And since it's "all" then I think you have to say all games of chance, which means anything that you can bet on, all. I mean, it's pretty simple. So I'm trying, I'm really trying to figure out what you're saying. I'm leaving that last 30 seconds for you.

**CLEMENTS:** All right. Thank you. Well, I don't believe that some games of chance should-- are intended to be-- there's a lot of different ways that you can gamble.

**FOLEY:** That's time, Senator, but you may continue on your own time now.

**CLEMENTS:** Thank you. Thank you, Senator Wayne. That's-- he's a good attorney. I'm not an attorney. And just got off the witness stand, thankfully. [LAUGHTER] Thank you, Mr. President. I wanted to go on with Tom Osborne's testimony that also talks some more about the gambling objection. He says: I spent a lot of time in coaching. And so over those 25 years, I'd say most of the really unpleasant interactions I had with fans involve somebody who lost a bet. You're naturally unhappy if your team loses, but if your team loses and you lost \$1,000 you can't afford to lose, you're really unhappy. And sometimes you'll write letters that are very, very hurtful. To the coach, I think he means. But now with social media, you can really put some invective stuff out there in a hurry. And it isn't just towards your coach, it's towards the players. Nebraska's known as having one of the more friendly, fan friendly, hospitable places in the world to

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see an athletic contest. And this is not just for our fans, but for visiting fans. And I think anything that you do which causes the environment to be more toxic is something that most Nebraskans would not want. And so I think for that reason and the fact that we can at least learn from other examples, like in places where it has been legalized, other countries then legalized, it has detracted from appreciating the skill. And the actual action on the field is no longer the central activity. It's more did I win a bet on this segment of the game, this turnover, this number of strikeouts, whatever. And eventually you attract a large number of fans who are simply there to look at the number of bets they can place and how much money they can make and/or lose, I think that changes the nature of the event. For those reasons, I'm in opposition and I appreciated Coach Osborne's point of view on that. And that's why I'm speaking, opposing AM640. But LB561 has been described as putting guardrails around the casino portion, and I believe that probably is important. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Clements. There's no else in the queue. Senator Briese, you're recognized.

**BRIESE:** Thank you, Mr. President, and I'd like to thank everyone for the great debate and discussion on this bill. And I certainly appreciate and respect the concerns of those who have objected to this. And I share, always have shared those similar concerns about expanded gambling and-- but when Nebraskans signed off on games of chance, they signed off on sports betting at these casinos. And I drafted LB560, now reflected in AM640, in an effort to clarify what Nebraskans approved in November and to establish some parameters around this activity, parameters and limitations that are consistent with what the voters approved and consistent with Nebraska values. Keeping AM640 in place ensures that these parameters and safeguards are established in statute. Colleagues, it's our obligation to help define what sports betting looks like in Nebraska, and the parameters and safeguards in this bill allow us to meet our obligation to do so. And I'd ask for your green vote on AM640. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Briese. Members, you heard the debate on division two of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 31 ayes, 10 nays on adoption of the second component of the committee amendments.

**FOLEY:** Second component is adopted. Senator Briese, you're recognized to open on the third component.

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**BRIESE:** Thank you, Mr. President, and good afternoon again, colleagues. AM641 to LB561 contains all of the prior text of LB561, which merges language currently in the Racing Commission statutes with the language passed in the voter initiative to create the State Racing and Gaming Commission. It sets the terms of the two new at-large members of this commission and gives the commission members compensation of \$1,000 per month, as was in the voter initiative, and along with expenses, which is currently in statute for the Racing Commission. This section also prohibits any member of the commission from having any personal financial interest in any licensed racetrack enclosure. The secretary of the commission is renamed in this amendment as executive director in keeping with industry and state agency practices. The commission is authorized to employ deputies that will carry state deputy sheriff designations per Nebraska Revised Statute 81-106, 84-106, excuse me. These personnel will serve as investigators and security personnel to administer and enforce regulation of the Nebraska Racetrack Gaming Act, as they currently do for the State Racing Commission. The amendment also grants authority to the commission to issue directives outside of the Administrative Procedure Act to ensure the will of the voters is carried out without delay. The regulatory process will be very important to full implementation. It is very important also that it be done in a timely manner and we have granted-- in the green copy initially and in the amendment, we have granted authority to the commission to bypass the Administrative Procedure Act and provide guidance for operators and participants through the issuance of directives. Again, this is simply an effort to give this-- to give the commission this option in order to do its job in a timely manner. However, after discuss-- discussing this issue with several folks, we're going to alter this provision as per directives and line up a little closer to the Administrative Procedure Act on that. This amendment sets the legal age for pari-mutuel wagering at 21 to be consistent with the legal age for gambling at a casino. The amendment removes a requirement that the commission maintain a 10 percent reserve fund balance in their cash fund. The commission requested we remove this requirement as most agencies who operate from cash funds are not required to adhere-- to adhere to the same policy. Remaining sections in the amendment contain language from LB560 needed to implement the voter initiative, with the sections on sports wagering removed and placed into AM640. It authorizes the commission to administer the Nebraska Racetrack Gaming Act. It also adds new language, giving the commission the authority to establish a process to allow a person to voluntarily exclude himself or herself from wagering in any game of chance under the act. The Racetrack Gaming Fund is created to be used for the administration of the act, and new language requires any person applying for a gaming

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operator license be subject to fingerprinting and criminal history record background check. This section also prohibits credit cards from being used for gambling. There are a number of criminal provisions contained in the amendment that provide penalties for cheating, forgery, manufacturing, fake gambling equipment, and other items. This amendment also adds a provision allowing the commission to issue a tax lien in the event that any person who is liable to pay taxes or fees but neglects or refuses to do so. I would ask for your support of AM641. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Briese. In the speaking queue are Senators Lowe, Hilgers, and Clements. Senator Lowe, you're recognized.

**LOWE:** Thank you, Lieutenant Governor. I ran out of time this last time because I ran out of times I could push my button. But I wanted to continue with Senator Briese on a few questions that were raised during debate on the last amendment. So would Senator Briese yield to a couple of questions?

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

**BRIESE:** Yes, I would.

**LOWE:** Thank you, Senator Briese. It was brought up that maybe you couldn't bet on Husker football or Husker sports because of this last amendment. Is that true?

**BRIESE:** No. I believe that the language only prohibits, I think, what you would call a proposition bet, in other words, a bet on the individual performance of an athlete in a game in which a Nebraska team is playing.

**LOWE:** OK, so we could bet on the Husker-Oklahoma volleyball game.

**BRIESE:** Yes, we could--

**LOWE:** OK.

**BRIESE:** --under the current language. Yes.

**LOWE:** All right. How about like the Husker swim team?

**BRIESE:** Yes, I believe so.

**LOWE:** OK. And when it comes to-- in the last amendment, there was on page 3, lines 1 through 4, it states that no wagers will be allowed in international sporting event in which a participant in the



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international sporting event is under 18 years of age. As I recall, the Olympics has many young athletes. So in Nebraska, would we not be able to vote on any event in the Olympics then?

**BRIESE:** I think the language refers to that specific event, excluding the ability to vote or, excuse me, to bet on that specific event if there was a participant under the age of 18. And again, that is one of those little more difficult issues, I think, that other jurisdictions have struggled with. We could just simply include all Olympic events and forget about trying to exclude those with the younger ages involved.

**LOWE:** OK.

**BRIESE:** My-- my, go ahead.

**LOWE:** There's also the World Cup in soccer, so we would also probably have to do the same for that. What about tournaments hosted in Nebraska or something like that? Would proposition bets be able to be placed on a team not from Nebraska in that event in the tournament?

**BRIESE:** If a Nebraska team is participating, I think proposition bets on players from other teams are also prohibited, I believe.

**LOWE:** All right. Thank you very much. Would Senator Wayne yield to a question?

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

**WAYNE:** Yes.

**LOWE:** Thank you, Senator Wayne. You seem to be the most knowledgeable on-- on gambling. I think it's all hearsay. But and anyway, in our General Affairs Committee, it's always Senator Wayne that we look to for answers about gambling. What exactly is a proposition bet?

**WAYNE:** Oh, I don't know. I don't-- I don't do a lot of sports wagering. I can call a couple of clients and get back to you on it, though.

**LOWE:** OK. I thought you might have some knowledge on that.

**WAYNE:** I could find out. I know. I don't-- I don't do a lot of sports betting.

**LOWE:** OK. Thank you, Senator Wayne. You know, when I go back to the athletes-- and you don't think of a young athlete in a professional

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sport. You think of somebody out of college that is continuing their athletic career. But as I look at-- we have hosted many players in the USHL league for the Tri-City Storm at our home. And when they come to you, they're 16-year-olds. And many of them--

**FOLEY:** One minute.

**LOWE:** Thank you, Lieutenant Governor. Many of them get recruited before they reach the age of 21. We had one player that was with us for just a very short time. He was still in high school and he got recruited to go play professional hockey in Canada. Now, he was 17 years old. That 17-year-old was playing professional hockey. There's another one here that is now 18, but last year when he was 15, he played for the Rangers. And he's playing for them. He is not on the bench. He's playing for them. And the line says it's only a matter of time before he lands on the top line, that's the first line of his hockey team. And he's 18 years old now.

**FOLEY:** That's time.

**LOWE:** Thank you, Lieutenant Governor.

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

**HILGERS:** Thank you, Mr. President. Good afternoon, colleagues. I rise generally in support of AM641 and I rise today partly for record, partly to give notice to Senator Briese and other proponents of the bill about a particular issue that I have with AM641, which if it isn't addressed between General and Select, I will not support the bill if it gets on. And so I just wanted to take a few minutes now to describe what that issue is and why it's important. And also-- also say on the front end that I've already spoken to Senator Briese about this. He knows my issue. We talked about it yesterday, and I'm confident that he and I will work together one way or the other to find a resolution to this issue. So taking a step back, the law, as currently provided in state statute in Chapter 84-901, is the Administrative Procedure Act. And that allows-- that-- that covers rules and regulations that are-- that are promulgated by agencies and commissions in the state of Nebraska. And that process is-- is laid out in statute. And it is a-- it is one that is filled with guardrails and checks and balances to ensure that the rules that do get promulgated are ones that are sound, that provide fair notice to the public, and that can be relied upon. And I agree with Senator Briese and he said this in his opening, that a strong regulatory structure is very important in implementing the petition and in this bill. The problem is that this amendment removes the State Racing and Gaming

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Commission from the, the APA. So if right now, if an agency or commission wants to promulgate a rule, they go through multiple steps, each one of which is very important. So, for instance, they will provide notice of the proposed rule. They will allow the public time to review it, comment it. They'll have a public hearing. After the public hearing, it goes to the Attorney General's Office. The Attorney General will review for the law's or the rule's constitutionality or other potential legal defects, and eventually it goes to the Governor, the chief executive, to finally sign off on the rule. At the end of that process, you can be pretty confident that those rules have been vetted by the public. The public has had notice of the rules, that at least some vetting of the constitutionality--

**FOLEY:** Mr. Speaker, excuse me. Members, we cannot hear the Speaker. Please continue.

**HILGERS:** Thank you, Mr. President. There's been some vetting, significant vetting of the constitutionality or other legality of the rule itself, and that the-- that someone who is politically accountable to the state of Nebraska, that the Governor has signed off on the rule. What this amendment does on page 5, lines 22-24 says no. The Racing and Gaming Commission's directives will not have-- the APA will not apply to those directives. And I think that is a grave mistake, colleagues. That commission is unelected. This is an important area of the law. We have to get it right. And I think it would be a grave mistake to give that commission the authority to be able to issue rules without any of the checks that I just described, without any notice to the public, without any review for legality by the Attorney General, without any sign-off by an elected, accountable governmental official. I think that would be a grave mistake. Now I spoke with Senator Briese, we've spoken about maybe some of the reasons or rationale behind this. I understand from a timeliness perspective the need, the desire to have rules and regs implemented, promulgated relatively quickly, or at least soon enough to be able to see the will of the people done. I understand that. I appreciate that concern. I'm sensitive to it. My hope is that there's a way that we can balance my concern with ensuring that we've got these guardrails that have served us well for decades, that those guardrails remain in place for the rules that are implemented through the Racing and Gaming Commission while also, I hope, balancing the needs that Senator Briese has-- that he has identified and the reason why the language is in here. So on General File, I want to be clear, I intend to vote green on AM641 and I'll vote green on the underlying bill. But I want to be equally clear that if this issue is not addressed at Select File,--

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**FOLEY:** One minute.

**HILGERS:** --I will bring an amendment to-- thank you, Mr. President-- I'll bring an amendment to strike. If the issue is still-- if this language is still in the bill, I will not support LB561 either on Select File or on Final Reading. So I do appreciate Senator Briese in his work and the collaboration and dialogue that he and I have had, and I look forward to working with him between these two stages to get this resolved. Thank you, Mr. President.

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

**CLEMENTS:** Thank you, Mr. President. The defense calls Senator Wayne, I mean, would Senator Wayne yield to a question?

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

**WAYNE:** Yes.

**CLEMENTS:** Thank you, Senator. Wayne. When we were discussing all games of chance being authorized, you said, oh, dogfights couldn't be done because they're illegal. But I thought you said all games of chance were now legalized. How would you explain that?

**WAYNE:** Simply. So the underlining event can't occur because it's a criminal activity. So let's say me and you have a-- you and I have a dogfighting competition. We would be charged with a crim-- a criminal act for dogfighting. What we wouldn't be charged, at least I would constitutionally challenge, somehow we broke a law by gambling. So it's the underlining activity. So I have a bill, hopefully consent file, on bare knuckle fighting. So we can't bet on bare knuckle fighting right now because it's not regulated or authorized underneath Nebraska's law. It's a criminal activity.

**CLEMENTS:** Thank you. That does explain it. And thank you for answering that question. I would yield the rest of my time to Senator Lowe.

**FOLEY:** Thank you, Senator Clements. Senator Lowe, 3:40.

**LOWE:** Thank you, Senator Clements. And thank you, Lieutenant Governor. You know, this has been an interesting day. It's been full of pots of gold and leprechauns. But it is a good day. We're getting things out in the open and that's good for us. You know, the-- you know, I keep going back to minors playing. You know, most of the time, these 15-year-olds or 16-year-olds would be in their latter days of middle school or early high school, so that's what we're going to be gambling

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on or not gambling on. And if the team has one of these young people on their team, does that mean that the bookies can't lay a bet even though it's at the Super Bowl or at a world championship because the team has a minor on their team? But that's what we're looking at doing here. We should take this very slowly and we're not. We said we would implement this, but does it have to be done today? We need to look at this. We need to get it right. Because otherwise, we're going to be opening this up every session that we go into. And why not get it right the first time? Isn't that what we're supposed to do? Government should work slowly and many times it does, but it seems like we're in a rush to push this through in March. You know, I still think of-- of those people that Senator Groene brought it up earlier, that have a debit card, the husband and wife are linked. And one of the spouses goes to the grocery store because she knew there was \$200 in their checking account. But what she didn't know is her husband placed a bet. And now they can't buy groceries.

**FOLEY:** One minute.

**LOWE:** Thank you, Lieutenant Governor. We're going to hurt people, and we should take our time if people are going to be hurt. We're going to be placing bets on Huskers, on young men, young women in college. That should not be. We should take our time on this and vote no on AM641. Thank you.

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

**WAYNE:** Thank you, Mr. President. Senator Lowe, I'm going to yield you some time, believe it or not, because there was a disconnect in language there. You said proposition bets. I've always known him as prop bets. So it took-- after I sat down, I was like, is he talking about prop bets? So prop bets are essentially for the body outside of the standard betting odds, your standard betting odds are, are the Huskers going to win or lose? And by the way, you brought up Oklahoma. And I believe that we were scared to play Oklahoma right now in football. I just wanted to-- I think we corrected that. But it's also like money lines, so like how much money you can make. But it's also over and unders, the spread, the typical bet you might see. So are they going to win by seven? Are they going to win by ten? Those are your regular bets. Your prop bets, your prop bets actually get ludicrous. And what I mean by that is you can bet on whether the winning coach is going to have red or orange Gatorade dumped on them. And so that's what I'm saying is if we don't put some limitations around gambling, you have to make sure you understand that this bill doesn't pass. And for the record, everybody should know this is going to require 33 votes on Final Reading just because it also amends the

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petition. So we need to be engaged and listen to what's going on because it does matter. But so you can select like the regular, like team performance, will the team have so many yards? That's a prop bet. Will they-- will the quarterback make the next completion? Will the basketball players make the next jump shot? All those bets are outside of the standard, which you would call like three to five, depending on where you go, standard bets. So if you have more questions around that, Senator Lowe, I'll be more than happy to answer those questions. But we just had a little language barrier there because you said proposition and I don't do propositions hardly ever, ever. So that's why I was like, I'll do proposition bets, but I do prop bets, yeah. I'll make up prop bets. So anyway, I go over to Iowa. It's legal. Don't worry about it, right across-- actually you don't even have to leave Nebraska. You don't have to go across the river. You can literally just go to Carter Lake and do it on your phone. So anyway, I yield any time to Senator Lowe if he has any questions for me.

**FOLEY:** Thank you, Senator Wayne. Senator Lowe, you've been yielded 2:30.

**LOWE:** Thank you, Senator Wayne. And would Senator Wayne yield to a question?

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

**WAYNE:** Yes, I yielded you my time to yield back to-- this is fun, yeah.

**LOWE:** Thank you very much, Senator Wayne. So what is the problem with prop bets?

**WAYNE:** Well, the risks are high. It's almost the same as day trading, penny market, which are all legal. But the risks are, the risks are high. It's you don't get to really analyze what's going to happen. In some situations you can if you got a hot shooter in basketball or a hot, you know, the kills in volleyball. But it's a quick bet, just like day trading.

**LOWE:** Could it also be influenced by, say, a boxer laying down in the third round?

**WAYNE:** Yes, it could also be influenced by reddit.com saying, let's go buy a stock market and bump up the stock. So, yeah, I mean, all that can be influenced by anybody.

**LOWE:** Thank you, Senator Wayne.

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**WAYNE:** Thank you.

**LOWE:** I appreciate the time and that you yield me. You know, I-- I-- I still struggle with all this because we need to line up some of the parameters for the gambling initiative that was passed in November. And I don't believe we're quite there yet. I think we need to take time. We never said it was going to be done this year. We would like to have it done this year. But the casinos aren't going to be ready this year.

**FOLEY:** One minute.

**LOWE:** Thank you, Lieutenant Governor. Maybe we ought to take a little more time, get this done right over the interim. Get this done right and we can come back next year. That's the way to do it. Let's perfect this. Let's not hurt anybody. Let's not move things along too quickly. Thank you, Lieutenant Governor.

**FOLEY:** Thank you, Senator Lowe. Senator Pansing Brooks to be followed by Senator Blood. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor. Well, first of all, the last time I rose I was concerned about the definition of collegiate because I had read on page 35, Section 13 that sports wagering means the acceptance of wagers on an authorized sporting event by any system and does not-- and it goes on and says does not include placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of collegiate-- of a collegiate sporting event in which a collegiate team from this state is partic-- is participating. And now all of a sudden, we're on some crazy-- to me-- nuanced version of whether or not the quarterback is having a good day passing or not. And, oh, we aren't in favor of that part of betting, but we are in, totally in favor of betting on the Huskers. This is-- and I went up and spoke with Senator Briese. He's now come back and apologized because he says he misunderstood what I was saying. I do not believe that we should be betting on Huskers. I do not think that we should be mumbling when somebody is doing poorly. You can just hear the fans. Oh, my gosh. I bet he's taking a dive. I bet there's some bets on him and he's-- he's going to get to cash in on that. I think this is wrong. I think these kids are too young. I was all ready to come up here and support this until I realized what this is really about. This is taking our young people at the University of Nebraska and deciding they are worth wagering on and everybody saying, oh, it's happening already. Well, I don't know anybody that's doing it. And great, I'm glad you all know people who can go to Iowa and-- and run off the app and be able to go

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off and make money as they want to. That's fine. But we don't need the majority of Nebraskans betting on the Husker team. These are kids. We're not going to vote-- we're not going to let them bet if it's an international group that's under 18. What about the 18-year-old Huskers that are playing or the 19-year-old Huskers or the 20-year-old Huskers who are being propositioned by people? Listen, I'm going to put \$10,000 on the bet that the Huskers are going to lose. I'll give you half of this if you take a dive on Saturday. And you're saying, well, that could happen anyway. Yeah, I guess it could. But this accelerates it. This accentuates it. I'm sorry. I think this is crazy. I was all set. I talked to some of the advocates or the people opposed to this bill and said, you know, I started bringing up the collegiate idea and they said, no, this means they can't bet on the Huskers. And I said, I don't think it does because collegiate is different than university. I think they can bet on the Huskers. I didn't know that we were talking about a little tiny nuance of the fact that you can-- you can-- you can't bet on the fact that, that, you know, one of the quarterbacks or the running back is having a great day. That's just ridiculous. That-- listen to that. To me, that is a ridiculous nuance. And now I'm aggravated because I thought and I thought I could come forward and-- and support this. We're going to be-- we're going to be betting on those kids. Don't you think there's enough pressure in Nebraska to be number one, to be the top of the line, to beat the Big Ten? But now we have to add gambling to these kids' lives. Gambling. And I guess they're going to participate in it too. So I don't know, I-- this morning started weird because, you know, such diverse members or senators were on this bill--

**FOLEY:** One minute.

**PANSING BROOKS:** --together. But now all of a sudden, it's the University of Nebraska, no holds barred. Let's just go for it. Let's-- let's figure out, you know, people want to bet. They're going to bet. So let them bet. Well, that is just a bizarre theory in life, in my estimation. But I am-- I was OK with it thinking that, OK, the university kids are not going to be involved in all of this. But now-- now I am wholeheartedly against this unless we do some kind of amendment to get-- I was told by people, oh, you can bet on like Iowa State versus Oklahoma. And I was like, OK, I guess that's fine. But I still don't like that because they're kids I didn't know were betting on and against our own Nebraska team and kids. I think it's wrong. I don't think it's a Nebraska spirit or Nebraska way. And I am wholeheartedly against this. And unless something significant changes, I will be working on filibuster from here on. Thank you, Mr. Lieutenant Governor.



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**FOLEY:** Thank you, Senator Pansing Brooks. Senator Blood.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends, all, I'm going to be really brief. I still stand in support of this amendment and eventually the underlying bill. I-- I do appreciate Senator Pansing Brooks' enthusiasm and her-- her passion against this bill. I ultimately disagree with her, but I do hear what she's saying. But one of the concerns that I just heard on the mike and I had not planned on speaking until I heard this, Senator Lowe, is when he says we have plenty of time, plenty of time to get this right. That's code for we're never going to do this unless somebody forces us to do this, kind of like Medicaid expansion. The voters' voices said we want Medicaid expansion. And what did Nebraska do? We know better than you and we'll do it when we're damn good and ready to do it. That's what's going to happen with this as well. The voters have come out and told us that they understand the importance of the revenue that all gambling generates for Nebraska. When we talk on the floor about let's take our time and do whatever the heck we want when we want, then I personally believe that we are not listening to Nebraska. And granted, there are Nebraskans that do not support gambling in any form, and I respect that. But ultimately, when we look to Nebraskans to vote for these issues, they vote now in 2021, 2020 for gambling. And so I know Senator Lowe thought we'd be on this all day long since he broke it down and I respect that. But I just want to say, when I hear things like we have plenty of time, we can take it slow, I know what that's code for. And I disagree with that statement. So with that, I would yield any time I have left to Senator Briese.

**FOLEY:** Thank you, Senator Blood. Senator Briese, 3:00.

**BRIESE:** Thank you, Senator Blood, and thank you for your comments there. Authorized sporting event, under the plain language of the statute, includes collegiate sporting events, collegiate, as in NCAA sporting events and so on, and so forth. Collegiate sporting events means an athletic event, etcetera, etcetera, etcetera. I apologize if there was any misunderstanding on the prop bet language, but that's the way it reads, that collegiate prop bets involving athletes involving-- involved in a game involving a Nebraska team are not allowed. That's the plain language there. It is-- it has been in here since day one, always been in here and again, patterned after Iowa. And if folks are concerned about the fact that there's still going to be some bets on some Nebraska games, well, that's the way it reads. If you're going to have sports betting, you have to have it. You have to be able to bet on NCAA teams, in my opinion, or you just eviscerate the entire concept. And if somebody wants to, they-- they can bring an

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amendment on Select to try to pull out betting on Nebraska sports. We can sure discuss it there. So thank you, Mr. President.

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

**WAYNE:** Thank you, Mr. President. I just want to clarify something. I don't know if Senator Pansing Brooks is listening, but I want-- the first-- the first couple of days that Iowa opened up their book. and actually, if you talk to Iowa and look at their market, the majority of the bets are on Husker football, actually. But let me just clarify, this is my last time speaking on this. If we don't do something, they can still bet on anything. Whether we like it or not, Senator Pansing Brooks, the voters already put sports betting in all forms of game of chance in our Constitution. That means the right to or the ability to vote on Husker football or Huskers or not just talk about Huskers, UNO, Kearney, that's already there. So if we don't do anything, those bets will be made. What this did is try to limit it the best that they can that I think is palatable to the industry to say you can't do certain prop betting, which is you can't bet on an individual. You can only bet on the spreads, the basic bets, which is actually limiting, whether we like it or not, what the voters originally passed, which is all forms. And I guarantee you there will be a challenge to any bill that's passed, whether it-- whether it goes with the Constitution. So I just want to make sure we clarify that we aren't adding. We're trying to regulate like we do with most of our constitutional things. And if you think about we have a right to fish and hunt here in Nebraska. That's in our Constitution, but we still regulate it. You got-- you got to have a permit. You got to be able to own a gun. You got, I mean, we still put reasonable regulations around rights. And this is not necessarily a right per se, like hunting or fishing or constitutional right. But it is in our Constitution that this type of game of chance or any game of chance is available at horse racetracks. The other thing about it is if we don't pass the underlining bill of LB561, what this bill and the amendments, what the amendments do is say this gambling has to be inside of an enclosed area. Why is that important? Because we want it actually inside the casino. What-- what breeze-- Senator Briese, Chairman Briese is trying to do is say we don't want you to actually be able to pull up in the parking lot and have a dice game going in the parking lot because that is actually inside the enclosure of the racetrack. The property itself is the enclosure. So Chairman Briese is actually trying to limit even that by saying you can only have gaming operations inside the casino. So, again, if we don't pass the underlining bill for whatever reason, there is nothing stopping somebody today, let me repeat this, today, getting a tent, going to a horse track and opening up a casino. The

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only reason we're not is because it says operating license. So we're waiting on the rules and regs that come down from the commission, but they've been working on it since it passed. But once those rules and the procedures to get an operating license, we can literally go to a parking lot of any racetrack and have a casino once they get the operating license. So I think this is reasonable. I think it's reasonable to limit how this is operating. It may not be what everybody wants. It may not be what everybody likes. But if we do nothing, we're opening up Pandora's box to gambling without any controls--

**FOLEY:** One minute.

**WAYNE:** --except for having the operating license. That's the only control placed in the Constitution is it has to be an operating license. That's it. Once you have that, you can bet on anything. So I'll just end with that saying vote for the underlining AM641 and LB561. Thank you, Mr President.

**FOLEY:** Thank you, Senator Wayne. No one else is in the queue. Senator Briese, you're recognized to close.

**BRIESE:** Thank you, Mr. President. We've had a great far-reaching discussion today. I want to thank Senator Lowe for, you know, instigating the idea of splitting this into three segments. It allowed us the opportunity to-- to debate and assess and evaluate every category of this amendment, the keno, the sports betting, and then finally the commission oversight. And again, we-- we've had great discussion on all and obviously not everyone is in agreement on everything, but that's the way it should work. We should debate it, discuss it, try to find common ground on things, and-- and move forward. With that, I would ask for your support on AM641. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Briese. Members, you heard the debate on AM641. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 35 ayes, 4 nays on the third component of the committee amendments.

**FOLEY:** Third component has been adopted. Is there any further discussion on LB561 as amended? I see none. Senator Briese, you're recognized to close. Close? He waives closing. The question before the body is the advance of LB561 to E&R Initial. Those in favor vote aye;

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

**CLERK:** 37 ayes, 5 nays, Mr. President, on the advancement of the bill.

**FOLEY:** LB561 advances. Items for the record, please.

**CLERK:** Mr. President, communication from the Governor to the Clerk: Engrossed legislative bills LB1, LB4, LB21, LB23, LB25, LB44, LB77, LB149, LB159, LB174, LB248, LB253, LB363, LB373, and LB532 were received in my office on March 11. These bills were signed and delivered to the Secretary of State on March 17. Transportation Committee chaired by Senator Friesen reports LB338 and LB498 to General File with amendments. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Pursuant to the agenda, we'll move to General File 2021 priority bill, LB88. Mr. Clerk.

**CLERK:** Mr. President, LB88, a bill, a bill originally introduced by Senator Morfeld, relates to journalism and protection, it provides protection for freedom of speech and freedom of the press for student journalists. Bill was discussed yesterday, Mr President. It was advanced to General File. Senator Morfeld presented his bill. There is pending at this time an amendment to the bill from Senator Clements.

**FOLEY:** Senator Morfeld, would you like to take a minute just to refresh us?

**MORFELD:** Thank you, Mr. President. Colleagues, I'll do a very brief refresher here. As we discussed, this is a bill that provides protections in a limited context for student journalists. This is a bill that has been before this body several times. I have added several different amendments since then to this bill. This is the, the final product, if you want to say that. And I think it's important to note a few things. First, this is making a public forum, but is a limited public forum. It's a limited public forum because the case law has stated, the Supreme Court case law has stated that, in Hazelwood, that schools can conduct prior review. That's why schools right now do conduct prior review and often do censor. That's the point of this bill, is the current constitutional standing does not protect the right of students to be able to exercise their free press rights at the level that I believe and many of our colleagues believe they should be able to. So that's the point of this bill. The point of this bill is to provide expanded rights to student journalists to be able to express their opinion with limitations and guardrails. It is not a free pass or a free ride, as suggested by Senator Groene and some

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others. And it's to provide more protections than what is provided currently to students in those academic contexts with the supervision of an adult and with very clear limitations. I want to make clear if they violate those limitations, if it's libel or slander or something that unnecessarily invades the privacy of another student, the school can still stop publication. They must adhere to all of the standards and the limitations in order to have the protection. And if that is not clear to you, I'm happy to go through the actual legislation and sit down and talk to you about that, but that is how the legislation is structured. I urge your support of the legislation. I urge you to oppose Senator Clements' amendment and Senator Halloran's amendment, which guts the bill. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Morfeld. Senator Clements, would you like to take a moment to refresh us on your pending amendment?

**CLEMENTS:** Yes, thank you, Mr. President. My amendment, AM654, just simply says, "Strike section 2." Section 1 deals with universities and colleges; that would be retained. Section 2 deals with high schools. And I do want to clarify that I did make a mistake speaking yesterday that I thought it was dealing with middle school and elementary school, it does only pertain to high schools. But it would strike the high school portion and partly because a high schooler can be as young as 15 years old. But that's the amendment. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Clements. Debate is now open on LB88 and the pending amendment, AM654. In the speaking queue, Senators Pahls, Erdman, and Groene. Senator Pahls.

**PAHLS:** Thank you, Lieutenant Governor. I wanted to speak yesterday because Senator Flood sort of disparaged a little bit on the principles. He said that we feasted on control, we kept our thumb down, but most of all, we, we really wanted to control the lifeblood of the school. And I want to react a little bit to that, is because I think if many of you would take a look at the, the schools in your district, you're going to find-- or I should say, the towns in your district, you're going to find a number of those towns or villages are smaller than some of the large urban schools. For example, they run between 2,000 and 2,500 students, then you compound that with at least double or close to that of parents who are involved in the school, you can see it is a minor operation, you might say. So you can probably see why the administrators or principals do want to have a little bit of control because they're bouncing the balls all the time just because that's life in this day and age. So it's not an easy task for those individuals. So I can see why they are a little bit concerned when they're starting to lose some of that control as my good friend,

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Senator Flood, indicated. The part that I am dealing with is, how do we create students-- or allow students to be creative and yet still fall within the parameters of a good school? It's difficult in this day and age. In fact, we did contact one of the Millard schools and just to find out, like, the student handbook of the district is 60 pages. So you can just see just managing the student handbook for some of us would be probably a hard, hard thing to do. What I do like about what Senator Morfeld wants is the code of ethics. I think that is a significant factor in his legislation. I think it's something we really need to think about. What I was curious is that because we started investigating what some of the journalists in the school system, they really-- they do not have, as my understanding, I could be wrong, a code of ethics. And then I compare it to what we do in sports and like in some of the schools, what they must do, the students have to sign off on that they will follow the code of ethics of their sport. They will treat individuals fairly and basically not be a bully. They sign off on that in the sports in this particular school. I don't think they sign off on it if they are in the journalism department. The question I have is what would happen if we would limit what you would like to have happen, Senator Morfeld, if we would limit just to the school newspaper that would be within the school building, not dealing with all of the media that, that has access to it? If I could have the good Senator's attention and, and hopefully answer that question for me?

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

**MORFELD:** Yes, I will. Senator, so what I'm understanding you saying is that what you would like this limited to is just very specific type of student media--

**FOLEY:** One minute.

**MORFELD:** --such as like a, a student newspaper, whether physical or online, whatever the format may be. Yeah, so I, I'm interested in discussing that with you. The thing that I will note is that it's pretty much limited to that right now in the definitions. And I can-- I know you just have a few more seconds so I won't take up your whole time, but I think it's actually pretty much limited to that as it is now. But I'll talk to you off the mike.

**PAHLS:** OK. OK, that-- I think that would help clarify some of my needs to make sure that this is an effective answer to the-- to what you're trying to find. I just, I just have some questions that I think you, like say off the mike or if you in your discussion, you would try to answer the direction I'm going I would appreciate that.

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**MORFELD:** Yeah, and I will talk about it once we have more time.

**PAHLS:** OK.

**MORFELD:** Thank you, thank you, Senator.

**PAHLS:** Thank you.

**FOLEY:** Thank you, Senators Pahls and Morfeld. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. Good afternoon. I stand in support of Senator Clements' AM654. We have, as has been discussed, we have talked about this bill on several occasions before. But I was wondering today if I could get Senator Morfeld to refresh my memory, if he would? Senator Morfeld-- would Senator Morfeld yield to a question?

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

**MORFELD:** Yes, sorry, I was having that side discussion.

**ERDMAN:** It's OK. Senator, we've had this discussion before, but refresh my memory. Why exactly do we need to do this? And what I'm trying to ask you to be specific on, give me some examples as to what this would allow students to do that they cannot do now.

**MORFELD:** Yeah, that's a great question, Senator. I can give you probably five or six hours of testimony and examples. So I'll, I'll get that testimony to you of students across the state that came with their articles that were censored and said these were run-of-the-mill political commentary reporting in our community that we were denied the ability and the right to publish in our government public school-sponsored publications. And we should be able to do that under the guidance of an adult media adviser. And so--

**ERDMAN:** Do you have, do you have somebody--

**MORFELD:** We have plenty of examples. Anybody on the Judiciary Committee can talk to you about the hours of testimony that we received.

**ERDMAN:** Can you share one example with me?

**MORFELD:** Yeah, I-- not off-- I mean, yeah, there's a lot in my head, but I want to get the specific ones and so I'll get the testimony out and we can talk about it.

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**ERDMAN:** OK, OK, maybe next--

**MORFELD:** But there's, there's examples of students that-- in Westside. There was an example in North Platte that was brought up. Senator Groene thinks that that was reasonably handled the way that it should be. I think a lot of people disagree with that.

**ERDMAN:** OK.

**MORFELD:** So, yeah, there's plenty of examples. Those are two right away that are specific.

**ERDMAN:** Good, I, I look forward to getting those. Thank you for answering. I appreciate it. So in the meantime, yesterday we received several emails and I'm going to read these to you to show you what these young people write. OK, here's one email we received. It says: Do you realize getting rid of a newspaper because of LB88 passed is unconstitutional and undiplomatic-- undemocratic? LB88 protects rights. Also, the laws you pass affect us. Stop talking about sports. That's old school. We have an opinion and it should not be censored just because it's political. The reason districts hate this is because this makes the vulnerable. You are a disgrace. You purposely got COVID and called people names because they wanted to lower the spread of it. No wonder you hate LB88. If I were you and you wouldn't want to be trash-talked to. Thank you. I look forward to your response. Signed, he, she and they. Here's another one: AM654 defeats LB88 and pretty much makes it almost completely useless. It makes it fully useless for high schoolers. Also considering how high school administrators and superintendents will censor an article because it may make the district look bad or it's too divisive, it need to pass. So it ends this. Please oppose AM654 for the benefit of the students. Thank you, he, she or they. So these are the young people who are taking the opportunity to use social media to pass along their opinions. It proves they have plenty of outlets to share whatever they want to write, some of it not being very clear or thoughtful and not written very good-- very well. But that's what we have.

**FOLEY:** One minute.

**ERDMAN:** This, this is a problem. This is a solution looking for a problem. Those administrators understand that these schools will be sued for things that happen there beyond their control, because they don't have control once we pass this. As I said before, I am in support of AM654 and I will vote for that amendment. Thank you.

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



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**GROENE:** Thank you, Mr. President. I dispute what Senator Morfeld said in his opening that this is just a minor thing of in a controlled free speech. It is not. This is wide open, free speech. It's a public forum. All of the deals that he says they cannot do, I can't do in free speech. I can't slander somebody. I can't, I can't invade somebody's privacy, violate federal and state law, depart from privileged journalistic ethic standards. Well, that might be a little different. But, no, this is free speech. The bill says: Subject to the subsection of this section, subsection (3), each student journalist is responsible for determining the news, opinion, feature, sports, and advertising content such-- of such student produces, produces for schools. They decide, the students decide. They decide what's in the paper, not the adviser. The subdivision shall not be construed to prevent a student media adviser from teaching professional standards. They may teach them. I checked with my North Platte public schools-- by the way, they are well-run-- and I asked, is the-- is your student newspaper an extracurricular activity of the children or is it a class? It is a class. You have to enroll in the journalism class. It's part of your class to be part-- to learn how to run a newspaper. I asked, is your yearbook an extracurricular activity? No, it is a class. It is a class where they are taught to learn. Now who's in control of a class, the algebra class, the composition class? The school. The school board and its content is by the administration, not the kids. They don't run it. This says these kids are going to run the class. Is that what you want? Do you want woke in journalism? Do you want woke in math, the kids decide what's taught in the math class and what the standards are? Well, that's what you're doing in this journalism class. The kids get to decide, oh, we're all going to get A's. Who grades it then? Who grades it? The student editor grades their peers? This is a, this is a school, this is a learning opportunity. The Supreme Court has said the schools have complete control because it is an educational institution and they set the standards of each class. This is foolishness. This is a class. You learn how to compose a news article, you know how-- you learn how to use words wisely and conservatively so you can get your point across within 700 words is a good column. An item is 2 to 300. You learn those things, you learn how to edit. You learn how to not use unnecessary words. You learn how to be factual because the editor-- the, the, the school teacher says that is not factual, you put an opinion in there. Well, guess what? The opinions are in there because nobody in the school administration or on the staff can say no. We are talking about an educational institution that we are going to have one segment, one class controlled by the kids, and not by the staff, not by the administrator,--

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**FOLEY:** One minute.

**GROENE:** --not by the school board. No, this is wide open free speech. This whole bill can be summed down-- up to one word-- two words, public forum. All the court cases imply the school board, the school, the administration has complete control because this is not a public forum. Forget all the rest of this in this bill. This bill is about two words, public forum. And Senator Clements' bill [SIC] will remove that, which actually, as they say, truthfully guts the bill. Because now guess who's back in charge? The adults in the room, the adults in the room, just like they are in the math class, the algebra class, the-- and all the other classes in the school. But they want this one class to be run without any adult supervision. Thank you. And we will continue this debate.

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

**FRIESEN:** Thank you, Mr. President. Again, I rise in support of AM564 [SIC-- AM654]. There's a, there's a couple of pieces to the-- to this bill that are, are troubling me. And would Senator Morfeld yield for a question, please?

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

**MORFELD:** Yes.

**FRIESEN:** So on page 5, section-- or line 7, I think that's where it starts to talk about the student media adviser. And it provides a long list of protections. It basically says that, "A student media adviser shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for:" and then it lists a couple reasons. But what is-- I can see where you're trying to protect the students, but the, the media adviser, if he-- what is the need for that protection there?

**MORFELD:** Yeah, so there's been many examples of media advisers who were helping students put together their articles and things like that, and they are unnecessarily censored. So again, just run-of-the-mill types of stories by the administration and the media adviser would try to stand up for the students. And when they stood up for the students, they would then be reassigned or taken out of their position. So this gives them limited protection. Again, they have to meet all of the criteria and not exceed any of the limitations and restrictions put on the students that are in this bill, which are pretty extensive in order to be protected. So they can't just, you

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know, go off the grid or do whatever they want. They have to be following this very closely in order to have any protection.

**FRIESEN:** Could you-- would you say that they're-- are there journalists out there working for major newspapers that have these same protections?

**MORFELD:** No, but they're also not working for a government-funded institution with taxpayer dollars that should be content neutral.

**FRIESEN:** But again, they are regulated by somebody, by private enterprise then. It's not free speech then?

**MORFELD:** Yeah, this is not the same thing as a, as a private newspaper. So to compare this to a private newspaper just isn't the same. And in fact, we put more restrictions on the student journalists than most journalists have with their private newspaper, quite frankly.

**FRIESEN:** So, again, wouldn't schools have some control over their content? Their, their-- we talk about local control and school boards. Shouldn't some restrictions apply to where school boards can say this is, this is the limits of where we go and be able to do that. But since it's a-- you know, they're locally funded, local control, they have boards who monitor them. Doesn't that rise to the level that they should be given some authority to set some rules and regs and, and to say what that media adviser maybe needs to be doing or what not, and, and a process in place to where they could have some say, at least, in what's going on, on rather than just a blanket immunity?

**MORFELD:** Again, this is not a blanket immunity. And people can keep saying it's a blanket immunity. But if you actually read the bill, it's not a blanket immunity. It's pretty clear in there that it's not a blanket immunity. So if you go down to page-- on page 5 and go down to line 23, section (8) actually says: This section shall not be construed to interfere with a school administrator's ability to provide appropriate professional feedback to a student media adviser consistent with the rules and regulations adopted and promulgated by the State Department of Education regarding school district personnel. So this is not a blank check.

**FRIESEN:** So now, now you've handed this control over to the Department of Education, not to the local school.

**MORFELD:** No, no, no, the Department of Education rules and regulations that this is referring to is, is the rules and regulations that allows

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a school district to discipline a teacher under any, any circumstance. And so it's not handing anything to Department of Education, it's just the general rules that they use to discipline those teachers. So the bottom line is that the teacher--

**FOLEY:** One minute.

**MORFELD:** --only has this protection if they follow all of the different limitations along with the students in there. So it is not just a blanket immunity or anything like that.

**FRIESEN:** Again, if a school board sets some, sets some-- can they set some criteria for what this media adviser can do?

**MORFELD:** Absolutely. And that's actually-- that's in the limitations.

**FRIESEN:** Within the limitations of--

**MORFELD:** Yeah.

**FRIESEN:** --the way it's spelled out here. But they-- they're not free to set their own criteria for how this works.

**MORFELD:** They are, they are able to set criteria. And that's on page 3, I think line 7 to 9. And so--

**FRIESEN:** So can they, can they currently do that under current law, set criteria for how this works?

**MORFELD:** They generally can set criteria. They have all the power right now. So they can obviously. And so this is--

**FRIESEN:** And so at some point we are taking some power away from them.

**MORFELD:** Absolutely. That's the purpose of this legislation, is to take some power away with limitations and guidelines to protect the free speech rights of those, of those students.

**FRIESEN:** Again, I, I, I think we've gone too far when we've gone to high schools and high school kids. That's my-- my concern here is that young minds like this sometimes do things unintended consequences and the damage is hard to reverse.

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

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

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

**BOSTELMAN:** Thank you, Mr. President. Follow up on Senator Pahls comments he, he made. Does this apply-- also, would this apply to school broadcasts that are available to people outside of the walls of the school? And does the bill apply to flyers that are handed out by a, a school at sporting events? Would be other activities potentially that this could impact. Looking at a couple of things on, on here. If we go to-- I want to rediscuss-- mention what we talked about a little bit yesterday, that Section 2 applies to high schools, which is a closed environment with required attendance by minors. And the bill makes all school-sponsored media an open forum, which is contrary to the holdings by the United States Supreme Court. United States Supreme Court made it clear that although students and teachers do not lose their First Amendment rights, 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 the rights of adults outside of the school environment. And we talked a little bit about the Hazelwood standard, also the Tinker standard, and I'll talk about that in a little bit and we'll walk through that. If you don't have the handout, there is a handout on it what the Supreme Court uses. As they walk through this decision-making process, does the Hazelwood standard take effect or the Tinker standard take effect? And is it censorship permitted or is it not permitted? So it does interfere with the school's ability to set and enforce policies concerning its own publications. School faculty is limited to teach professional standards of English and journalism, but strips the schools of final say on content of materials published by-- and journalism programs. Schools, especially at the high school level, need to be able to focus and direct their programs to best educate the students involved in those programs, not to further activism or to potentially hostile environment. It takes nearly all control of the content, news, opinions, advertising, etcetera, away from the school administrators and places it in the hands of the students. Schools should be able to protect their name and their reputation. Publications bear the schools' names and reputation. Even privately- owned newspaper editors say yes or no to an article submitted for publication by a reporter. LB88 takes nearly all control of the content away from the school administration and places it in the hands of the student. If we look on page 4, line 7-- line 17 and 18, I believe it is. It says, "Subject to subsection (3) of this section, each student journalist is responsible for determining the news, opinion, feature, sports, and advertising content such student produces for school-sponsored media." So it gives it-- that leaves it up to the students' discretion. News and opinions of high school-- in high schools is a closed environment

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where minors have to, have to be and the school administration should be the final authority to provide an environment that is safe for everyone, safe from the chaotic news or opinions outside of the schoolhouse walls, granting students' rights superior to the administrators and greater than those granted by the U.S. Supreme Court. I want to go back to the code of ethics that we talk about here, the Society of Professional Journalists. And on the bottom of the page, if you still happen to have it, I think it was handed out. I want to read it. It says: SPG-- SPJ Code of Ethics is a statement of abiding principles supported by additional explanations and position papers at the spj.org website that address changing, changing journalistic practices. It is not a set of rules, rather a guide to encourage all who engage in journalism to take responsibility for the information they provide, regardless of the medium.

**FOLEY:** One minute.

**BOSTELMAN:** The code should be read as a whole; individual principles should not be taken out of context. Here's the point I want to stress. It is not, nor can it be under the First Amendment, legally enforceable. I do support Senator Clements' LB-- or AM654 to LB88. I do think we're talking about taking the discretionary ability of the teachers and the administrators within a school to teach and instruct as needed for those. And we will talk a little bit later on that decision-making process of the Supreme Court as set out in both the Hazelwood standard and the Tinker standard. I do believe these are important things that we do. Students have the right to write what they want to write, but also it is an environment that is an instructional environment that should be-- provide the proper instruction for those minors within the school.

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

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

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

**ERDMAN:** Thank you, Lieutenant Governor. Good afternoon again. I listened to the comments. I appreciate what Senator Bostelman just said, but I also had the same kind of concerns that Senator Friesen asked about the bottom of page 5, line 23, when the section says: it shall not be construed to interfere with the school administrator's ability to provide appropriate professional feedback to the student media adviser. And it also went on to say that it has to be consistent with the regulations adopted and promulgated by the State Department of Education regarding school district personnel. So I was wondering

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if Senator Morfeld could help me understand that section a little better. Would he answer a question for me?

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

**MORFELD:** Yep.

**ERDMAN:** Senator Morfeld, so in that section and you read it when Senator Friesen was asking you a question, so they can give professional feedback, but do they have the authority to instruct them to strike something or add something different?

**MORFELD:** Yes, as long as-- I mean, so-- repeat the question again. I want to make sure I answer it correctly.

**ERDMAN:** OK, so it says here that the advise-- the media adviser-- the feedback to the student by the media adviser as long as it is consistent with the rules and regulations adopted by the State Board [SIC] of Education. So is a State Board of Education, do they have special rules for the media adviser, or is it just regular rules for all pol-- all personnel?

**MORFELD:** Well, if the State Board of Education has special rules for the media adviser, which I don't think they, they have them. But if they do, then, yeah, those would apply. But in general, what this is referring to is the rules and regulations that are already in place for the supervision and discipline of teachers.

**ERDMAN:** OK, so if I'm a media adviser for a student and they write a paper and I don't like it and I tell them not to publish it, can I stop them from having that published?

**MORFELD:** Well, if it-- one, if it violates any of the exceptions or the, the limitations in the bill, then, yes, you can stop that as the media adviser and you'd be able to stop that as the principal or superintendent. In addition, you also grade them and there is explicit authority, contrary to some of the comments said on the mike, for them to be able to control their class and still grade them. That being said, if it's run-of-the-mill commentary and it doesn't violate any of the limitations as laid out in the statute, then they would be able to publish that. That being said, if that media adviser thought that that wasn't the right way to publish it or wasn't grammatically correct or something, then there's consequences for that with their grade.

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**ERDMAN:** So can you think of an example and something that wouldn't be acceptable, acceptable to print? Like what kind of person-- what kind of writing or what kind of statements would you think would be barred?

**MORFELD:** Well, I mean, first, anything that's libel or slander, that, that would definitely be one.

**ERDMAN:** OK.

**MORFELD:** Anything that violates state or federal law, that's another one. But maybe an example is, for instance, section (b) "Constitutes an unwarranted invasion of privacy." Maybe they're publishing names of students in the paper without permission from those students or their parents or whatever the case may be.

**ERDMAN:** OK.

**MORFELD:** And the student media adviser looks at and goes, hey, listen, did we get permission from that student to publish their name? And they go up to him and they say, no, actually, we didn't. And I don't want to get their permission. The student media adviser could easily say, well, we're not publishing that. And that falls under that and there's nothing you can do about it.

**ERDMAN:** OK, I understand. Thank you for that. Appreciate it.

**MORFELD:** Yep.

**ERDMAN:** How, how much time do I have left, Lieutenant Governor?

**FOLEY:** 1:28.

**ERDMAN:** OK, I, I have something to read. I'll read it next time. I don't have enough time to read it. Thank you.

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

**GROENE:** Thank you, Mr. President. I absolutely see nothing in this bill where the media adviser can tell the kid that they can't print something. Section (b)-- (2)(b) says, "of this section, each student journalist is responsible for determining the news, opinion, feature, sports, and advertising content such student produces for school-sponsored media." Then it goes on to say: The subdivision shall not be construed to prevent the student media adviser from teaching professional standards. As I said earlier, these are classes in the schools. It's a credited class. Doesn't say that there's a teacher in the room. It is a journalism class. This is an adviser. Do they grade



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the paper? Doesn't say they can. Did he look at the diction? No. Verb usage? No. Do they advise them that they need to cut the, cut the words down to a certain amount to fit the column? No. The only authority this-- it's not a teacher, it's an adviser, in this educational course has, they may teach them ethics. They may. They may. Can't grade the papers. And then it goes on to this section, does not-- so the way I read this statute is what the language lawyers love. The kids can print anything they want. And then somebody can sue. There was a lawsuit in Washington State. Washington State is one of the 14, by the way, that has adopted this, where a reporter did something in LBGQT [SIC], interviewed some kids, guaranteed them that they would be-- their names wouldn't be used. Well guess what? Their names got used. And guess who, who got sued? Not the kids, the school. No, this is after the fact, enforcement, like most law is. If somebody decides that they were liable, they get a lawyer and they sue the student or the, or the school. If somebody thinks they were-- their privacy was-- they'd get a lawyer and they'd sue. This gives no-- no directive to the student adviser to-- adviser that they can tell that teacher-- that student they can't print it, says it right here. Each student journalist is responsible for the-- not the-- not the media adviser-- responsible for determining the news, opinion, features, sports, and advertising content. You will hear more about advertising, what's happened in another district, and another lawsuit later in this debate. The kids are in charge. And then if you want to sue later, you can. And as far as the-- the administration, which is the only difference between LB206 and this bill is that last paragraph: shall not be construed to interfere with a school administrator's ability to provide appropriate professional feedback to a student media adviser consistent-- then you take an arrow back to number five: A student media adviser should not be dismissed, suspended, disciplined, reassigned-- well, guess what happened in North Platte before this was passed? On that story you read about in the paper, that student should have been wondering what kind of grade they got on that article, was their diction right, was their verbiage right, not worrying about if it got printed because it was a class that you get graded on your work. It wasn't an extracurricular activity in North Platte; it was a class. You're not in that class to get your name in print and to influence people. You're in that class to learn how to be a journalist, not to be a journalist, to learn. That's what public schools are for.

**FOLEY:** One minute.

**GROENE:** The name on that paper is the North Platte Bulldogger. That's me. I'm a citizen of North Platte. And that school represents me to

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the whole state in its athletics and its behavior and what it prints, doesn't belong to that kid. They don't own that paper. They are a student there to learn how to be a journalist, not to be a journalist. Just like you're a basketball player, you don't get a right to play on the basketball team and you don't get a right to be paid because you're a pro. You learn how to be a pro, if you're lucky, basketball player. This is an educational establishment that the taxpayers pay to learn, to teach kids how to be, how to be a citizen, how to have boundaries, not to just open up the boundaries that you can print anything you want because you want your name in print.

**FOLEY:** That's time.

**GROENE:** Strive for a B or an A in that class--

**FOLEY:** That's time.

**GROENE:** --not for your name.

**FOLEY:** That's time, Senator. Thank you, Senator Groene. Senator Hilkemann.

**HILKEMANN:** Thank you, Mr. Lieutenant Governor. Senator Morfeld, I've got-- you and I had a conversation about this bill yesterday, and I've supp-- I supported this last year and I've been very interested in the conversation that we've had here this year and, therefore, I've got a couple of questions if Senator Morfeld will take those.

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

**MORFELD:** With pleasure.

**FOLEY:** Yes, he's-- he's yielded.

**HILKEMANN:** OK. Thank you. Senator Morfeld, would this-- what about student editorials?

**MORFELD:** So this would protect student editorials as long as it does not violate any of the limitations as set out in the statute.

**HILKEMANN:** OK. So, Senator, let's say that you have a student who writes an editorial and let's just say it's-- it's rather edgy and didn't slander anybody, it's-- but it's very edgy. They take it to the sponsor of the-- of the paper and the paper said-- and-- and this-- the sponsor or the-- yeah, the supervisor said--

**MORFELD:** The media adviser, yeah, yep, yep.

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**HILKEMANN:** --supervisor says, you know, Adam, this-- you-- this editorial is very-- this is not going to play well with other students and certainly not going to play well in the community. And the student says, Mr. Supervisor, it is my right that you-- you have to publish this. What's the supervisor to do?

**MORFELD:** Well, the student media adviser would obviously counsel them, talk to them about maybe a more appropriate way to present that argument. And in the end, as long as it doesn't violate any of the limitations, even speech that is somewhat sometimes uncomfortable or ideas that are uncomfortable are important to be heard and start the discussion. And that's the importance of teaching students both the power and the consequences of-- of speech. And so I think that that would be a great learning opportunity and lesson for those individuals, and that's the purpose of the bill.

**HILKEMANN:** So, Senator, let's say then that-- so the supervisor says, it's your right, according to the Nebraska Legislature, you've got-- it's your right to publish that. So they go ahead and publish it and everybody reads that article and it's very edgy, and there's a lot of people, particularly parents and people in the community, are very upset. And so they go to the principal of the school or the superintendent of the school and they say, how did this get past you, how can you let this happen? What's the response? What should the-- what should the response of the superintendent be at that point or the-- or the principal?

**MORFELD:** What should the response be? Is that the question?

**HILKEMANN:** Yes.

**MORFELD:** Well, I think the response should be that, yeah, sometimes-- sometimes there are commentary and other things that are upsetting or make people uncomfortable, but it's started a good, robust discussion among members of the community, in-- including the students, and this is a learning opportunity to be had for all. And so I think that that should be the response and that we're trying to prepare young, motivated, and high-achieving students both the power and the consequences of the First Amendment.

**HILKEMANN:** So let's say that the parents are pretty upset. They didn't like that response that they got from the superintendent and they start calling board members. And what is the board's response to this?

**FOLEY:** One minute.

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**MORFELD:** I think the board's response is the same, is that this is an educational institution where freedom of speech and freedom of ideas are accepted, even sometimes when it makes us feel uncomfortable, it did not violate any of the laws or limitations, and this is a discussion that is important to be had in our community. I'll note that this same law has been in place in Kansas since 1992. And I've talked to many superintendents and principals and folks in Kansas, and this is just something that is commonly accepted. The students have the right to have free speech and discussion.

**HILKEMANN:** So then let's say that the public-- the-- the board is-- is inundated with a lot of responses from the public. They go to that superintendent. What are they supposed to do to the-- to the superintendent? Do you think that that could ever lead to a firing?

**MORFELD:** I don't think so. I've not heard of that in any of the 14 states that currently have this law on the books.

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

**HILKEMANN:** OK. Thank you.

**FOLEY:** Thank you, Senator Hilkemann and Senator Morfeld. Senator Morfeld, you're next in the queue.

**MORFELD:** Thank you, Mr. President. And thank you, Senator Hilkemann, for that discussion. I'm glad that we talked about that and we talked about the practical effects. The bottom line, colleagues, is that this has been in place for 14-- in 14 other states. I think that what we hear is a lot of concerns, in some cases, not necessarily Senator Hilkemann-- I think that he brought up some reasonable progression of things that may or may not occur. But we've heard from other folks a parade of horrors. We have not seen that happen in our neighboring state, but what we have seen happen is students down there have the right to bring up free flow of ideas, of thoughts, of discussion, of things going on in their community that need to be heard. And quite frankly, in a lot of our communities, they're becoming news deserts. They're becoming news deserts and sometimes, quite frankly, I've heard from some people, the only publication in their community covering local events often is the student publication. And so it's important to not only ensure that students have the ability to express themselves and learn, but also that they have the opportunity to cover the events and the going on in their community, as long as it follows these limitations, limitations that most other professional journalists do not have, so this is more limited. I just-- I have to reiterate some things to counter some of the things that, quite

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frankly, have been said on the floor that just simply are not true. I want people-- and-- and again, people are cherry picking. They're saying, hey, go look at this, it says public forum, line, you know, whatever on page 4 or 3 or whatever the case may, it's creating a public forum. Yes, but you have to keep reading. You have to keep reading, colleagues, and I don't know if it's just willful misinterpretation or if it's just we all need to talk a little bit about statutory interpretation. You have to read the entire statute. You have to read the limitations. There are clear limitations. Yes, it creates a public forum, but it's a limited public forum. To Senator Bostelman's point about the constitution, how this exceeds the constitution, absolutely. That's the point of the bill. Hazelwood created a certain standard. It was a standard that allowed for censorship and prior review. The point of this legislation is to provide greater rights. That's not unconstitutional. One of the tenets of constitutional law is that you cannot violate or take away rights that are provided by the constitution, but you can provide greater protections than what is provided for in the constitution. That is our prerogative as a Legislature. We have a Federal Constitution and then we have a State Constitution. In the federal constitution it has a Second Amendment protection. In the State Constitution we protect the Second Amendment much more than the federal constitution, so we can provide greater rights both in our constitution and in our state statute. That's what we're doing. So when you hear people getting up on the floor saying, oh, wow, this kind of-- this doesn't coincide with the constitution, Hazelwood said this, and we're-- we're-- we're going beyond that and that could be violating, that's not the case. We're not violating anything. We're adding more protections, which is our prerogative as a State Legislature. Now we can't violate any protections, we can't take away protections, but we can add an additional layer. That's what this is doing. Now, in terms of the teacher being able to grade, again, this bill only deals-- the scope of this bill is protecting what is published in the student publication. It doesn't provide any limitations on what happens in the classroom in terms of grading for a class. In fact, if you go to-- on page 2, line 25, this sub-- line 28, actually: This subdivision shall not be construed to prevent a student media adviser from teaching professional standards of English and journalism, shall not be construed to prevent a student media adviser--

**FOLEY:** One minute.

**MORFELD:** --from teaching professional standards of English and journalism to student journalists and ensuring that school-sponsored media adhere to prevailing journalistic standards. It says this shall

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not prevent them from ensuring that school-sponsored media adhere to prevailing journalistic standards. That means they have the power and authority to control what goes in that student media, that it adhere to student journalistic standards. It means that it shall not prevent a student media adviser from teaching professional standards of English and journalism. It means that they have control of their classroom and anything to the contrary doesn't make sense. It's nonsensical because the scope of this bill, if you read the first page, which is the definitions and the scope, only applies to student journalists that are creating student publications for--

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

**MORFELD:** --mass broadcast within the school. Thank you, Mr. President.

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

**BOSTELMAN:** Thank you, Mr. President. One-- one interesting thing that we're talking about today is a-- is a young person making decisions that may affect them for the rest of their lives, in a sense, and making those decisions, what they write and they-- they write what they want, and it can be edited or-- or changed, if you will, or denied. But we also have a bill in the Legislature that says that a juvenile needs to have representation, can't represent themselves, can't make that decision on their own. So if we have a juvenile, a minor, a student who can't make the decision in the court on their own because of lack of, say, education, lack of knowledge, I guess here, again, it's a judgment call, is that same thing apply here where a student may have something they're very adamantly opposed to or convinced that this is the right thing and they're in sophomore or junior in high school, but yet give them ten years and that-- that whole viewpoint has changed, and how that decision they make at that point may affect them for the rest of their life. So when we look at the United States Supreme Court, as you go through the-- go through the decision-making process, so we'll-- we'll walk through it real quick. It says first we look at can the publication be considered school-sponsored. Has a school lent its name and resources to the publication? If the answer is yes, then we go to the next. It says, can the publication be described as a part of the school curriculum? Was it create-- was it created by the school to impart particular skills to students, and is it supervised by a faculty member, even if it is-- even if-- even if it is produced outside of the classroom setting? If it's yes, then we go to the next. It says, has publication by either school policy or practice been opened up as a public forum or forum for student expression, where students have given the authority to make the content decision? If the answer is no, then it

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goes to the Hazelwood standard, which says, can the school officials show that they have a valid education purpose for their censorship and that cen-- and that the censorship is not intended to silence a particular viewpoint that the-- that they disagree with or that is unpopular? If it's yes, then censorship is permitted. If it's no, then censorship is not permitted. If we go back-- that's on Hazelwood. Now, if we go back to the top again, let's look at this one more time. So can the publication be considered a school sponsored-- has a school lent its name and resources to the publication? If it's no, then we go to the Tinker standard. Can the publication be described as part of the school's curriculum, was it created by the school to impart particular skills to students, and is it supervised by a faculty member, even if it is produced outside of the classroom setting? If the answer is no, we go to the Tinker standard. Has a publication, by either school policy or practice, been opened up as a public forum or forum for student expression, where students have been given the authority to make the content decisions? If it's yes, we go to the Tinker standard again. What does the Tinker standard say? It says, can school officials show that their censorship is based on a reasonable forecast of material and substantial disruption of school activities or an invasion of the rights of others-- before-- in "parens" says, before Hazelwood, all censorship was controlled by this standard. So if the answer is yes, censorship is permitted; if the answer is no, censorship is not permitted.

**FOLEY:** One minute.

**BOSTELMAN:** So-- so as we look at this once again, the decision process the Supreme Court says you use is pretty clear if you look at Hazelwood or the Tinker standard, I want to go back one more time to the code of ethics. It says that it is a ever-changing document. So what is the code of ethics today, tomorrow will be changed, the next day may be changed. So we need to be careful, I think, as to how we view this and how we view LB88. I do still stand in support of LB654 [SIC-- AM654], Senator Clements'. I think this is a good debate, a good discussion on this, and it needs to be a lengthy discussion as to-- as we make a decision on this bill. Thank you, Mr. President.

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

**CLEMENTS:** Thank you, Mr. President. I looked back at a transcript from previous bill, LB206, and found, February 2019, an attorney that had some relevant points that I'd like to read from his testimony. His name was Justin Knight, an attorney here in Lincoln. A large part of my practice, probably the majority of my practice, is working with school districts across the state. I'm here to express concerns with

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the text of the bill itself. If a student is the one authoring the material, at least as I read that definition and in my interpretation, that would be encompassed within the bill. Item (2) (a) of Section two, the first sentence is that all school-sponsored media are deemed to be public forum. A public forum, in the legal definition under the First Amendment, is like a sidewalk or a park, where it's very difficult to impose any type of constraints. And so if all school-sponsored media, which would include the school district's own Facebook account, not student newspaper or student-sponsored Facebook account but school-sponsored Facebook account, we have run into issues of individuals wanting to put their commercial promotional materials on the Facebook page to promote it. That would be a concern. If the Legislature determines that everything is now a public forum, how we would go in and address-- how would we go in and address that? The student journalists would have the ability to have control over advertising content, and with school accounting and finances and things like that, there would be a concern about where that money is going and how to account for that. So those were some of the concerns that were raised by an attorney who works with school districts regularly. And back to my other opinion, a 15-year-old high school student should be subject to authority and oversight, and I just disagree that enough oversight is retained in this bill. And communications on school, as have been discussed, on school publications, could be potentially disruptive in the school and in the communities. And also, these students that are learning journal-- journalism can still write in class whatever they want to write. They can learn journalism that way, and-- and then if it's approved by the school and the adviser, then that could be put on a school-sponsored media. And as Senator Bostelman was-- mentioned, the U.S. Supreme Court has worked on cases like this and from what he was saying, if a public forum is established, it's very unlikely that censorship would be allowed. Then back to the bill, in Section (2) (b), page 4, again, with the student adviser, the media-- or the media adviser does not have to ensure compliance. If the media adviser is-- just wants to let the students write what they want, they're not required to ensure--

**FOLEY:** One minute.

**CLEMENTS:** --that their standards are maintained. I think this wording should say that the adviser shall ensure compliance with ethical standards and legal-- the law as the libel and slander and privacy and state law items are described. So I, again, think we're having a good discussion about what definitions of terms are and ensuring-- the media adviser ensuring ethical standards is good, but it doesn't say they have to. It just says they may. I would rather have that say that



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they shall ensure compliance if this section is retained. So there may be some--

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

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

**FOLEY:** Thank you, Senator Clements. Senator Erdman, you're recognized, your third opportunity.

**ERDMAN:** Thank you, Mr. Lieutenant Governor. I appreciate that, and I appreciate the conversation so far. I was-- I was wondering if Senator Morfeld would yield to a-- Morfeld would yield to a question.

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

**MORFELD:** You bet.

**ERDMAN:** Thank you. Senator Morfeld, did you find any of those examples for me?

**MORFELD:** Yeah, I found about 20 of them.

**ERDMAN:** Can you-- can you read one of them for us?

**MORFELD:** You bet. Let me pull it up here. Oh, of course-- of course, my window-- there we go. OK, yeah, we have Benjamin Randall, a senior from Gretna High School, copy editor and lead writer for the school's newspaper, wrote a column on the topic of fake news and the-- the administration censored it. Donald Trump was circled red because it was said unnecessary. We have Kylie Hanna, senior from Hastings Senior High School, editor-in-chief of the school newspaper. A teaching assistant at school was engaged in inappropriate texting with the student, was fired and arrested. It was reported in the actual-- not the actual-- it's all media-- but the local newspaper. And the administration said that they couldn't write anything about the story, said that it was not an important story for the students and they were not capable of writing in a professional manner. We have Madi Pohlman, 2016, senior and editor-in-chief of the school newspaper, also had censorship experiences. There wasn't too much detail on that. These are just my summaries of the testimony. McKayla Vermeer, junior at Bellevue East High School, newspaper staff, two years, was editor-in-chief the year that they testified, also experienced some censorship, didn't give too many details on that but talked about it a little bit. Do you want me to keep going?

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**ERDMAN:** Well, that-- you know, those are good examples. So tell me, if your bill would pass, would they be able to write those things?

**MORFELD:** Yeah, it appears that most of these things-- I'd have to read the entire story to make sure that it didn't hit on any of the stringent limitations that are outlined in the bill.

**ERDMAN:** OK. All right. I appreciate that. Thank you. Those are-- those are good examples. So I found this article that talked about a school district in the state of Washington. They had a little problem there. I'll read it to you and you make your own decision. A school district-- it says: A school district sued by students over high school newspaper's sex story. And it goes on to say: Four current and former high school students in Washington State sued the Puyallup High School district in federal court yesterday, contending that their names were used without their permission in a student newspaper article about their sex lives. The students contended that they spoke with JagWire reporters of the Emerald High School based-- Emerald Ridge High School on the prem-- on the promise of on-- anonymity and then were sexually harassed, mocked, and jeered after the story ran, identifying them by name and recounting the details of their sex lives in a report-- Seattle-- The Seattle Times reports. Although The Times did not make clear exactly the theory of the case, it reports the attorney, Nathan Roberts of Connelly Law Offices in Tacoma, who is representing the plain-- plaintiffs, criticized the school for not better supervising the students working on the newspapers. Roberts told abajournal.com that he filed a federal lawsuit, Title IX civil lawsuit, rights claim with the several pending law tort claims in the current and former students' behalf. And it goes on to talk about that. But the point is this, and I think Senator Groene alluded to this. When these things happened and they wrote this story and they put this out there, they didn't sue the students. They sued the high school. And that's exactly what will happen here. So let me share with you a bit about the difference between where I live and perhaps where we are standing. If you--

**FOLEY:** One minute.

**ERDMAN:** Thank you. If you were to write something that may be acceptable in Omaha or Lincoln and that same thing was printed in Harrisburg, Nebraska, or Arthur or in Banner County, that superintendent may lose his job because what may be acceptable here is not acceptable there. And so we pass one statute that one size fits all. That doesn't work all across the state. We found that out many times. Just because 70 percent of the population lives in three counties, the whole state does not revolve around those three

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counties. And we are different in many ways, and so what is acceptable here may not be acceptable there. And I don't believe that this should be a statute in place that it's the same all across the state. So I still support AM654 and I'll be voting green on that amendment. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Ben Hansen.

**B. HANSEN:** Thank you, Mr. President. I just wanted to kind of reiterate a couple of my concerns that I had last time was on the microphone about what's going to hold some of these students accountable and what kind of guidelines they have to follow, and one of them is the code of ethics. And again, one of the concerns that I had is what we're start-- what we-- what we see on-- in national news and what we see even in local news to some extent and my concern about their ability to follow the code of ethics, such as ethical journalism should be accurate and fair, provide context, never deliberately distort fact or context; ethical journalism source-- treat sources, subjects, and colleagues and members of the public as human beings deserving of respect. I-- this is just a personal thing with me. I feel like that is not occurring right now and that my concern now is what's going to happen with-- with more access, sometimes unfettered access, that students can have to print what they like and my concern that will slowly start to seep down into our school system and their-- their ability to follow the code of ethics that is not already being adhered to by other media sources, in my opinion. And we do have to remember, again-- this is just my-- my thought. I don't feel like students are journalists. We're treating them like journalists with this-- with this bill. We're giving them the same guidelines-- not even really guidelines-- as journalists in national media, as journalists in-- to a certain extent, because they have editors as well, in other kinds of publications. They are not journalists. They are students learning about journalism. And this requires teaching, restraint, and some controlled with tempered freedom. Just because a student is learning about accounting, I don't-- I'm not going to have them do my taxes. He can sure help out under the oversight of somebody who knows what they're doing. Just because somebody takes a carpentry class in high school, I'm not going to have them build my house. They can sure help and learn about it under the oversight of-- of a contractor. And you know what else they're learning about? They're learning about the code of ethics. They need to be taught about the code of ethics before they can even follow it. And we do want them to question authority and investigate. I think that is what they're learning about. And we do have to-- we do-- we do want them to do that, but not just with guidance, with oversight. And if you look at

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oversight, how it's defined, it's regulatory supervision. And I feel with this bill we're losing that. We're losing some of that regulatory supervision, what teachers across all subjects use to help guide their students in a safe manner, because words do matter. So with that, I will yield the rest of my time. Thank you, Mr. President.

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

**FLOOD:** Thank you, Mr.-- thank you, Mr. President, members. This is another good conversation about Senator Morfeld's bill, which I-- I support LB88. I don't support LB-- or AM654. What's so interesting to me-- and I'm not-- I don't want to stand up and-- and make this about the school administrators or make it about anybody's personal opinion. But I work with people here that are Exhibit A as to what you want to come out of a school. Before I even knew Senator Groene personally, I knew a former superintendent from North Platte that told me that, although Senator Groene might have been a pain in the tail, he was the only one that showed up at the school board meeting to ask about the budget and the property taxes. In a weird way, this bill gets us more Mike Groenes. It gets us people like Senator Wayne, who led a march that was featured with a wonderful picture on the front of the World-Herald this summer, leading the African American community in his district following unbelievable riots. What we get by allowing this is we get to help create those actors that later in life change lives, change laws, run for office, question authority, and make America better. As a Republican, we often talk about the liberal bias in education. What are we doing here? We are arming students with the ability to question, to-- to-- you know, I was raised by fierce Democrats and I ended up just the opposite. And I-- I think I turned out pretty well, like we all did, because the contrarian in us allows us to see things differently while still having an appreciation for a perspective on the other side. When you talk about how-- you know, talking about kids' sex lives or whatnot, I've got an eighth grade boy living in my house. Do you want to know what some of those kids talk about on Snapchat? I've got news for you. We want these kids learning these skills in school, where they can talk about invasion of privacy and harm done to other people, because the stuff that happens on social media would curl your toes. It's awful to be a seventh grader right now. It's awful to be a freshman in high school. The things they say to each other on these social media platforms are awful at times. And here we have a chance to educate them in the classroom and treat them as close as we can to adults with the same rights and protections as the rest. And the other thing I would say is-- you talk about the safety, you talk about the harm to students-- think about football. Think about, you know, a 6'1", 180-pound sophomore that we arm with

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pads and a helmet and all the gear. We send them out onto a field where they can run at top speed and they collide with another person and there's the possibility of a-- of a concussion or a serious bodily injury, or how many times have we seen the helicopter land? If we're concerned about the safety of our students, then look at everything that's going on. What we're doing here is we're arming students with the ability to use their mind, to use their mouth, to use their writing skills. We are enabling some learning that I think will pay off in the long run, like I think we're going somewhere with this bill. We are saying to these students, you have the ability to do this, we're going to teach you as best we can what the parameters are, what the principles are, but the right and the wrong that happens here, there's value in that. And that's what I hope to inspire my colleagues to vote for this for, because I think the benefit--

**FOLEY:** One minute.

**FLOOD:** --far outweighs the concerns that we've heard. And the last thing I'll say is, well, I don't con-- you know, some will say, I don't consider a student a journalist. You know what's ironic about that is the government doesn't get to decide what a journalist is. The government doesn't get to hand out permits as to whether you're the press or not. That's the beautiful thing about the First Amendment: Get your hands off me. I can't tell you how many times I have people in the government that try and tell reporters, you're going to do this, you're going to do that. No. You don't even get to decide whether I'm press or not, because that's afforded to every single citizen, whether I have 10 people on a blog or 100,000 people on my Facebook page or 200,000 readers or 500,000 viewers. It's not up to you. And today you're speaking as the government and you don't get to decide what a journalist is. Nobody got to decide Ben Franklin was a journalist. Nobody gets to decide whether Andrew Cuomo's brother is a journalist.

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

**FLOOD:** Nobody get-- thank you, Mr. President.

**FOLEY:** Thank you, Senator Flood. Senator Pansing Brooks.

**PANSING BROOKS:** Question.

**FOLEY:** The question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Have you all voted who care to?

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**MORFELD:** Call of the house.

**FOLEY:** There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 23 ayes, 9 nays, Mr. President, to place the house under call.

**FOLEY:** The house is under call. All senators please return to the Chamber, check in. The house is under call. Senator Pansing Brooks, you had, I think, 20 votes on the board. Would you be interested in taking call-in votes or do you want to proceed in some other manner?

**MORFELD:** No, no call-in votes.

**PANSING BROOKS:** No, no call-in votes, thank you.

**FOLEY:** No call-in votes. Senators Stinner, Kolterman, Walz, Bostar, Hilkemann, and Geist, please check in. Senator Pansing Brooks, how did you want to proceed on this vote?

**PANSING BROOKS:** Regular order, please.

**FOLEY:** Regular-order roll call. Let's see, all unexcused members are now present. The question for the body is the adoption-- or, excuse me, the question is whether or not to cease debate, and a regular-order roll call has been requested.

**CLERK:** Senator Aguilar. Senator Aguilar, I'm sorry, voting-- how-- how did you vote, Senator Aguilar? Voting no. Thank you, Senator. Senator Albrecht voting no. Senator Arch voting no. Senator Blood voting yes. Senator Bostar voting yes. Senator Bostelman voting no. Senator Brandt. Senator Brewer voting no. Senator Briese. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Day voting yes. Senator DeBoer voting yes. Senator Dorn voting yes. Senator Erdman voting no. Senator Flood voting yes. Senator Friesen voting no. Senator Geist voting no. Senator Gragert voting no. Senator Groene voting no. Senator Halloran voting no. Senator Ben Hansen. Senator Matt Hansen voting yes. Senator Hilgers voting yes. Senator Hilkemann voting yes. Senator Hughes. Senator Hunt voting yes. Senator Kolterman voting yes. Senator Lathrop voting yes. Senator Lindstrom. Senator Linehan voting no. Senator Lowe voting no. Senator McCollister voting yes. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Morfeld voting yes. Senator Moser voting no. Senator Murman voting no. Senator Pahls voting no. Senator Pansing Brooks voting yes. Senator Sanders. Senator Slama

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voting yes. Senator Stinner voting yes. Senator Vargas. Senator Walz voting yes. Senator Wayne voting yes. Senator Williams voting yes. Senator Wishart voting yes. 25 ayes, 17 nays to cease debate.

**FOLEY:** Debate does cease. Senator Clements, you're recognized to close on AM654. We're still under call.

**CLEMENTS:** Thank you, Mr. President, Senator Bostelman had talked about the Supreme Court in Hazelwood and I had some information I was wanting to go over. It says Hazelwood never gave school officials an unlimited right to censor anything they don't like. Justin [SIC] Byron White wrote for the majority. Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical-- pedagogical concerns. It was not unreasonable for school administrators to find that frank talk by students about their sexual histories and their use of birth control, even though their comments were not graphic, was inappropriate in a school-sponsored publication distributed to 14-year-old freshmen. A school must be able to set high standards for the student speech that is disseminated under its auspices, standards that may be higher than those demanded by some newspaper publishers or theatrical producers in the real world, and may refuse to disseminate student speech that does not meet those standards. When censoring speech, a school must consider the emotional maturity of the intended audience in determining whether dis-- to disseminate student speech on potentially sensitive topics. In an elementary school, the Easter Bunny might be a sensitive subject. Teenage sexual activity might be touchy in a high school setting. That was an Opinion by Justice Byron White. I don't have the date of that, but it was an Opinion that says that educators do not offend the First Amendment by exit-- exercising editorial control. These students are still minors, subject to their parental or guardian's authority at home. And I think when parents send their students to the school, they're expecting some of their values to be upheld when they turn their authority over to the school authorities. And I don't think they want that to be removed. In my opinion, calling a student publication and media a public forum does remove the editorial control from the school. I don't think that the-- I disagree with saying that you can modify that by when you leave the term "public forum" in this bill. If that was removed, then maybe I could support it. But it-- in my opinion, we don't have enough ability to set high standards for the student speech that's being disseminated. And I also believe that the students have a right to write what they want in the journalism class, but not for the-- not in the school-sponsored media. They have their

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own Facebook account. They have maybe their own Web page or blog. They can ex--

**FOLEY:** One minute.

**CLEMENTS:** There are many ways students have these days to express their opinions, and forcing the school to accept content that-- without much editorial control over it is going too far, in my opinion. So I do ask for your green vote on AM654. And I'm leaving the university and colleges alone, but I believe this is not appropriate for the high school setting. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Clements. Members, you've heard the debate on AM654. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 15 ayes, 26 nays on the amendment, Mr. President.

**FOLEY:** AM654 is not adopted. I raise the call.

**CLERK:** Mr. President, Senator Halloran would move to amend with AM5-- I'm sorry, AM698 [SIC-- AM690].

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

**HALLORAN:** Thank you, Lieutenant Governor. Good afternoon, colleagues. The amendment I'm offering, AM690, is a friendly amendment, and I'm-- I'm pretty confident that Senator Morfeld will call it an unfriendly amendment, but I'm-- I'm likely the most friendly amender in the body. This is a friendly amendment and it's a friendly amendment in this manner. The way the bill is written now, it's-- it's taking away the opportunity for local school districts to have self-governance. So this amendment gives the opportunity for school districts to choose or not to choose to be a public forum. And for the sake of those that are listening on the network today and TV, watching from their homes or their offices, I'm going to read the amendment: on page 4, strikes lines 10 through 16 and insert the following new subdivision (2)(a) Pursuant to the Constitution of the United States and the Constitution of Nebraska and subject to subsection (3) of this section, a school district shall protect a student's journalistic right to participate in the school's freedom of press in the school sponsored media. Such right shall be limited only by constitutionally allowable infringements of speech or by editorial oversight of the press by the school district. A school district may, and that's a crucial word, may choose to designate some or all of its school-sponsored media as



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public forums. In the case of media so designated, the scope of permitted infringements and editorial oversight shall be determined in accordance with case law regarding public forums generally. For media not so designated, the case law applicable to school-sponsored media shall apply. This-- so colleagues, this is-- this, again, I think can make-- make the bill acceptable to all participants here because we're dealing with-- we're trying to deal with a bill that it current-- as it currently states, is a blanket bill. It blanket covers the whole state. And it-- and has been pointed out in testimony or-- or debate today, what may be OK in Lancaster County or Douglas County will fine-- will probably get someone fired, administrator or principal fired, in Arthur County, Clay County, Webster County. And so this bill gives the schools the opportunity to have their autonomy, to have their sovereignty, to have their self-governance, to be able to choose if they want to be a public forum or not. One of my concerns with the bill, as it's-- as it is now is-- is that if it passes, the recourse for a lot of schools, a lot of schools will be to say we can't manage it, so what we're going to do is have to just do away with all publications, newspaper, albums, etcetera, and that would be sad. So I think we ought to give local school districts the opportunity to govern themselves. I understand we're the most deliberative body in the world, but that doesn't mean we're the smartest body in the world, right? That doesn't mean that we should take away the authority of local authority, local control, local management, local governance. So what this amendment does is return that opp-- that opportunity, giving local school districts that option to choose to be a public forum or not. Thank you, Mr. President.

**HILGERS:** Thank you for your opening, Senator Halloran. Debate is now open on AM690. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. And good morning-- sorry. Good afternoon, colleagues. I have-- originally I thought I was going to talk on this today. And in listening to the debate, I have gotten more things that I've wanted to say than I think I'll get into five minutes. First and foremost, I did want to flag something because I think we're trending down this. I think we're going to hear from it again and again. I've heard at least two different speakers, maybe at least three different times, reference a lawsuit from Washington. I've looked that up, and if it's the same lawsuit, and based on the description it is, that was a lawsuit from 13 years ago that the school district won at all levels, including a unanimous decision by the State Supreme Court, so that was a bad lawsuit that didn't have any standing that lost over a decade ago. So there is nothing we can ever do to prevent somebody from filing a lawsuit. That's the point.

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You're allowed to make longshot claims that don't have any traction because that's the point of court, is to sort out those cases. So holding a case that the school district won as evidence that we shouldn't do something seems to me to be a bit of a stretch. If somebody has a different example or another thing, I'd be happy to look at it. But that Washington case about the-- about the-- I think it was the JagWire was the name of the local paper at the Emerald Ridge High School. Again, the school district and the student newspaper won at every level. Second thing, the thing that I originally clicked my light on for, was I believe Senator Bostelman made reference to it was weird to support or strange to support this bill while also supporting children having the right to an attorney. I would posit that the opposite is true, that it is strange to think that children don't need an attorney, that they can defend themselves in court, that we can let a child defend himself against a full-fledged county attorney or the Attorney General and that's just fine, but we don't trust them to write an op-ed. That is, in my mind, the opposite and the flip. I think we, very drastically in how we treat children in this body, and I understand issue by issue and I understand why that's the case, but if you're making the argument, as I know others will when we get to that bill, that children do just fine, that adults are looking out for them, that they don't need help in court, it seems bizarre that we would let a child create and maintain and enter their own legal proceedings pro se, but we don't allow them to like write an op-ed on like what happened in the school parking lot. To me, those are so drastically different that the comparison only works in one way and, frankly, in this way, in this favor, in support of this bill. So I just-- I had to throw that out there. And finally, and maybe I will get all my points in, in five minutes, and this is just a little fortuitous today, but I had scheduled an interview with a student journalist today, interviewing me about one of my bills-- granted, college, not high school. And in terms of student journalists not being journalists, that is an article that is going to be published, I presume, that-- that has the full chance to be published. And that person came prepared and asked me deeper questions, followed up on questions, more so than I've had in an interview in a while. And that's not a criticism of anybody else. That's just saying that this person, who was getting their shot to do a story on the Legislature, got a state senator to volunteer some time, took full advantage and, based on that interview, is prepping to write a good story that analyzes the issue from a lot of different perspectives. So I know that's butting up against a lot of different issues. But for me, just to be so dismissive and say that we shouldn't even bother to consider this to be a real issue or that these, you know, students to have any sort of--

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**HILGERS:** One minute.

**M. HANSEN:** Thank you, Mr. President-- to have any sort of real standing or-- or merit or that we should frankly care about them, that we should not care about them, is just-- it's so different from my experience that I'm struggling with it. Obviously, I've been in strong support of this bill. I'm going to maintain in strong support of this bill. I'm expecting Senator Morfeld to say the Halloran amendment is unfriendly amendment, and I maybe should have yielded him some time, but I think I'm about out, so I will continue supporting the mainline LB88 till the end. Thank you, Mr. President.

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

**GROENE:** Thank you. I passed out a handout. We've heard that the Kansas law was apples to apples. It is not. It's not even close to this law, to this attempt, this bill. The Kansas law reaffirms that a student paper-- a paper is the press, not a public forum. It says-- I passed it out, you can read it-- liberty of the press protected. Further on it says the liberty of the press in student publications shall be protected. Down to the fourth sentence, it says, material shall not be suppressed solely because it involved political or controversial subject matter. Material can be suppressed if it is libelous, I mean, or if it doesn't re-- reflect the truth. It goes on to say student editors of student publication are responsible to determine the news. That's in the real press, the editor is. It goes on to say no school district member or the Board of Education or employee thereof shall be held responsible in any civil or criminal action for any publication or other expression. It goes on to say, if the student editor is of the age of majority, they can be held liable in any civil or criminal action. Now you're the student editor. You're going to edit and you're going to suppress. This is what this bill says. All school-sponsored media are deemed to be public forums. You're no longer journalists, folks. You are an individual expressing your free speech rights. It becomes a public forum, not a-- the press anymore. That's what this bill turns that school publication into. The journalist has the right to exercise freedom of speech. All right. Subject to this subsection (3) of this section, each student journalist is responsible for determining the news, opinion, features, sports and advertising content such student produces for school-- there's no editor. In this publication there is no editor. Kids just write what they want and it gets printed. Kansas law said there's still an editor and it is still the press. It just reaffirmed that a school publication is-- follows the laws and rules and lawsuits of the press, doesn't create a public forum which now converts it to free speech, not freedom of the press.

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This sub-- this bill says nothing in it, nothing in it that protects the school board or the school district from lawsuit. Kansas law does. I asked Senator Wayne off the mike, can I sue a kid for libel? He said, no, juvenile. Can I take a kid to court for unwarranted invasion of privacy? No, juvenile. So who do I take? I take the school board. I take the school district. Feels nice. Now some of you invite and you traded votes or whatever and you think this is a-- really a nice thing to do for kids, but we got to be mature here. This is not the Kansas law. The Kansas law is completely different than this attempt at chaos, no protection for the school district, no protection for the school board members. The kids can write whatever they want. There's no student editor. What the Kansas law did was reaffirm to-- in Kansas that a-- created-- now those kids are journalists, I guess, because the Kansas law said freedom of the press. And by the way, I thank God for some very mean teachers I had that kept me in line in high school and just-- just turn me loose, I'd probably be in the State Pen with my personality. Senator McDonnell nods yes, with my Irish blood; so does Senator Brewer. But I had some strong personalities that kept me in line, told me I was very intelligent and I could go places and they turned out-- if they knew now--

**HILGERS:** One minute.

**GROENE:** --I turned out to be a politician, they'd be very, very disappointed. So anyway-- but, no, I needed guidance. I needed guidance. I needed strong guidance. I didn't need a free-for-all. So Senator Flood, you were wrong. I appreciate those strong personalities in my life, the coach that benched me because-- that was Mr. Allen [PHONETIC] from Nebraska-- didn't want to follow instruction. But anyway, this bill is not the Kansas law. Kansas law I might be tempted to support. This thing isn't even close. This is a free-for-all. No editor, no student editor, no editor can-- can say we're not printing that in Kansas. That student editor still can print it and the school can still suppress certain articles. They just can't do it because of the reason of it's a political, controversial subject matter.

**HILGERS:** Time, Senator.

**GROENE:** Did you say time?

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

**GROENE:** Thank you.

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

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**LOWE:** Thank you, Mr. Speaker. I want to take you back in time, back in time when I went to high school and I was part of the journalism department. I was a photographer. I had my Rolleicord camera. Now that's a camera. It was not a phone; it was a camera. And that camera folded out. And you took off the back and you loaded your film in the back. Now this film was not like a 35 millimeter canister. It was a roll that was about two-and-a-half inches long and had a paper sleeve over the top. So you took off the tape and you very carefully unrolled that roll, because if you didn't and you dropped it, the whole film was ruined. So you loaded that into your camera, closed the back, and then you took a knob and you cranked it forward. That's how you loaded your camera and that's how you got ready for each shot. Now you took that camera and then you unfolded the top and you looked straight down into it and you took a picture forward. That's what we learned on. Why? Because 35 millimeter cameras were expensive and these were leftover from the '60s and the '50s, but we learned to be photographers in journalism class. It took a lot to teach us because we had our own ideas. We knew what we thought would be good photos. But you only got 12 pictures on that roll of film, so you had to be very careful because you didn't want to waste the film, because once you got done taking your pictures you had to take that roll of film into the darkroom and develop it, put your hands on the chemicals and wait for that film to develop. Once the film got developed and dried, you then put it in the enlarger and you cranked it up so it was a proper size on the paper down below, and then you brought out your photog-- photographic paper and put that down. These are all processes you learn in journalism class. So in order to take a picture, from beginning to end, it took a long time and it took a lot of skill, everything learned in journalism class. This bill leaves out journalism class because it allows any student to report in the paper or the yearbook. Now how are these papers and yearbooks paid for? Well, I was a photographer, so I'd go out on assignments and I'd go to businesses that would want to have their business published in the newspaper or the yearbook. And we would take a picture of whatever they wanted in the paper or the yearbook, and then they would pay for those advertisements in those. Now we have students publishing things that our advertisers don't agree with because freedom of the press. Well, there's also freedom to not advertise. So what happens? Those advertisers back off of our school publications, because they don't agree with what's printed in there. So no longer will you have a school newspaper because they can't afford to print, because they can't afford to publish. You won't have a yearbook, your annual, the thing that students cherish for years--

**DORN:** One minute.

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**LOWE:** Thank you, Mr. President-- things that students cherish years after they've left high school. Well, that's what we're doing with this bill, LB88. We're threatening advertisers. So I am for AM690 and against LB88 because I want the newspapers and the annuals to continue on, because there is somebody in charge of overseeing what is printed. Thank you, Mr. President.

**DORN:** Thank you, Senator Lowe. We will now go to Speaker Hilgers for an announcement.

**HILGERS:** Thank you, Mr. President. Good afternoon, colleagues. I've had a few people ask me about the schedule tonight and tomorrow, so I thought I'd give everyone an update at the same time. So I intend to get a vote on LB88 tomorrow. So what we will do is we'll go to about 5:15 today. And then tomorrow, assuming that the debate continues, we will start with LB88 in the morning and we will go through lunch. I was planning on tomorrow being a half day, but we'll get a vote on LB88 tomorrow so that, if we go to 5:15 today, that will target around 1:15, 1:20, depending on exactly when we end, for a potential cloture vote on LB88. If LB88 gets resolved before then, we'll-- we'll pick up with the Christmas tree bills that originally were on the schedule. So today we'll end around 5:15. Tomorrow, if there's a cloture vote on LB88, it will be around 1:15, working through lunch, and that will be the end of our business tomorrow. Thank you, Mr. President.

**DORN:** Thank you, Speaker Hilgers. In the queue, next up is Senator Morfeld. In the queue then is Moser, McCollister, and Pansing Brooks.

**MORFELD:** Thank you, Mr. President. Colleagues, I rise in opposition to AM60-- AM690, Senator Halloran's amendment, and I want to walk through why I'm opposed to it. The primary reason I'm opposed to it is because it literally takes us to where we're at now and then codifies it. So it completely eliminates the intent of the bill and it actually makes it worse in the sense that we're codifying where we're currently at right now, which is the Hazelwood standard. And so whereas Senator Clements' amendment probably took away 90 percent of the purpose of the bill, Senator Halloran's amendment actually defeats the entire purpose of the bill and then codifies where we're at right now. It does. I've-- I've read it. I understand it. I'm an attorney. I know what's going on with his amendment. And so what it does is it makes it so that we adopt the Hazelwood standard, which is the current law of the land, and codifies that. And the problem with that is it allows for prior review and it allows for censorship. And so that completely defeats the purpose of the legislation, so-- so, colleagues, I urge you not to vote for AM690. It's a hostile amendment and, in fact, it makes the current situation even worse. I want to talk a little bit

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about what Senator Bostelman was talking about, and I think to a certain extent Senator Groene as well. When they talk about Hazelwood, they say, Hazelwood says if you make it a public forum and then you go-- revert to the Tinker standard. Well, that's if you make it a public forum and then you put period, stop there. That's not what we're doing here, colleagues. What we're doing here is we're saying we're making it a public forum, but-- we're making it a public forum, but-- and let's go through the buts here, OK? We're making it a public forum, and in order for school-sponsored media, because that's the only thing that's protected in this bill, in order for it to be school-sponsored media, it has to be material that's prepared, substantially written, published or broadcast by a student journalist at a postsecondary education-- in-- educational institution, and high school in the other section, distributed or generally made available to members of the student body, so it can't be your essay in English class or anything like that. Three, prepared under the direction of a student media adviser, school-sponsored media does not include any media intended for distribution or transmission solely for the class in which the media is produced. So again, it can't be your English composition essay or-- or-- or anything like that. It has to be meant for broadcasting to the broader school, the broader public within that school. And not only that, in order for it to fall under school-sponsored media, which is the only thing that falls under these protections, you have to go to subsection (3). It has to be prepared under the direction of a student media adviser, and that student media adviser is explicitly empowered to ensure that school-sponsored media adhere to the prevailing journalistic standards. And in that sentence before, it states-- it states that they-- this does not limit them from being able to teach their class and grade their students. So when we say that we're creating a public forum, you have to remember, we're creating a public forum, but we are creating very specific limitations. So the issue that was addressed in Hazelwood was the issue of whether or not students, without any statutory guidance in that state, could publish something without having prior review. The court said, no--

**HILGERS:** One minute.

**MORFELD:** --you can't, and that's the rem-- that's the-- that's the issue that we're trying to remedy here. But here's the deal. As I noted earlier, we can create rights beyond the rights that are guaranteed to us in the Constitution. As a state, we can do that. But we can also put limitations on those rights that go beyond the constitutional rights granted to us by the Federal Constitution. So we are providing protections, but we are saying with limitations. And

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Senator Erdman brought up, I think, something out of California or Colorado where students published something about the sexual lives of other students. In my legislation, we have a specific exemption that schools can stop the publication, or a media adviser, for things that constitute an unwarranted invasion of privacy: line 4, subsection (b), page 3. We have the same corresponding one for high school students. So that would be able to be stopped. It would be able to be censored, if you want to call it that. Thank you, Mr. President.

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

**MOSER:** Thank you, Mr. Speaker. I think in this discussion I think we're missing some of the what I think are more important underlying issues here. It's not so much that current law, in my opinion, is not a-- does not provide a good journalistic education for the journalists. The school newspaper is a reflection on the school. The school board's elected and they exert their control over the newspaper through the superintendent and the principal. And the education, I think, that school journalism students currently receive is not harmed by the absence of LB88. In the opposite, in the current system, they learn to communicate their views while balancing their views with input from the school administration. I think that's a more realistic journalistic experience because I don't think in real life the news reporters have carte blanche to draw-- to write whatever they want. Giving students free rein to write without administrative control is not a realistic journalistic experience. In real life, what a reporter writes is subject to edits by the editor and approval from the editorial review board. I think giving students the upper hand in what appears in a school newspaper is kind of standing the whole question on its head and making everything revolve around the students. And the sooner the students figure out that in order to get along in life they have to negotiate, they have to try to get along, they have to try to think, they can't just do whatever they want to do and then everybody's going to praise their work and give them a trophy, they're going to have to do work that's going to work in real life. And I think the current system gives them a better education than if we give them power over the administration. Thank you.

**HILGERS:** Thank you, Senator Moser. Senator McCollister, you're recognized.

**MCCOLLISTER:** Thank you, Mr. Speaker. Good afternoon, colleagues. I rise in support of LB88 and against the amendment. And this particular topic of this bill is particularly relevant to some of my school districts. As a matter of fact, before the election, a student newspaper was intended to be published and the administration and the



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school board opposed publishing this particular article. And as a result, the instructor got in a-- a tiff with this administration and he ended up resigning, so you would think this particular bill would be opposed by the Westside School District. No, in fact. In my call to them, they said they support the bill, and from there I called the Milford School District and they support this bill as well. So I think it's instructive to know that at least two of the big school districts in this state, Westside and Millard, support this bill. And I think that this bill is going to resolve some of the issues that some of these big school districts have, and I welcome the discussion on this bill. With that, I would relinquish the balance of my time to Senator Morfeld.

**HILGERS:** Senator Morfeld, 3:38.

**MORFELD:** Thank you, Mr. President. Thank you. Senator McCollister-- McCollister. I-- I appreciate your support of the legislation. I think it's important to step back and realize that the things that we should be prepare-- the purpose of K-12 public education is to prepare our young leaders for the real world, and we do that in a lot of different ways, but one of the ways that we do that is by giving them real-life experiences. And I tell you what, some of the experiences that I had, which were what I would call experiences outside the school or experiences outside the normal academic offerings, were experience that, quite frankly, were the ones that I carried with me and provided me valuable skills in my professional life. So I did run an alternative student publication. I didn't know that Senator Flood was a fellow underground school newspaper editor. I also started an underground student newspaper, except we actually put our names on it, so it wasn't very underground, so people knew exactly who we are, who we were. And in fact, this paper was started because the school-sponsored paper wouldn't publish some of our opinions and our editorials. And it might be shocking to some of you, those editorials and opinions were considered conservative at the time. And so we started our own alternative publication. And we created that publication. We even had sponsorships, so we were getting advertisements, Senator Lowe, and it was-- actually, it was probably my first small business, thinking about it. We had money left over for pizza after we got done paying for all of our expenses and our costs. And so we published that paper, and I was called down to the principal's office and told that if I continued publishing that paper, I would be expelled. And what was in that paper? Nothing subversive. We weren't talking about people's sex lives, Senator Erdman. We weren't talking about contraception or anything like that. I think we had a dating column, but it was pretty-- pretty blase, probably wasn't

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very good dating advice either. But the bottom line is, is that we had to start an alternative publication because our school publication would not allow us to print--

**HILGERS:** One minute.

**MORFELD:** --pretty run-of-the-mill commentary. And then me, as a student who hadn't-- I don't think I'd even been in detention up until that point-- this was my junior or senior year-- was called into the principal's office for being entrepreneurial, for starting my own publication, and was told that I was going to be expelled. Now the difference between my publication and the publications we're talking about is these are school-sponsored publications. My publication was an independent publication which falls under the Tinker standard, actually. But that being said, that's how we're treating our students. And I don't know if I could classify myself as the best or brightest. We won't get into my GPA. But I will say that I was probably more industrious than most and I attended all my classes. I was overall a good student. So what kind of impression does that leave on our young leaders when we're told, you're exercising rights that everybody else in this country is exercising, but we're going to expel you, even after you tried to go through--

**HILGERS:** Time, Senator.

**MORFELD:** --the student-sponsored publication, which, by the way, we censor--

**HILGERS:** Time, Senator.

**MORFELD:** --and we provide prior review. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld and Senator McCollister. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. I appreciate that. So, Senator Morfeld, I was listening to your comments about your underground paper and the things you did there, and-- and so, obviously, I can draw-- I conclude that those things that you wanted to print, your school wouldn't allow you to print. Would you yield to a question? Senator Morfeld, yield to a question?

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

**MORFELD:** Yes, Senator Erdman, I will yield.

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**ERDMAN:** So, Senator, I was listening to your comments. So I'm concluding from your comments that the reason you started your underground newspaper, that the school wouldn't allow you to print what you wanted to, is that correct?

**MORFELD:** It was either the-- the-- the student media adviser or the student editor-in-chief at the time. I don't know which one didn't allow us.

**ERDMAN:** But they wouldn't allow you to do that?

**MORFELD:** Yes, they would not allow us.

**ERDMAN:** OK. Did-- did you hear Senator McCollister's comments?

**MORFELD:** I was engaged in conversation with Senator Halloran about his amendment--

**ERDMAN:** OK. All right.

**MORFELD:** --so, no, I did not.

**ERDMAN:** Here-- here's what he-- here's what he said. He said he checked with two large schools and they were OK with your bill. So if you don't like Senator Halloran's AM690, would you be in agreement if we amended it to say that would apply to the large schools and the schools in my district would be exempt from this bill? Would you be okay with that?

**MORFELD:** No, I would not.

**ERDMAN:** Because the information that I've gotten from those people in my district in education do not agree that this bill is good and they do not want to see this bill pass. So what is good for your district and for the big schools may not fit well with my small schools in my district. So you wouldn't allow those people to make the decision for themselves?

**MORFELD:** No, and here's-- can I explain why, Senator?

**ERDMAN:** Go ahead.

**MORFELD:** Do you mind? OK. I don't want to take up all your time. So the reason why is because I know big schools that are opposed to this, I know small schools that are opposed to this. I know big schools from Senator McCollister that are in favor of it and some small schools that might be in favor of it. And so for me, I want to make sure that

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we have a consistent standard across the state. I also don't want to run into equal protection issues with students that are similarly situated in different school districts being treated differently.

**ERDMAN:** So are you-- can I conclude from those remarks then you think if-- if we adopt AM690, that we wouldn't be able to do that because they wouldn't all be treated equal?

**MORFELD:** Well, I think AM690 goes even further than that and makes it so that we adopt the current constitutional standard, which is exactly the opposite of what I'm trying to do.

**ERDMAN:** OK, I understand that. But I'm-- my question is, if we adopt this, AM690 would allow my school districts to do what I'm asking to do; if we allow this for the big schools only, my districts could do whatever they want to do. They could choose to do it or not to do it. Is-- that's not acceptable.

**MORFELD:** That's not acceptable. And maybe I'm reading AM690 wrong, but I thought that it applied to all schools, so I'll have to look at it again.

**ERDMAN:** Yeah, it does. It applies--

**MORFELD:** It does. OK, good. [INAUDIBLE]

**ERDMAN:** Every school can make their own decision.

**MORFELD:** Yep.

**ERDMAN:** I think that's what it says.

**MORFELD:** Yep. And I don't want them to be able to make their own decisions. I want a uniform standard across the state that provides some protections with limitations.

**ERDMAN:** Do you think that would be, what shall I say, against the constitution or-- or not equally represented? How would you say that?

**MORFELD:** So I do have constitutional concerns if we have differing standards for our students' free speech rights in certain communities and not in others. I think that there could be some equal protection issues, so some Fourteenth Amendment issues, and it could make the legislation unconstitutional.

**ERDMAN:** OK, OK. Well, I-- I'm in favor of AM690. I think it makes a lot of sense. Thank you for answering those questions. I think it

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makes a lot of sense, especially, as I said earlier on the mike, that our district-- my district and most rural districts are different than it is in Lincoln and Omaha.

**HILGERS:** One minute.

**ERDMAN:** And I think Senator-- you say time, sir?

**HILGERS:** One minute.

**ERDMAN:** OK, thank you. But Senator Pahls mentioned about the population in some of those schools is 2,000-2,500 students. I have probably four counties, if you put the whole counties together, wouldn't equal 2,500 people. So he is absolutely correct. And so those issues that we deal with there in education, as well as the general public's attitude and opinion of things, is totally different. And so to make one size fit all doesn't work in my district, doesn't work in a lot of districts. And so I think Senator Halloran came up with a great idea and I would encourage you to vote for AM690. Thank you.

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

**FRIESEN:** Thank you, Mr. President. So I do stand in support of AM630 [SIC-- AM690]. I do think it kind of takes away the question of how each school district can implement this and still let students have that, that free speech they want, and it can designate those public forums that-- that it so desires to use. So it would be a learning possibility and yet we would still maintain some of that control with each of those local boards, instead of saying that each-- all schools are equal across the state in how they might educate their kids. Again, we have school districts who may have excellent instructors in journalism and others in small schools where they don't have as many students and don't have the budget that the large schools have. Sometimes teachers are handling multiple curriculums and maybe they're not as good as the others at-- in their abilities. And so this-- this lets those school districts kind of match their-- their curriculum that they're putting out there with-- with how that school might react. And so I do stand in strong support of this amendment. I-- I think it does make the bill a lot better. With that, I'd yield the rest of my time to Senator Erdman.

**HILGERS:** Senator Erdman, 3:32.

**ERDMAN:** Thank you, Senator Friesen. I appreciate that. You know, as we talk about this one-size-fits-all, and we've done that numerous times,

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I'm not sure that Senator Morfeld has given a lot of thought as to the ramifications of making this mandatory all the way across the state. But as I said earlier, those things that are written here may not be acceptable where I live, in those schools which are in my district. And I don't-- I don't think we ought to dismiss this as being something that we don't want to do because we don't think it works. Until you've been in the situation that we're in and you live where we are and you understand how people feel and think there, it's hard to make a decision about this needs to be the same as it is in Omaha. And consequently, when you have superintendents of the schools who have put things in place to safeguard and protect against things getting in their paper that they don't want in there, and then all of a sudden you relax those qualifications of what's written and those requirements, and all of a sudden we have very upset people that come to the school board and what will happen is, in my districts, that superintendent won't serve very long if the whole general public is upset about what was written. And so the ramifications of passing something like this for the rural parts of the state have different consequences from passing it for Millard or Omaha Public Schools. And so we need to be cognizant of that and try to make sure that we do things that are as well protected for everyone, and I think AM690 does exactly that. And-- and I appreciate Senator Halloran having the-- the wherewithal and the-- and the foresight to bring such a bill that makes this bill common sense. And I very well will vote for LB88 if AM690 passes. Thank you.

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

**LOWE:** Thank you, Mr. Speaker. Would Senator Hilkemann yield to a question?

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

**HILKEMANN:** Yes.

**LOWE:** Thank you, Senator Hilkemann. I was out of the room when you spoke last. Could you go over the points you spoke about?

**HILKEMANN:** Yes, Senator Lowe. What I was referring to, and I'd had a conversation with Senator Morfeld ahead of time, was these are high school students. And I asked him about if this would involve if they were to write an editorial and if they were to write what we would consider an edgy editorial that-- and who knows what edgy is for what community and for what-- but at either rate, if that student writes an edgy-- edgy editorial and they go to their sponsor and their sponsor

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says, you know, this is rather an edgy topic and this isn't going to play well in the community, in the school, and probably the administration, and I don't know whether it should be done, but that student says, look at-- according to LB88, Nebra-- I-- it's my right to publish this, it doesn't slander anybody, it meets all these things. So the sponsor said, well, I don't like it, but there's nothing I can do about it, so he publishes it. And the family, the people, the neighborhood or the public get ahold of this, the other student [INAUDIBLE] this is awful, this should never have been written, and who approved that? Well, then it goes back to the sponsor. And then the sponsor said, well, I-- I had to give him his right and then-- so it goes into the superintendent and people start saying to the super, how could you allow the sponsor of this to approve this? And they said they have no chance because it had-- this is what's required by LB88. And then I took it on up the ladder that down the line what can happen with this is, is that I can see a scenario where the people in the community are all upset about this and they could actually put enough pressure on the board members to maybe require the superintendent to step down or-- or whatever else, or the people could even say, if you don't take them down, we're going to make sure that we unelect you in the next election. That's kind of-- that-- and that-- that's "awful-izing" a thing. But I can see this type of scenario. I could certainly-- I-- I grew up in a small community. I taught in a small community. I can see where this is the type of thing that-- that could get completely out of hand and-- and yet it is within the right of that student. So that's sort of what I was asking Senator Morfeld. We had a dialogue regarding that. So that's an [INAUDIBLE]. So-- so how I look at this whole thing is-- is-- is that everybody has this constitutional right of free speech. But what we're doing with this bill is that we're giving some people a little more extra right of free speech, and that's-- that-- that was my scenario, Senator.

**LOWE:** Thank you, Senator Hilkemann. I appreciate what you just said and-- and I'm sorry I missed it the first time, but the second time is always good. So my one comment, well, I'm-- you know, I'm a First Amendment type of guy. I like freedom of speech. I really like freedom of speech. But we have to remember that while you're in high school, you're being taught, and sometimes that means you need to keep your mouth shut. You learn more with your mouth shut than with your mouth open, and when your mouth is open, it-- it's-- it may-- may not be thinking. As I get older, I don't think the same way as I did when I was young a whole lot. So by having somebody older overseeing you, a mentor, an adviser, a teacher, that's good.

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**HILGERS:** One minute.

**LOWE:** Thank you. So my-- my one thought on this is, patience, grasshopper, patience. Take your time. Learn your lessons. Learn what the people in authority are trying to teach you. You'll have your chance to come out. I don't want to stifle free speech, but I do want speech that is right. It just takes time. It-- it takes some authority to help guide you along so that your thoughts can be put out right in a little bit. We don't need to do it right now, so patience. Thank you.

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

**GROENE:** Did you say Senator Groene?

**HILGERS:** Yes, Senator Groene.

**GROENE:** Thank you. I hope the people have watched me enough that I get passionate, so make sure you-- everybody understands there's no animosity between me and Senator Morfeld. He just-- he's passionate, and I couldn't rile him up this year. He's getting better. But anyway, so, you know, I get asked, why do you conservatives, Groene, why do you fight this thing, aren't you for more freedom, more freedom, more freedom? I am for the Constitution. I respect that document so much, it's amazing. That's why we're here. That's why we're debating it. And this is a constitutional issue. We-- we're teaching a civics lesson to these kids today, if they're listening. I'm sure a lot of them are listening. We get emails from them. By the way, some of those are very well written, very respectful, and some of them are not, as Senator Erdman read a couple of them. But there's a distinction in our Constitution, in the First Amendment, between different rights, one of them, the very first one, respecting an establishment of religion. A lot of conservatives are very, very upset that through the pandemic their-- that the prohibition of the free exercise thereof, that there was restrictions on their ability to practice their religion and gather. That bothers us. Or abridge the freedom of speech, I don't know, but we need court cases. What is Twitter? What is Facebook? If it's a public forum, then, boy, by golly, they shouldn't be censoring anybody. If it is the press, they have the right to censor the President or anybody else. But we learned today that a public forum, over this debate, they have absolutely no right to stop anybody to stand on a street corner or to allow them on their public forum to-- so we need a court case or two. That's what-- the system works-- or of the press. That is what we debated here. What is the press, that freedom defined, and what is the freedom of speech are two different,



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distinct rights. Is a school newspaper a-- the press? Kansas defined it as the press, which now falls under all of the Supreme Court cases and-- and definitions of what the press is and who's in charge. They defined that the editor was in charge. Senator Hilkemann said about an op-ed piece, according to LB88, there's no editor, there's no assignment. There's no student editor that says you go cover the football game, you go cover the volleyball game, you go cover the-- the student council meeting. You are assigned to be on the editorial board with-- along with the editor and two other staff members, students in the class, journalism class, and you write an editorial-- not according to this bill. This bill says, this section, each student journalist is responsible for determining the news, opinion, features, sports or advertising content such student produces for school-sponsored media. They get to decide. They want to write about abortion, the death penalty, they present it and they're in the class and it gets printed because nobody can say, no, it doesn't get printed. The Kansas law says, if you read that, what I passed out, the school board can restrict. The material shall not be suppressed solely to-- no, where is it? School employees may regulate the number, length, frequency, distribution and format of the student publication-- not in this bill.

**HILGERS:** One minute.

**GROENE:** I'm going to yield my time to Senator McCollister. Is he here?

**McCOLLISTER:** Yes.

**GROENE:** He asked for some-- for-- he wanted to give a clarification that's on the record.

**HILGERS:** Senator McCollister--

**McCOLLISTER:** Thank you. Thank you, Senator Groene.

**HILGERS:** --47 seconds.

**McCOLLISTER:** Thank you. Mr. President, I need to amend the comments I made earlier. Both Westside and Millard, they were neutral on LB88. They didn't come out in direct support. So thank you, Mr. President. Thank you, Senator Groene.

**HILGERS:** Thank you, Senator McCollister and Senator Groene. Senator Clements, you are recognized.

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**CLEMENTS:** Thank you, Mr. President. I rise to speak in favor of AM690. And I was disappointed that my amendment failed, but if it's going to be included for high schools, I believe this provision would be important. It removes most of the objection I had because it says a school district may choose to be a public forum and that's what I was really after. The-- wanted to respond to one comment about the Washington case that was quoted and how it-- it came out. I think it was quoted not so much about the outcome as the fact that the school was sued for publishing material that somebody didn't like, and I think that's what I'm after, is wanting some adviser, teacher, or administrator to be a mature-- more mature person who does have more a community standard in mind. I was looking at Student Press Law Center's publication, and they do things like advising for student journalism and advise them about invasion of privacy, about publishing photos and copyrights, freedom of information. And the-- they-- they got into this question about First Amendment rights and the question is, do high school students have First Amendment rights? And the Student Press Law Center's reply was yes. As the United States Supreme Court said in 1969, it can hardly be argued that either students or teachers shed their constitutional right to freedom of speech at the schoolhouse gate. But the First Amendment prohibits only government officials from suppressing-- suppressing speech. It does not prevent school censorship and private schools. A state constitution statute or school policy could provide private school students with free speech protections. What about the Hazelwood decision? Hazelwood School District v. Kuhlmeier in 1988, Supreme Court decision, gave public high school officials greater authority to censor some school-sponsored student publication if they choose to do so. But the ruling doesn't apply to publications that have been opened as public forums for student expression. And that's where my concern is. Again, these-- this Student Press Law Center's opinion is the ruling does not apply to publications that have been opened up as public forums for student expression. It also requires school officials to demonstrate some reasonable educational justification before they can censor anything. Let's see, and then it talks about 14 states that have passed laws that give students stronger free expression protection than Hazelwood, and it does talk about other states are considering such laws and that-- so I believe there is adequate free expression protection now. And the next question was about the--

**HILGERS:** One minute.

**CLEMENTS:** Thank you, Mr. President. What is a public forum for student expression? A student publication, this-- this person says, is a public forum for student expression when school officials have given

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student editors the authority to make their own content decisions, and schools are allowed to censor foreign publications only when they can show the publication contains unlawful material or will cause a material and substantial disruption. Disruption is subjective. I prefer to the-- err on the-- trusting the school administrator or the school adviser. And my opinion is that the-- the-- this amendment, which allows the school to decide whether they want to be a public forum or not, is going to help schools and give the local schools the choice as whether they--

**HILGERS:** Time, Senator.

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

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

**CLERK:** I do, Mr. President, thank you. The Government Committee reports LB50 to General File. Business and Labor reports LB241 and LB258 to General File, those all signed by the respective Chairs. I have also Business and Labor reports LB541 to General File with committee amendments attached and LB598 to General File with committee amendments attached. An amendment to be printed: Senator Albrecht to LB88. Announcement: the Business and Labor Committee will hold an Executive Session next Tuesday, March 23, at 12:00. How about name adds? You got any? OK. Mr. President, Senator Friesen would move to adjourn the body until Thursday, March 18, at 9:00 a.m.

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