

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 31, 2020

FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixteenth day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Pastor Mark Smith from the Royal Assembly of God Church in Omaha, Nebraska, a guest of Senator Clements today. Please rise.

MARK SMITH: First of all, I want to thank all of you for the great honor to be here before you today. Let us pray and ask God's blessing on this session. Father, in the name of Jesus Christ, we thank you, Lord God, that you're present here today guiding our affairs. Lord, first of all, we ask that you would give the senators and those involved in making laws and passing bills the wisdom to discern the bills that are beneficial to our society and bills which are detrimental to our society. We ask that you would give them the courage to stand up for what they believe is right in the sight of God, and that you would stand with them as they stand for righteousness. We also pray that you would give them understanding to discern one another's motives so that they won't be presumptuous, that there would be a spirit of unity and cooperation to benefit our society. And finally, Lord, we pray that the families of those involved would be safe, that you would take care of all that have willfully submitted their husbands and wives and families to be involved in this, and we give you glory and praise and we thank you for guiding these affairs in Jesus Christ's name. Amen.

FOLEY: Thank you, Pastor Smith. I call to order the sixteenth day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

CLERK: Your Committee on Agriculture, Chaired by Senator Halloran reports LB835 to General File with amendments attached. Lobby report as required by state law to be acknowledged and inserted in the Journal and acknowledgment of agency reports received available to

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membership on the legislative website. That's all that I had, Mr. President.

FOLEY: Thank you, Mr. Clerk. Members, Senator Stinner would like us to recognize Dr. Kent Lacy of Scottsbluff, Nebraska, serving us today as family physician of the day. Dr. Lacy is with us under the north balcony. Thank you for being here, doctor. Please-- please rise so we can welcome you. And Senator Slama has a very special guest with us today. We have with us Senator Slama's twin sister, Emily Slama, from Lincoln, Nebraska, under the north balcony. Emily, please rise so we can welcome you to the Nebraska Legislature. Speaker Scheer, you're recognized.

SCHEER: Thank you, Mr. President. Colleagues, last day of the week, so I thought I would grab you while I have your attention, hopefully. Next week we'll continue to debate the nonpriorities carryover bills on General File. On Tuesday, we will take up LR279CA, which is my constitutional amendments to allow voters to authorize the increase the numbers of our body from 50 to 55. If any senators or committees do designate a priority bill, it's my intention that I would schedule it as soon as possible. However, I would also note that I would notify the body of such the day before, so if something went through today, I would notify you on Monday that it would be on Tuesday so at least everyone has some advanced notice that bills are coming up. Normally, I try to do that on Fridays as we move forward and we have many to work from, but honestly, we don't have any to work from. So as they come in, they will go on, but I will try to give you as much notice as possible on those as we move forward. I would note Thursday-- we have Friday off next week. Thursday we'll have-- schedule Final Reading, those that are available and some additional Select that might be available by then as well. Finally, if you will please continue to look and try to determine your priority bills. We, as of yesterday, are 25 percent done with this session. I have still 106 priority bills out there that have not been designated or designated and are not available for floor work. I can't emphasize enough that time is now becoming a critical matter. If we are going to be able to give everyone that has a priority bill, and if it gets out of committee, the opportunity to discuss that on the floor, we only have so many days. Those days only have so many hours. We are truly getting to a point where-- no threats, this is just logic. We don't have enough time to work on everybody's. And certainly we will not probably have enough time to get everyone's acrossed. We have a 60-day period, but I want you to remember it is not a 60-day session. In order for your

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bills to pass, we have to get those passed General File no later than probably day 56. So we don't have till day 60, we've got till day 56. So please remember that and we're starting to get closer and closer to day 56. So if you've got something you're thinking about, start working on it, because the sooner we can start working on those, the better we will have an opportunity to be able to achieve everyone's priority bill getting to the floor and having an opportunity to be successful. I appreciate everyone's attention to the announcements this morning. Please have a good weekend and be safe. We're supposed to have good weather so it will be an enjoyable weekend for all. And Mr. President, if I could note, we will pass over the motion to withdraw on LR284. Thank you.

FOLEY: Thank you, Mr. Speaker. We'll make that adjustment, which takes us to the motion to rerefer. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Wayne would move to rerefer LB1046 to the Revenue Committee.

FOLEY: Senator Friesen, you're recognized to open on your motion. I apologize, it's Senator Wayne's motion to rerefer. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. Colleagues, I won't take up a lot of time this morning. This is pretty simple. You recall that I said there's only two logical places for this bill to go, which is Urban Affairs or Revenue. Urban Affairs was not selected last time, so we are gonna go with Revenue. And I'm not going to spend a lot of time arguing and going back and forth, I'm just going to read the bill itself. The bill talks about gross receipts. Every person engaging community antenna service operator, satellite service, talks about furnishing telecommunication, mobile communication. Oh, wait, sorry, guys. That's the wrong bill. That's actually LB923, which is a telecommunication service bill that deals with taxes that went to Revenue, believe it or not. The whole bill in LB923 by Senator Lindstrom deals with taxes and labor taxes on telecommuni serv-- telecommunication services. The whole entire bill, but it didn't go to public utilities because that's what they're trying to create an exemption for, it actually went to Revenue because it deals with taxes. That's what this bill in front of us is about. LB1046 is about limiting occupation taxes, putting a cap on occupation taxes for cable industry, a 3 percent cap. The bill actually says, as such, occupation tax imposed under this section, taken together with any other tax fee assessment, including franchise fee imposed as part of the grant of a

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communication-- community antenna television service franchise shall not exceed 3 percent of the gross receipts for the provision of community antenna television service within a franchise area or municipality. This entire bill is about limiting taxes for a corporation, particularly a cable corporation. That's what it's about. Senator Hilgers is going to argue about regulations and small sales and small sales dealt with zoning, it dealt with fees for cities could charge plus OPPD and power people we're charging to put the antennas on the poles. It was a lot more complex than just taxes. This bill is 100 percent about taxes and we should have some consistency and make sure that it stays in taxes. And you have to look no farther than LB923, which is specifically around telecommunication. And if you don't know, we actually tax our tele-- our labor on telecommunication and that's what that bill is about, telecommunication. The entire section of law deals with telecommunication, but because it deals with taxes, we sent it to Revenue. So they're going to have to explain to me the logic of why LB923 is in Revenue and this bill isn't. What I will submit to you is there is another reason this bill is going to Transportation and Communication [SIC], not necessarily because the plain language of the bill. Thank you, Mr. President.

FOLEY: Thanks, Senator Wayne. Before proceeding, Senator Morfeld would like to announce a guest today. We have with us Caroline Hilgert, with us under the north balcony. Caroline, if you could please rise, we would like to welcome you to the Nebraska Legislature. Proceeding now to discussion on the motion, Senator Hilgers.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise in opposition to this motion just as I rose in opposition to the first motion to rerefer. And I'll talk a little bit briefly about the merits of whether it should have gone to Revenue or Transportation here in a second, but the primary reason why I think this should be a quick red vote is a process point. So I spoke about process last time. I thought Senator Wayne and the process on the first motion to rerefer was a good process. He raised the issue during the referencing process. He moved the referencing committee to rereference it. We had a discussion. Senator Wayne came down. We talked about it. He asked for it to go to Urban Affairs. It didn't go to Urban Affairs and he essentially appealed that decision, as it were, to the court, the full body. That-- that appeal lost on Wednesday. And so what you would think is that would-- that would be the end of this particular issue. Instead, what we now have is a second motion to rerefer to a different

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committee. Now, this wasn't raised by Senator Wayne in the Referencing Committee.

FOLEY: Excuse me, Senator. Members, please come to order. We can't hear the speaker. Senator Hilgers.

HILGERS: Thank you, Mr. President. So this was not raised in the Referencing Committee. We actually had-- we had one vote on-- on this piece of the referencing puzzle, and that was the initial vote that we had to-- to reference it to Transportation. That was an 8-1 vote. It was an 8-1 vote of the Referencing Committee to send it to Transportation after an initial recommendation to go to Revenue. Senator Wayne after that did not ask and did not move the referencing body, the Referencing Committee to move it to ref-- to rereference into Revenue. No other member of the Referencing Committee asked for it to go to Revenue. No other senator in the body asked it to go to Revenue. The only time that this issue has now been brought up is after the first motion to rereference has failed. So I understand Senator Wayne thinks that this should go to Revenue. I disagree with that. I think it's a closer call than Urban Affairs, but on process, colleagues, this is not the right way to approach it, in my view. If-- if a member wants to have this be rereferred to a committee, in my view, that motion ought to come before the Referencing Committee. We have been very fair with those requests. And I think there is-- there is a conflict between saying this really, really ought to go to Urban and then it's-- that loses and it's OK, now it really should go to Revenue. There's no logical limiting principle as to how many motions someone can file. Now, rules don't restrict those necessarily, the number of motions that we can file, but I would submit that as a matter of precedent, this is-- this would be a bad precedent to set. Now, briefly on the merits, as I mentioned on Wednesday, there are four different committees we think this could have gone to. And not unlike many bills that come before the Referencing Committee that subject matter touches on multiple-- the jurisdiction of multiple committees. This one is no different. And I think the strongest case in my view is on Transportation. But I think the next strongest would be Revenue. So I thought that was a stronger case than Urban, because for some of the reasons Senator Wayne mentioned, it does touch on taxes. Now, Senator Wayne could talk about the zoning issues that we dealt with with small cell, but at the core of what we've been dealing with intel-- the Telecommunications Committee over the last three years is how do we deal with this combined confluence of technologies, with the distribution of video and Internet technologies? One part of

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that is small cell, but another part of that is the cable industry. And we've been developing expertise over the last three years on that particular issue. Now, the idea that it touches on taxes, therefore it should go to Revenue is sort of full stop. I think it's-- it's not consistent with what we have done even last year with LB550, which we spoke about on Wednesday, Senator Vargas's bill, which limited occupation taxes. But it touched on telecommunication, on wireless telephone service. And that went to Telecommunication-- the Telecommunications Committee. And so I think while Revenue, certainly I think there's a stronger case for Revenue than Urban Affairs, I think it was rightfully referenced to the Telecommunications Committee. Ultimately, I would ask for your red-- red vote on the merits. I think that this is-- should've gone to Telecommunications Committee. It is set for hearing in just under two weeks. And so I think we ought to move forward with that decision.

FOLEY: One minute.

HILGERS: But even if on the merits, if you think it's a close call, maybe you would have sent it to Revenue in the first instance, I would ask you to vote red on this from a process perspective. This should have been raised. This could have been raised in the Referencing Committee. We could have dealt with it there. And to bring it on a subsequent second motion rereference, I don't-- I don't think the process is right. Certainly within Senator Wayne's ability to do, I'm not-- I'm not arguing that, but ultimately, I would ask for the body's red vote on this motion to rereference. I don't intend to speak again on this unless there are additional points that Senator Wayne wants to discuss or others. But I would appreciate your vote this morning. Thank you, Mr. President.

FOLEY: Thanks, Senator.Hilgers. Senator Friesen.

FRIESEN: Thank you, Mr. President. Again, I stand in opposition to rereferencing. You know, we can talk about the merits of the bill, we can talk about the process, but there have been numerous bites of the apple here to try to get this changed. I don't know which committee we're going to try to send it to next. I'm sure there's some others that it fits under also. But again, I'll go back to the fact that the Transportation and Telecommunications Committee has been working on these types of issues for the past three to four years. This fits within our purview. It fits with what we did last year in the small cells, and it all ties together in the big scheme of things is where we go with the telecommunications industry. Back in the day when we

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only had cable and wired telephone and no Internet, it was a different industry. Now, we have these industries, the cable industry, the wireline telephone industry, and the wireless industry all competing and doing all three of the above. And they all operate under different rules and regulations, which makes it confusing in the industry and it doesn't standardize it across those industries. And this is just one more small step in trying to bring them all within an even playing field so that they compete fairly for businesses that they all are doing. So with that, I do ask for your red vote and we leave the bill where it is. It's been advertised for a hearing. We are ready to go on this and we're qualified to deal with it. Thank you, Mr. President.

FOLEY: Thanks, Senator Friesen. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. Good morning, Nebraskans. Our state's unique motto is equality before the law. So know that whoever you are, wherever you are on life's journey, and whomever you love, we want you here, you are loved. And I want to take just a second to say-- to thank the State Chamber for their visionary decision yesterday to both support my LGBT bill as well as to change their policies to make sure that all people in our state are welcome. All the kids that we educate here are going to be welcome and be able to fill jobs and to work and pay taxes. I'm so grateful that people understand that these are economic development issues. We have a mandate in this Legislature to help pass that bill and to make sure that everyone feels welcome, that everybody has the ability to get a job here, to work, to raise a family, to just feel loved and a part of our great Nebraska life. So, again, I want to thank the State Chamber who voted unanimously yesterday. Over 40 members of the board were there and not one negative comment was made. Again, thank you to the Chamber for their vision and their kindness and their compassion and their vision and knowledge that we are talking about economic development and the ability for people to work and to work without fear, fear of being discriminated against, fear of being fired because of the person that they love. And with that, I'd like to give the rest of my time to Senator Wayne.

FOLEY: Thanks, Senator Pansing Brooks. Senator Wayne, 3:00.

WAYNE: Thank you. Thank you, Mr. President. Thank you, Senator Pansing Brooks, I won't take up all this time. I'm not going to spend a lot of time on this because we want to argue about process today. And process is we have a guide, but we ignore the guide. And because we worked on one or two bills, then we say now we have jurisdiction. But yet,

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Senator Hilgers, we've had two bills in Urban Affairs that deal with occupation taxes, yet Revenue deals with occupation taxes and all taxes every time-- every year multiple, multiple bills on this topic. We talk about process. I think we set a-- a worse, far worse precedent when we ignore the guidelines, when we ignore the section of law that the bill opens up, when we ignore historical practices and just decide by a vote of an Executive Board, we're just going to move things around. And if referencing doesn't mean anything, then let's just rereference every bill and take votes. And I have no problem doing that. I recognize that for this session, my bills that I want to get out are probably heavy lifting. And we just heard that we're a third of the way there. With the number of bills introduced and the motions we can file, we could be on rereferencing all day, every day. This is not a major deal to me. It's just plain and simple. This deals with taxes. Why is it not in Revenue? Why is it not in Urban Affairs if that's the historical place? I'm not arguing about Urban Affairs and I've been consistent the entire time saying there's two committees, this committee should go to. I'm not the chair of Revenue, so I did not bring a motion the first time to move it to Revenue because I had a historical background around Urban Affairs. But I've been consistent that it should go to either Revenue or Urban Affairs the entire time. This bill is about a 3 percent cap on an occupation tax for cable corporations. LB923 is about labor tax on telecommunication, the entire telecommunication industry. Yet that is in Revenue.

FOLEY: One minute.

WAYNE: The logic doesn't make sense here. So I'm not going to continue to argue. We'll do a call of the house. We'll see where the votes fall, and if it stays in telecommunications, we'll deal with the bill on the floor because I don't think it went to the right committee. And I guess the motion to recommit at that time will be improper, too, according to the process laid out by Senator Hilgers. But this is a bill that I think needs to go to Revenue because it deals with taxes. It's the plain language of the bill, and I'll read the bill again on my closing that it deals with taxes. It doesn't deal with any other regulation, but taxes. Thank you, Mr. President.

FOLEY: Thanks, Senator Wayne. Continue discussion. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not going to say much on this bill or even the discussion about the bill, but rather a comment or two about what Senator Pansing Brooks said. She has labored so hard on the issue, as some of the rest of us

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have, of trying to have our LGBTQ brothers and sisters brought within the family of humankind, accorded the basic human dignity that every human being is entitled to. It is regrettable that so much praise and acclaim must be accorded a group of business people for simply acknowledging what should not even have to be given a special attention. To show how bad this state is, how far behind it is being led farther backward by Governor Ricketts, there will be people opposing what that Chamber of Commerce did. I don't think they're worthy of any praise any more than I would be worthy of praise if one of my sisters in the Legislature fell on the floor and I assisted her to her feet. That's something that should be so natural that it would be taken in that way. But when you have to thank and praise and laud people for doing such a fundamentally just thing, it's pathetic, and all they did was uttered words. They will not be over here talking to the senators out in the Rotunda about doing something legislatively. Actions speak louder than words. It would be like somebody seeing hungry people and for a period of time, every time they came in contact with these hungry people, they would utter the words, God bless you, and go on down the road pulling their heavily laden food truck. And when they left, the people were just as hungry as before, but a few seconds hungrier. What that person in the food trucks should do if he or she wants the action to be considered virtuous, is share that food in that truck with the people who need the sustenance. When that is not done, then to drive a food truck past the hungry and wish them well is one of the worst kinds of sins, if there be such a thing as a sin, that could be committed. So for those people with the Chamber to merely say what is self-evident, that everybody should be entitled to work and earn a living without facing discrimination, why should they be praised for that? If I have children and I feed them, am I worthy of praise because I, the father of my children, provide food? The term father includes that as a part of the definition. I may not be able to finish everything I want to say during this five minutes, so I've turned on my light, but I will not speak longer than the amount of time I'd have when recognized twice. Thank you, Mr. President.

FOLEY: Thanks, Senator Chambers. You are next in the queue, you may continue.

CHAMBERS: Members of the Legislature, try not to get me wrong. When you have nothing, any little thing helps. Since you all have a preacher, that means you pay some attention to the Bible. It talked about how to the hungry soul every bitter thing is sweet. Every bitter

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thing is sweet when you're hungry. You all know these things. There are people on this floor who will not act in accord with the fine sentiments expressed by that action of the Chamber of Commerce, saying that LGBTQ people are indeed human beings, that they are endowed by their creator with certain unalienable rights. Among these, the right to life, liberty, and the pursuit of happiness. Anything born of a man or a woman, and a woman, is a human being. There are certain rights that attach to that status, rights which are not granted by a government or any other entity. By virtue of being a human being these rights attach to you and the job of government, when it comes to those rights, is to protect them, ensure that others who are powerful and vindictive will not deprive people of these unalienable rights. Something which is unalienable means that the one who possesses it cannot even give it up. Even a human being cannot disavow his or her own humanity. The words may be uttered, but that does not remove that person from the human family. And it is a condemnation of the rest of us if we treat anybody so poorly, so cruelly, that they develop the conviction that they are not even human beings and they become those things that we have made them by our mistreatment and then docilely they accept without opposition, without criticism, without complaint being reduced to the Kingdom of Thingdom where they have no rights that need to be respected. When you look at my black skin, you should not be surprised that I would be aware of the things done and said by powerful people to take away the humanity of people who share my black skin. But not just my black skin, my black blood, which is so powerful and potent that one drop will convert an otherwise white person into a black person, even though their complexion doesn't change, their eyes are blue, their hair is blonde. But because of the definition of what is black in America, one drop of my blood converts that person to what I am. And what Chief Justice of the U.S. Supreme Court, Roger B. Taney, a Roman Catholic who had been brought up under the doctrine of social justice, so loudly proclaimed correctly by the Catholic Church, he declared in his official position as the Chief Justice of the United States, that a black man has no rights which a white man is bound to respect. And when those types of people make those--

FOLEY: One minute.

CHAMBERS: --types of statements in their official capacity, it causes people like me to know that every bout-- everything about them when it comes to me and my kind is a sham. Their flag is a rag. Their Constitution, just words on paper. That Declaration of Independence, a cruel hoax filled with jokes at the expense of my people because while

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proclaiming that all men are created equal and entitled to these rights, the one writing it was holding slaves. Thank you, Mr. President.

FOLEY: Thanks, Senator Chambers. Before proceeding, Senator Slama would like to recognize some additional guests today. We have with us eight college students and one faculty member from Peru State College in Peru, Nebraska. They are with us up in the north balcony. If those students and faculty could please rise, we'd like to welcome you to the Nebraska Legislature. Senator Wayne, you're recognized to close on your motion.

WAYNE: Thank you, Mr. President. This is, again, simple to me. This deals with taxes. It's clear that it deals with taxes. It's as clear as we're trying to eliminate or cap-- I'm sorry, at 3 percent occupation tax for cable corporations. This is not that difficult. If it deals with taxes, I was under the impression, just like Senator Briese's bill that deals with taxes on games of skill that came through General Affairs, just like the bill that deals with telecommunication taxes, that is not in anywhere but Revenue, not telecommunications, LB923, LB1046 should be in Revenue because it deals with taxes. Thank you, Mr. President. Call.

FOLEY: Thanks, Senator Wayne. 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: 18 ayes, 2 nays-- excuse me, 19 ayes, 2 nays, Mr. President, to place the house under call.

FOLEY: The house is under call. All members please return to the Chamber and check in. The house is under call. Thanks, Senator Wayne. All members please return to the Chamber. The house is under call. Senator Dorn, if you could check in. Senator McCollister, if you could check in. All unexcused members are now present, the question for the body is the adoption of the motion to rerefer-- there's been a request for a roll call vote in regular order. Mr. Clerk.

CLERK: Senator Albrecht.

ALBRECHT: No.

CLERK: Voting no. Senator Arch.

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ARCH: No.

CLERK: Voting no. Senator Blood.

BLOOD: Yes.

CLERK: Voting yes. Senator Bolz.

BOLZ: Not voting.

CLERK: Not voting. Senator Brandt.

BRANDT: No.

CLERK: Voting no. Senator Brewer.

BREWER: No.

CLERK: Voting no. Senator Briese. Senator Cavanaugh.

CAVANAUGH: Yes.

CLERK: Voting yes. Senator Chambers.

CHAMBERS: Yes.

CLERK: Voting yes. Senator Clements.

CLEMENTS: No.

CLERK: Voting no. Senator Crawford.

CRAWFORD: No.

CLERK: Voting no. Senator DeBoer.

DeBOER: Not voting.

CLERK: Not voting. Senator Dorn.

DORN: No.

CLERK: Voting no. Senator Erdman.

ERDMAN: No.

CLERK: Voting no. Senator Friesen.

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FRIESEN: No.

CLERK: Voting no. Senator Geist.

GEIST: No.

CLERK: Voting no. Senator Gragert. Senator Groene.

GROENE: No.

CLERK: Voting no. Senator Halloran.

HALLORAN: No.

CLERK: Voting no. Senator Ben Hansen.

B. HANSEN: No.

CLERK: Voting no. Senator Matt Hansen.

M. HANSEN: Yes.

CLERK: Voting yes. Senator Hilgers. I'm sorry, Senator.

HILGERS: No.

CLERK: Voting no, thank you. Senator Hilkemann.

HILKEMANN: No.

CLERK: Voting no. Senator Howard.

HOWARD: Yes.

CLERK: Voting yes. Senator Hughes.

HUGHES: No.

CLERK: Voting no. Senator Hunt.

HUNT: Yes.

CLERK: Voting yes. Senator Kolowski.

KOLOWSKI: Yes.

CLERK: Voting yes. Senator Kolterman.

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KOLTERMAN: No.

CLERK: Voting no. Senator La Grone.

La GRONE: No.

CLERK: Voting no. Senator Lathrop.

LATHROP: Not voting.

CLERK: Not voting. Senator Lindstrom.

LINDSTROM: No.

CLERK: Voting no. Senator Linehan.

LINEHAN: No.

CLERK: Voting no. Senator Lowe. Senator McCollister.

McCOLLISTER: No.

CLERK: Voting no. Senator McDonnell.

McDONNELL: No.

CLERK: Voting no. Senator Morfeld.

MORFELD: Yes.

CLERK: Voting yes. Senator Moser.

MOSER: No.

CLERK: Voting no. Senator Murman.

MURMAN: No.

CLERK: Voting no. Senator Pansing Brooks.

PANSING BROOKS: Yes.

CLERK: Voting yes. Senator Quick.

QUICK: Not voting.

CLERK: Not voting. Senator Scheer.

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SCHEER: No.

CLERK: Voting no. Senator Slama.

SLAMA: No.

CLERK: Voting no. Senator Stinner.

STINNER: No.

CLERK: Voting no. Senator Vargas.

VARGAS: Yes.

CLERK: Voting yes. Senator Walz.

WALZ: Yes.

CLERK: Voting yes. Senator Wayne.

WAYNE: Yes.

CLERK: Voting yes. Senator Williams.

WILLIAMS: No.

CLERK: Voting no. Senator Wishart. 12 ayes, 29 nays on the motion, Mr. President.

FOLEY: The motion is not adopted and I raise the call.

CLERK: Three things.

FOLEY: Pursuant to the agenda, we'll now move to Select File special order. But before we do that, we'll take some items for the record, please.

CLERK: I do. Thank you, Mr. President. Your Committee on Business and Labor reports LB604 to General File. The Executive Board reports LR279CA to General File. Enrollment and Review reports the following bills to Select File, LB312, LB126, LB540, LB643 to Select File, some having Enrollment and Review amendments. That's all that I have, Mr. President.

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FOLEY: Thank you, Mr. Clerk. Members because we're moving into Select File, just a reminder, we'll be working with voice votes. Please be attentive. The special order, Select File bill, Mr. Clerk,

CLERK: Mr. President, LB880. Senator Slama, I have no amendments to the bill.

FOLEY: Senator Slama, for a motion.

SLAMA: Mr. President, I move that LB880 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB880 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB880 advances. Proceeding to Select File. Next bill, Mr. Clerk

CLERK: LB206, Senator. I have E&R amendments, first of all.

FOLEY: E&R amendment motion, Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB206 be adopted.

FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Morfeld would move to amend with AM2136.

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

MORFELD: Thank you, Mr. President. Colleagues, as you may recall, LB206 is a Student Journalism Protection Act. This will make sure that students' right to free speech both in high schools and colleges are protected, that they are protected in certain circumstances. I want to make clear this is not carte blanche authority to the students and the teacher advisor that advises their class and their paper. It is not carte blanche. This allows students who are respectfully following journalistic ethics, expressing themselves using a government forum. Colleagues, the key here is a government forum. This is not a private newspaper. And when we have government forums in almost all other instances, the government must be viewpoint-neutral. This is the power of the state taxpayer dollars providing a forum. And when they provide that forum, it's important that the government be viewpoint-neutral. That is the purpose of this bill. It's not to give full authority to

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the students to write whatever they want. In fact, schools can still-- they can still have prior restraint and look at the paper before it goes to publish. But what they can't do is just simply tell the students that they can't talk about a certain opinion. Unless you look at the four or five, depending on whether it's high school or college, you look at the four or five exceptions. If it's libel, if it's slanderous, if it violates the privacy of other students, or in the case of high school students, violates the prevailing journalistic ethic, ethical code. This is not a blank check to the students and the student advisors. It's providing guardrails and guidelines, but it's also providing free speech for young people that we are teaching the skills of being the journalists of the future, and it's incredibly important that they are allowed to exercise that power and understand that power at an early age. That's the purpose of this bill. I know Senator Clements has introduced an amendment that will take out high school students. I'll tell you right now, 99 percent of the purpose of the bill is to protect high school students. That's the purpose of this, because our state university system actually has guidelines from the Board of Regents that are very similar to what we're providing here. They don't censor. Now, the state college is a different story. They provide a little bit more oversight, but the issue and the problem here is addressing high school students. So to take that portion of the bill out would take away the purpose of the bill. And I'm going to have the pages here hand out the committee statement, because if you look at the committee statement, look at all the proponents. Look at all the proponents. It's high school students from across the state. It's faculty advisors from across the state that are serving high school students. Colleagues, we have a responsibility as a legislative body and as a government to ensure that when we provide forums that are paid for by taxpayers, that those forums are viewpoint-neutral, that the government cannot come in and say, you cannot say this and you cannot say that because we think it's too controversial or we disagree with it, because your version of controversial is another person's version of just expressing their political beliefs for the presidential candidate that they care about. When we ended last time, I said that I would sit down and review whether or not we can look at the very minor protections for the faculty advisors and whether or not it would be wise to take that out. I was willing to look at that. I sat down with attorneys. I sat down with proponents. And we realized that taking out any protection whatsoever for the faculty advisor under those very narrow, very narrow four or five instances where the students cannot be censored would completely take away the purpose of the bill. Essentially,

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students would be left unprotected with any advocate whatsoever, and they would have to go hire a \$50,000 attorney to make the case for their civil rights in court. So what I did was this AM2136 reiterates that school administrators can still provide guidance and professional conduct guidance to their teachers. It reaffirms what they can already do. If this faculty advisor is going outside the scope of their authorities or duties, they can still be fired or punished or reprimanded. We don't take that away. We just simply say that under these narrow circumstances that we're protecting students' speech, they are protected in standing up for those students and saying, hey, this is the state law. It is not a blank check. Colleagues, this bill is important, it's important regardless of whether you're conservative or liberal or anything in between or outside. It's important that we provide a forum that is viewpoint-neutral when it is funded by the taxpayer dollars. We should provide a viewpoint-neutral forum when it is the power of the state that is providing that forum that is paid for by all of us and the people that we represent. That's what this bill does and it provides very important guardrails to ensure that journalistic ethics are followed and that free speech protections are upheld. I urge you to adopt this amendment, to reaffirm the administrators authority to be able to provide that professional guidance under the Department of Education rules and the laws that we have passed. And I urge you to oppose any amendment that would weaken people's constitutional rights, their freedom to exercise it. We talk about rights in this body all the time, whether it be Second Amendment, whether it be voting rights. Let's uphold those same constitutional rights when it comes to government forums that taxpayers are paying for, and let's make sure that our young people in the state have all of the tools and the experiences to be successful, to be successful stewards of our democracy, to be successful journalists, to be ethical journalists and to be good citizens in our society. Thank you, Mr. President.

FOLEY: Thanks, Senator Morfeld. Before proceeding, we have a group from Habitat for Humanity from all across Nebraska. They're with us up in the north balcony. Could those guests please rise so we can welcome you to the Nebraska Legislature. Debate is now open on LB206 and the pending amendments. Senator Clements.

CLEMENTS: Thank you, Mr. President. I was looking at the agenda yesterday and saw this bill was coming up and I saw this amendment and I was hoping that it was an amendment to give the local school a little bit more control over the-- what the student content would be.

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I see that it-- it says that the administrator will have ability to provide appropriate professional feedback and professional feedback is a suggestion, but it does not provide oversight to the local students who are 15, 16 or 17 years old. I voted no on the bill in the last round because I think that more local authority should be able to continue to be available for the local administration or school board. And on this amendment, it talks about rules adopted by the State Department of Education, which would overrule a local school board, local administrator. And it-- so it still leaves out local school board policy and local administration authority. And regarding the ethical standards that there is a reference to journalistic ethics, ethical standards in the bill. But the way I read it, they're not required. They're suggested to be followed, but it doesn't specifically require that either. So then those weaknesses that I see in especially removing the local control from the local school district, different parts of the state will have different expectations as to what is proper and what isn't proper. I know there have been Supreme Court rulings on high school student speech and we'll get to-- probably get to the discussion of that later. And I think those who are adequate to be followed for now and I was glad to see that there was an amendment to give the administration a little bit more authority, but it didn't go far enough for me. So I'm standing in opposition to AM2136 and LB206. Thank you, Mr. President.

FOLEY: Thanks, Senator Clements. Senator Moser.

MOSER: Good morning, colleagues. Thank you, Mr. President. This bill I'm still opposed to-- high school students have many venues to view and give their views. They can exercise their right of free speech in many ways. They can post online. They can write a letter to the editor of the local newspaper. They could write a letter to the school board if they had an issue with how the school is operating, but a school is not the same as a for-profit newspaper. Schools, especially high schools, are kind of biospheres. They control a lot of what happens in the school. If you don't go to school, they'll come get you. If you talk out when you're in class, even though you may have the right of free speech, but if you interrupt the class, you're gonna get into trouble. Don't ask me how I know that. But it's-- it's-- it's different than out in the real world and I think that the principal and the administrators, the superintendent, the school board should have control over their own newspapers. The school pays for printing the paper. They-- either they print it or they have somebody else print it. And I think giving high school students-- I think the bill

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does give them carte blanche. I disagree with the senator's description that somehow it's-- it gives them leverage, but it doesn't give them complete leverage over the administration. I think that the flow of authority flows from the top down. It goes from the school board to the superintendent, from the superintendent to the principal, and they need to have control over what happens in their school. There are plenty of places where these students can exercise their right to free speech. You know, they can use online networks. They can tweet. They can go on Facebook, although I guess most kids don't use Facebook as much as some other forums, but nonetheless, they have outlets for them to give their opinions on what's going on. And if they have evidence of wrongdoing of things that are being-- being done illegally or against the stated purpose of education, they should view, though-- give those views, but they don't have to put it in the newspaper, they can tell the principal, tell the counselor, tell the superintendent, tell their parents and have their parents talk to the school board. You know, I just-- I don't see that this bill is necessary. I just can't imagine if I was a superintendent of a school that I would have to argue with the student newspaper advisor over content in a school newspaper. I don't think in a school-- in a-- in the public that every view gets aired as it is. I've known people who've written letters to the editor on various things, and those letters never show up in the paper. And there are some who they agree with that they do print. So to say that high school students having to operate within the supervision of the superintendent or the principal, I think is a lot how the real world works. And I don't think we should be giving them rights that they wouldn't have anywhere else if they were going to write a story. You know, no newspaper is going to let the reporter file a story and have it printed without having it edited and gone before the, the powers that control the newspaper. You know--

FOLEY: One minute.

MOSER: --if that was the case, a lot of these media would look the same, but they don't look the same. CNN doesn't report the same way as Fox News reports. And I'm just telling you that there are opinions involved everywhere in media. I think this bill is unnecessary and-- and more overhead that we don't need.

FOLEY: Thanks, Senator Moser. Senator Halloran.

HALLORAN: Thank you, Mr. President. Good morning, colleagues. So local control issue, my-- the public school system, the superintendent in Hastings Public School system visited with me about this briefly and

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he is opposed to this-- opposed to this bill. If Senator Morfeld would yield to a question or two.

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

HALLORAN: Thank you, Senator Morfeld. So if an editor, student media advisor of a high school paper requests that a student reporter cover the football game, and then the reporter came back with a story that was nothing to do with the game, can the editor not run the student's article because that was not what the assignment given to them was all about?

MORFELD: Yes, the editor would still have the power to determine what's in their paper. This deals with-- this deals with the power of the administrator in the school, not the student media advisor and the edit-- editorial structure of the paper. They can still self-censor like any paper.

HALLORAN: Well, as you know, Senator Morfeld, freedom of speech is pretty important to me. Three years ago, first year, we had a incident on campus-- university campus when a young sophomore student, Caitlin Mullen, was shouted down by an assistant graduate teacher at the university.

MORFELD: Which is why I'm surprised you're opposed to the bill.

HALLORAN: I'm not-- well, but let me-- let me-- let me continue, if I may. It surprises me that you are bringing this bill, because when I had the hearing on-- on LB718, in which I was simply proposing that the university implement, create a freedom of speech policy, I recommended some language that was-- was very standardized language for freedom of speech. And the university came back, I think it went before the Education Committee. I think you're on that committee, correct?

MORFELD: Correct.

HALLORAN: Well, when in front of the committee and all-- all of the-- the big dog attorneys and representatives of the university came in opposed to my bill. Part of that bill simply asked for the university to refer back to on a yearly basis any infringements to freedom of speech on campus. And it never made it out of committee. The Regents appeared ready to fight LB718, signing a statement indicating the

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board's opposition to any legislation which usurps the power and duties of the board, namely the Board of Regents. I think this does the same thing. If we want to be consistent, this does the same thing to local school boards. It usurps their power to have policies for freedom of speech for their publications on that school campus. So how do you square that circle, Senator, where it wasn't OK for the University of Nebraska to be directed by legislation? I think the-- I think what they propose or what they said in combat to my proposal was that it was-- that the Supreme Court ruling, *Exon vs. the Board of Regents* said that the-- that the Legislature cannot dictate to the university any policies. So we're doing that to local school boards with this. Can you square that circle for me?

MORFELD: So, Senator, I don't recall an Executive Session on that bill. And quite frankly, I don't know how I would have voted on that bill. I probably would have voted likely in support. I've clashed many times with the university privately and sometimes publicly in bills that I've introduced, that they've pulled up the *Exon* case as well and disagreed with their interpretation of it. So I think we probably have more common ground than you think. I'm not the Chair of the Education Committee, so I don't decide what goes to an Executive Session and what does not.

FOLEY: One minute.

MORFELD: That being said, if you introduce that bill, I'll consider it. And given this discussion, I-- I would probably support a bill like that.

HALLORAN: Oh, OK. Well, maybe I should bring that bill back. The bottom line was, though, with a vote count-- with a vote count, if it was not exed on-- it was not exed on because they didn't have the vote within the committee.

MORFELD: Nobody asked me for my vote on that bill.

HALLORAN: I'm sorry?

MORFELD: Nobody asked me for my vote on that bill. I don't recall that.

HALLORAN: OK. Well, I don't recall either. I guess it just concerns me that we're trying to do the same-- we're trying to, in one sense, defend against the University of Nebraska, have the Legislature

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propose legislation that usurps the power of the school board, and yet that was not OK for us to do that with the University in Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator Halloran and Senator Morfeld. Senator Erdman, you're recognized.

ERDMAN: Thank you, Lieutenant Governor, and good morning. One of the things I want to say before we start, and Senator Chambers, if you are not listening, please do so. I got my pink slip this morning that I filled out for my compensation, and so I don't wanna let this opportunity go by without saying thank you. I understand where that came from and I appreciate it. So moving on, I'm gonna-- I would ask Senator Moser a question, but he told me not to. He said, if you want to know about speaking up in class when you shouldn't, don't ask me. So I won't. But talking about LB206, I asked a question to Senator Morfeld last time we discussed this bill and I was wondering if he would yield to a question this morning.

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Of course.

ERDMAN: Senator Morfeld, if you remember or maybe you don't, let me refresh that question. It is, in the hearing as these young people came and testified, did any one of them give you a specific example of what happened to them is why we need this bill?

MORFELD: Yes, there were 20 or so specific examples.

ERDMAN: Can you share one example?

MORFELD: We had one student who wrote a pro-Trump editorial and it was censored by their high school. I believe it was in Millard. We had other students that wanted to talk about the dangers of vaping and smoking and their articles were also censored. And this comes from the committee hearing that we had for this bill, and then I introduced it two years ago as well.

ERDMAN: All right. Thank you. So let me-- let me read what your amendment, AM2136 says. It says this section shall not be construed to interfere with a school administrator's ability to provide appropriate professional feedback. Here's a keyword, consistent with the rules and regulations adopted and promulgated by the State Department of Education regarding personnel. So what they're saying is the

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administrator can share their thoughts or their ideas or their concerns as long as they fall within the guidelines set out by the Board of Education. Things are different in different areas and things are acceptable in different areas of the state. What may be acceptable to write and say in public in Lincoln may not be the same acceptable language in Arthur. And so we're going to ask the State Board of Education to adopt the rules and the regulations on what is acceptable and what isn't. And so we're not guaranteeing free speech or guaranteeing what you can write unless it meets the qualifications laid out and the rules adopted by the State Board of Education. If the University of Nebraska is already doing this, then this bill is not needed because I agree with Senator Clements that the high school kids should be removed from this bill. And so, I think this is a solution looking for a problem and I can't support LB206. And I, for the life of me, I don't want to function and operate under rules made by the State Department of Education. I see some of the things that they do and sometimes it's-- you wonder and scratch your head why they did that. And so I don't know that that's the right organization I want making rules regarding what is acceptable and what isn't. Thank you.

FOLEY: Thank you, Senator Erdman and Senator Morfeld. Senator Morfeld, you're recognized.

MORFELD: Colleagues, unless-- unless there's questions asked of me, this is probably gonna be my last time on the mike, on the bill. And I'm happy to answer questions. That being said, I just want to respond to some of the things that were brought up here a little bit earlier. You know, first off, referring back to the rules and regulars-- regulations of the State Board of Education, Senator Erdman, that's not creating new rules and regulations for this bill specifically or for journalistic standards. What it's referring back to is the rules and regulations that currently exist for the discipline and for the discipline of teachers that the administration has. And the only thing that this bill restricts the administration from doing is retaliating against a student advisor, a teacher, that protects the students based on this very narrow exceptions to the bill. That's the only thing it does. So if the advisor is disrespectful, if they're not teaching the class very well, if they're-- whatever the case may be, then they can still take appropriate professional conduct action, which is what's already in the Department of Education rules. Now, in terms of the university, Senator Halloran brought up the University of Nebraska and Exon. I want to note that constitutionally and statutorily, Senator Halloran, our K-12 system is very different than our university

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system. The university system has an explicit grant of executive power under the Constitution, which was led-- which led to the Exon case, saying that they have exclusive authority over the day-to-day functions. Now, sometimes I disagree oftentimes, not sometimes, oftentimes as a person that represents the largest flagship campus within my district, I've introduced bills dealing with a whole variety of issues that get to the heart of some student issues in particular that they have said interferes with Exon, and I disagree with the way that they look at that ruling. So you and I probably have more common ground, Senator Halloran, than you would think on that. That being said, it's a separate constitutional structure than our K-12 education system. It doesn't-- our K-12 education system does not have the same protections and grants of power constitutionally to it that the university does. Whether you and I agree or disagree that they should be interpreting that constitutional grant of executive power is a whole other thing, but it's a separate-- it's a separate legal structure and framework than our K-12 system. I'll just also note that I understand that some people think that students should not be able to have this kind of discretion in terms of their free speech. I'll just counter it in saying that students-- the purpose of our K-12 public education system and our private education system is to prepare young people for the future, to prepare them to be competent citizens that have all the skills necessary to be a citizen or a resident, noncitizens as well, of our community and society. And if we're not going to give them the appropriate power and tools to be able to experience that and prepare for that, then we're in trouble as a community and a society. And I will tell you that if-- it said something that this bill came out unanimously from the Judiciary Committee, because if you sat in that hearing, you would realize that the students that are being censored are some of our best and brightest in our state. These are the students that we should not be discouraging them to exercise their constitutional rights, we should be encouraging them. We should be fostering that. And as a student who was almost censored in high school, I will tell you that it's a really demoralizing thing to read about the Constitution, to learn about your rights, and then go and try to respectfully exercise them--

FOLEY: One minute.

MORFELD: --and then have an administrator tell you, no, you can't do that because I disagree with your opinion, or I just don't think it's appropriate. That's not the message that we want to send to our young people. That's not-- that's not what our constitutional principles and

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values were founded on. It was founded on free speech, the expression of ideas, the robust debate of them and fostering those at an early age so that they exercise those rights at a later age. Thank you, Mr. President.

FOLEY: Thanks, Senator Morfeld. Senator Blood..

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand in support of both the amendment and the underlying bill. Today is Veteran's Day at the Capitol. And while I'm sitting here and listening to the opposition, the first thing that I can think of is that there are people in our Rotunda and in our building today that fought for the right for these students to be able to speak and speak their mind here in the United States. And frankly, some of what I've heard on the mike today, I believe to be quite un-American. And that makes me very sad because outside of the Fourth Amendment, the most important amendment to students is and should be the First Amendment. Now, there are some of you here on the floor that probably weren't even born yet, but in 1969 there was a famous case and it was Tinker vs. Des Moines Public Schools. And what was important about that case is that there were students that were protesting the Vietnam War. Now they were protesting it with black armbands and they were exercising their right to free speech, but the school decided it would be more appropriate to punish them for utilizing their freedom of speech and the families took it to court. And it was decided that, of course, the students had the right to do anything that was not disruptive to the educational process. So, again, free speech is allowed when it comes to our students, as long as it does not disrupt the educational process. So when I hear things like students exist in a biosphere and they have an ability to-- to use their freedom of speech wherever they like, I hear you saying that student is less than because you don't feel that they have the right to the same freedom of speech that we do. And even saying that, there's still limitations that are covered in reference to court cases that have gone before, that show that, yes, these students have the right to their freedom of speech, but there are some limitations. And if you read the bill, the limitations are also as-- in the bill. But the thing that makes me angriest about all of the opposition, and I am angry, is that a 17-year-old can go to war, can serve in the military with parental permission, 18 without parental permission, but we don't think they're responsible enough to use their voice. But yet we want them to go and fight for our rights to have

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free speech. That's hypocrisy. I would ask that Senator Morfeld yield to some questions.

FOLEY: Senator Morfeld, would you yield to some questions, please?

MORFELD: Of course.

BLOOD: Thank you, Senator Morfeld. I have two questions for you. Are school newspapers run subject to legally defensible guidelines, usually?

MORFELD: Yes.

BLOOD: OK. Do most schools have a well-established procedure for reviewing newspaper submissions?

MORFELD: Yes.

BLOOD: So aren't those some of the very guidelines have been put before schools and school districts by the courts to make sure that children can, or young adults, can exercise their right to freedom of speech within particular guidelines that still protect both of them in the schools?

MORFELD: Yes. And those will still be in place under this bill.

BLOOD: And so nothing changes except for--

MORFELD: --except for, they can't simply censor unless it's-- it constitutes libel, slander, invasion of privacy of other students, or fourth, journalistic ethics and standards as outlined by the bill.

BLOOD: So basically a lot of we're hearing today is basically noise that is opposite of what is already set in stone.

MORFELD: Correct.

BLOOD: All right. Thank you so much, Senator. Again, I value the veterans that are in our building today. I value that many of them did go to war, to war at ages 17 and 18 and that they fight for our right to life, liberty and the pursuit of happiness. How dare we stand here on the mike today and decide what we think is best for these young adults who will soon be adults in our communities, in our state, and represent us in other parts of the country. Who are we to decide what's already been decided and is set in stone by the courts that

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this bill is not a good bill and that we know better than our own Constitution? Thank you, Mr. President.

FOLEY: Thanks, Senator Blood. Senator Clements.

CLEMENTS: Thank you, Mr. President. Regarding that Supreme Court discussion that Senator Blood was talking about, this-- LB206, has a declaration that this is going to create a public forum which changes the nature of the student expression. And that's going to override some of the Supreme Court ruling, the Hazelwood standard, I believe. And then she mentioned the Tinker standard on disruption of school activities. And LB206, I believe, attempts to override that standard also so that the standard is going to be in LB206 and not what the Supreme Court said. One other thing I was thinking about was, we recently debated LB231 about having juveniles receive of an appointment by an attorney in all cases. And the argument there was that they were not mature or informed enough to decide whether or not to have an attorney. And I think some of these student journalists may not be mature or informed enough to-- as to what they're writing, what the consequences may be, what they write. Now, will be on record forever with electronic data these days and someday down the road may be held against them if they're applying for a job or running for public office. And so, I would still want to continue the practice we have now on-- in current statute, current Supreme Court cases and would ask for a red vote on AM2136. Thank you, Mr. President.

FOLEY: Thanks, Senator Clements. Senator Moser.

MOSER: Thank you, Mr. President. I just have a few comments about responding to some of the debate. One of the comments was that we need to prepare students for the real world. And I think that--that plays into the argument that I was trying to bring up is that in the real world, reporters are not free to overrule their editors, their publishers, their owners of the newspapers. They still have to work within the system. So I think that that's something we should teach high school students, that there-- there is a-- an appropriate way to exercise our right to free speech. You know, there are ways for us to get our views out into the public, and the school newspaper is one way to do that but you have to work within the system. One comment was talked about that was mentioned by Senator Blood was that veterans fought for the right for free speech. And I want to tell all the veterans that may be watching or listening in today that we appreciate your service and we don't squander-- we don't want to squander our rights of freedom that you fought so hard and sacrificed so much to

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accomplish for us. Having said that, there are many forums for students to exercise their right to free speech. This doesn't keep them from saying anything to anybody. It's just-- the argument is not about free speech, it's about control of the school newspaper. And the school newspaper should be worked on from within the system, should be supervised by the principal, by the superintendent, by the school board. I just think that giving students the right to run the school newspaper or control what goes into it, is not a realistic experience of what happens in the real world. You know, I think that we're making the world revolve around them, and they-- one of the things you have to learn in high school is the world doesn't revolve around you. You're going to have to get out into the real world and, and work within the system to accomplish what you want to accomplish. Not everybody's going to worship every idea you have. You're going to have to explain it and try to work with other people to get what you want. And one of those things is you're going to have to work with your boss. Gonna have to work with the owner of the company that you work for. You're going to have to negotiate with your family members. And there's just a lot to growing up and, and learning how the real-- real world works. I think this bill interferes with how the rest of the real world works, not prepares students for the real world. Thank you.

FOLEY: Thanks, Senator Moser. Senator Slama.

SLAMA: Thank you, Mr. President. I will be very brief in my remarks on LB206 today. I supported LB206 coming out of committee, I still support it, and I appreciate and support Senator Morfeld's AM2136. In addition to the numerous veterans here today, I also think it's fitting that we have several students from Peru State College observing our proceedings today. LB206 is a solid bill that protects students expressing themselves from across the political spectrum. To some of my colleagues getting up and debate today, keep in mind that this bill protects conservative students being stifled as much as it does liberals or moderates. This protection is across the board and I think it's a necessary bill. And I'd like to yield the remainder of my time to Senator Morfeld just in case he'd like to clarify or respond to any of the points that have been made on the floor yet today.

FOLEY: Thanks, Senator Slama. Senator Morfeld, 4:00.

MORFELD: Thank you, Mr. President. Thank you, Senator Slama. Colleagues, just in response to Senator Moser and in response to some other folks, I know some other amendments are going to be brought to this bill. I think that if you oppose the bill, vote no on the bill. I

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think it's important to bring it to a vote, though. I think it's important to bring this to a vote because we're dealing with a constitutional right that we can all agree with is a constitutional right, freedom of speech, and that this is a bill that I wasn't just driving to work one day and thought of, or sitting in the shower and thinking, wow, we really need some student journalism protections, this is a bill that was brought to me by dozens of students across the state. Dozens of students and not just students, but also teachers. I've also talked to some former administrators. This is a bill that has a purpose. It's a bill that solves a problem. It's a bill that solves a problem that we have in our society right now of people being afraid to talk about ideas, being afraid to talk about political thoughts. It's a bill that, quite frankly, Senator Halloran's point is apropos and only supports the need for this type of legislation that when we have public forums, so forums created by the power of the state, by the taxpayers dollars, government should be viewpoint-neutral. And that cuts both ways. It cuts with conservative students. It cuts with liberal students. And what we need to do in our society today is be able to create forums where young people can learn the skills and the ethics to do that civilly and to do it appropriately. And if we do not provide that forum at an early age, we are doing a disservice to our community and our democracy. And not only that, how can we expect if we don't provide that form and protect that forum at an early age, how can we then expect that students will have the skills to do it civilly and will have the skills to do it appropriately when they're adults? So we can't complain 10 years from now, oh, man, I wish those those young people-- I wish those young people just would be more respectful. They'd have more ethics. They'd understand how to be nonpartisan, unbiased journalists, if we're not creating the forum and the tools necessary for them to be able to do that. Because I hear a lot of grumbling sometimes in this body and in other places about how young people, you know, aren't doing this or that. Well, have we provided the environment in the forum for them to do that, whether they're conservative or liberal or anything in-between or outside? We must do that. So, colleagues, if you oppose the bill, I respect that. I respect that. But let's have a vote on this, because I think that there are strong opinions on both sides that have been respectfully debated. I think this is a good debate. I think we're having a substantive debate here and I enjoy it. But this bill is one that deserves a vote. And I think that we can all go home with our heads held high regardless of how we voted on this bill, but it deserves a vote because we had dozens of young Nebraskans, the young Nebraskans that we want to stay in the state from all political

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spectrums, come to that committee hearing and testify for hours about how they just wanted to be heard. And these were some of the most respectful, some of the most intelligent young Nebraskans that I've ever seen. And so let's honor them today and have a vote one way or another. Thank you, Mr. President.

FOLEY: Thanks, Senator Morfeld. Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. I appreciate the opportunity to say a few things here. Coming from a high school and secondary education background of 41 years, which I don't think anyone in this body could-- could match. I had the good fortune of having the journalism department and then as a department head, as well as, as an assistant principal and a principal for 15 years at Millard West High School, and how important those people were to the climate and culture that you established in your building. They are some of the best and brightest students you'll have in your schools. Senator Morfeld, Senator Blood, thank you for your comments this morning. It made me flashback to many situations and many issues that we dealt with in the district at the time. And we were as good as the-- the board policies that were established by our Board of Education in the Millard District and my work with the journalism sponsor, just like forensics, debate, music, many other areas that might have controversial issues being brought up by some people as to what we were doing in the school with-- be it music, debate, or any other topic. Those-- those are continuously going on in our schools. You're as good as the board policy that your board has established, and you're as good as the people, the principal and others in the buildings that you're working with. I would like to see this move forward. I think it has a little-- a little room for some touch-up here or there, but it's a very solid opportunity to make a statement, just like the best and brightest kids make statements when they're doing their work in a journalistic situation. I hope you'll support this. It's good policy. It's in the right direction. It's doing the right thing. And I'd ask the question, what are you afraid of? Thank you.

FOLEY: Thanks, Senator Kolowski. Senator Groene.

GROENE: Thank you, Mr. President. I wasn't gonna say much on this, but there seems to be a confusion on this floor about the difference between freedom of the press and freedom of speech. You think there was a reason that our founding fathers in the First Amendment said, Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof or unabridged freedom of speech?

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Why didn't they stop right there-- or the press? Why did they put or the press? Shouldn't the freedom of speech covered that? Senator Morfeld had been correct. He's-- he has stuck most of his argument to the freedom of the press. I wrote an op-ed to the Omaha World-Herald about 10, 15 years ago. And the editor-- page editor at that time, told, I wouldn't print it. And I wrote him back on an email or whatever and told him, what about my freedom of speech? And he made a real concise statement back to me. It's freedom of the press. The freedom of press is for me, not you. In other words, you want to have freedom of the press buy a newspaper, work yourself to the point that you're the editorial page editor, get yourself on the paper's editorial board, because I'm telling you, those folks tell that editorial writer what he can and cannot say. So, Senator Blood, you spoke eloquently about the freedom of speech. That has nothing to do with this bill. This is freedom of the press. Have you ever written a letter to the newspaper and it never got printed? Well, up in arms. My freedom of speech has been taken from me. No. The paper owner exercised their right of freedom of the press. We, in this bill, are taking the publisher, the editor, the owners of the paper out of the decisions on what is written on their editorial page. That's the way it works in free enterprise. I am looking at a reporter over here. I bet he's nodding a little bit. He doesn't get to say whatever he wants in the paper. But we are teaching these kids, by God, your opinion trumps everything. You can put it in the newspaper, you can put it on a banner head of the small town school paper as the opinion of the community that have the paper. Normally an editorial, not normally it is, an editorial in a private paper is the position of the publisher, is the position of the owner of the paper, is the position of the editor's board. This bill is teaching our children, no, no, your opinion, your ego, what you think trumps the view of the community, the view of the administration or the view of the school board. Read the bill closely. This is about freedom of the press, not freedom of speech. That child wants to stand in the hallway and tell kids to vote for somebody, they can do it. If they want to write something in an English composition class, they can do it. But when they're going to put something on a letterhead, on the banner head of an-- of a press that is owned by the public, owned by and hired management of the administration, voted by the school board, the paper, the paper's editorial board, then they're going to listen to them. This bill takes that completely out of the system. It is teaching kids the opposite of what happens in the real world. It is teaching them--

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FOLEY: One minute.

GROENE: --that freedom of speech is freedom of the press. No, it is not. There's a distinction there, big distinction. Justice Stewart has argued his comment that the First Amendment speak separately of freedom of the speech and freedom of the press and is no constitutional accident, but an acknowledgement of the critical role played by the press in American society. The Constitution requires sensitivity to that role and to the special need of the press in informing the effect of it effectively. In other words, the press's duty is to inform me of facts, not their opinion. That is what our founding fathers did so then I can have opinion and then I can have free speech. That is why the press is protected so that there is a knowledgeable citizenery-- citizenry. Sorry, Senator Chambers, I mispronounced it.

FOLEY: Thanks, Senator Groene. That's it. Seeing no other members in the speaking queue, Senator Morfeld, you're recognized to close. Senator McCollister, you had indicated you were wanting to be passed over, is that correct? Passover. Senator Morfeld, you're recognized to close on your amendment.

MORFELD: Thank you, Mr. President. Just to reiterate, I'm closing on my amendment?

FOLEY: Correct.

MORFELD: Great. Happy to close. I want to thank for the-- I want to thank everybody for the debate. I think this amendment clarifies that the principal and the administrator does have the power and authority to be able to-- to be able to provide guidance, professional guidance, as they already have that power. It doesn't get us as far as some of the opponents want to get us, but I think that it's certainly a good amendment, even for those who are opposed, to make sure that we clarify that the administrator still has that power. I urge your adoption of the amendment. Thank you, Mr. President.

FOLEY: Thanks, Senator Morfeld. The question for the body is the adoption of AM2136. Those in favor vote; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 27 ayes, 4 nays on adoption of Senator Morfeld's amendment.

FOLEY: AM2136 is adopted. Mr. Clerk.

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CLERK: Mr. President, Senator Clements would move to amend with AM2229.

FOLEY: Senator Clements, you're recognized to open on AM2229.

CLEMENTS: Thank you, Mr. President. AM2229 is very simple. It says, strike Section 2 and all amendments thereto and the purpose of that is to-- it would remove the high school portion of this bill and not the college university portion. Senator Slama was good to have the Peru College students here, and I appreciate you guys being here. I also see good friend, Professor Crook, in the audience. And anyway, I just want to say that not opposed-- I'm only opposed to the high school portion. The college students, I think are mature enough to-- for this to work. So my objection is not with the college portion, but with Section 2 which deals with the public high schools. And when my children were at home and in high school, I expected some parental authority. And for the school to give-- to be able to give them guidance, but when they went to college, I thought I didn't need quite so much oversight and let them do what they wanted to do. But I do think 15, 16, 17-year-olds are not adults yet and I believe this is taking too much authority away from the local public school. I was looking at the testimony in opposition to this bill. An attorney here in Lincoln who says a majority of his practice is working with school districts across the state did testify in objection and especially in connection with Section 2 is what his objection was. I'll just read from some of his testimony. He said the first sentence in Section 2 is that all school-sponsored media are deemed to be public forum and public forum is a legal definition. And it-- he says it's like sidewalk or a park where it's difficult to impose any kind of constraints. But his opinion was that if you declare the student content to be in a public forum, it will also include the school district's own Facebook account. And he says they've run into issues of people wanting to put their commercial promotional materials on the Facebook page of the school. And if the Legislature determines everything's now a public forum, that would be a problem, in his opinion. The student journalists would have the ability to control over advertising comment-- content, and I agree that that would be a problem. Another point he made was that this-- it has a phrase, an unwarranted, they cannot make an unwarranted invasion of privacy. And I'm not sure the distinction between a warranted and an unwarranted invasion in privacy, I think the word unwarranted is not unwarranted, unnecessary. So it gets down to Section 2 that this amendment would remove so that 15, 16, 17-year-olds would still be subject to

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authority and oversight locally. I think it could be potentially disruptive in schools to allow this provision to go through. Students can still write in class if they wish and whatever they wish in a class and share with their teacher what their feelings are, but to be able to have it on a public forum without editorial supervision I think is too far. Let's see. Then I did give a handout about First Amendment rights of public high school student journalists that was a diagram that describes how the court, the U.S. Supreme Court has determined if particular acts of censorship by school officials is legally permissible. And it goes down, asks some questions in a flow chart. And there's two different standards, the Hazelwood Standard and the Tinker Standard. And those standards already have times when censorship is permitted, times when censorship is not permitted by the local school. And that guidance, I think, is adequate. My opinion is that LB206 who would attempt to override these standards in Nebraska law and would no longer have the effect that the Supreme Court has already had. And so I think for now, that's mainly my introduction to the amendment. It would leave the college and university portion in the bill where I believe the students are more mature, but does strike the portion regarding high school students or public's-- yeah, public school students. Thank you, Mr. President.

FOLEY: Thanks, Senator Clements. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I just want to note that I do view this as a hostile amendment. This would pretty much entirely gut the purpose of the bill. We did include college students in there, but quite frankly our largest university, not Peru State, but our largest university system, University of Nebraska, is actually very good on freedom of speech in terms of student press. They have-- they leave that authority to the publications boards of the respective publications, and they really stay out of censoring the students. The Daily Nebraskan, is a good example of that. So this bill was introduced really with the purpose of protecting high school students. If you look at the committee statement that I passed around to all of you, pretty much all of those students, with the exception of one or two people like from Doane which isn't even covered under here because it's a private college, are all high school students. So I urge you to vote no on this amendment. This would defeat the primary purpose of the bill. It would not provide those incredibly important protections. I just want to note one thing from a constitutional perspective that Senator Clements brought up. He noted that we have some constitutional case law in this area. One of the premises of constitutional law is

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that states cannot restrict any rights in the Constitution further than has been interpreted by the U.S. Supreme Court, but they can provide more rights to their citizens beyond what has been interpreted by the Supreme Court and be-- beyond what has been given by the U.S. Constitution. So I just want to note this. What we are doing is we are providing even more protections than under the Constitution and we are strengthening those protections and clarifying those protections, and we can do that. This does not inhibit or get in the way of any standing Supreme Court precedents. And in fact, many states around us that I noted in the introduction of this bill have provided these protections and these guidelines as well. I urge your no-vote on AM2229, and would appreciate your continued support of the underlying bill. Thank you, Mr. President.

FOLEY: Thanks, Senator Morfeld. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good morning, again. Listening to the debate here and I had listened to what Senator Groene said. Senator Groene was describing for us the difference between freedom of speech and freedom of press and I appreciated his comments. Excuse me. So as we look at the amendment that was just narrowly adopted, and that is the reason that-- that I'm opposed to this bill is because the administrators can provide feedback consistent with what the regulations or decisions the State Board of Education has made. And so if the administrator has a problem with the rules that have been laid out by the State Board of Education, because of his community's acceptance of things that are said or written, he has or she has no authority to do anything about what that student has written because the State Board of Education has made the rules and set the qualification for what's acceptable and what isn't. If I'm an administrator and I see this, and I would think Senator Kolowski would be concerned about this as well, now we have taken away from them their ability to manage their school, their ability to manage the students of that school and be in authority over what is presented to the public from the school. But the safeguard they have is they can say, well, I was just following the rules the State Board of Education put in place, so if you have a problem with that, take it up with them. So I'm not quite clear on what happens to an administrator who doesn't adhere to the rules or the regulations that the Department of Education has set forward. Do they get censored or what happens to those people? So we elect these superintendents to direct our schools and manage what happens there and manage the student body as well as the staff, and so I think they're in a pretty good position to

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understand what is necessary and what is acceptable in each community. And so when Senator Clements mentioned to me that he was going to put in an amendment to strike high school students from the bill, that made a lot of sense, because I want to leave the authority with the administration and not with some State Board of Education that's far removed from what happens in my district or in my school. And so what we're doing there is we're tying their hands that you can-- you can function inside of these rules, and if you do not agree with these rules, then that's the way it is because the State Board has already set the rules, and consequently, we're going to move on from there. But I think it's been correctly stated this morning that freedom of press and freedom of speech are totally different. And these young people are not of the age of majority. And so they don't have some of the same rights that people who are of the age of majority have. Those come with time. Those come with age. And so we need guidance. Young people need guidance and instruction. And how you get that is in your formative years you have people who have been there who have some gray hair maybe and have some understanding of what is appropriate and what isn't. And so just to give them a free rein and protection from anything that they want to do within the rules that have been set by the State Board of Education, I think is-- is dangerous. And so, Senator Clements, I appreciate you bringing your amendment. I think that is the correct thing we should do. We should adopt that, and therefore, if we do, according to Senator Morfeld, and I would agree that that kind of renders this bill meaningless. And so I would--

FOLEY: One minute.

ERDMAN: --exactly hope that that's what happens. And so I'm going to be in support of Senator Clement's motion. And I would encourage those of you who want to allow superintendents of schools and administration to have the authority that you think they have to vote the same way. Thank you.

FOLEY: Thanks, Senator Erdman. Senator Albrecht.

ALBRECHT: Thank you, President Foley, and I rise today in favor of AM2229. And I thank Senator Clements for bringing this amendment because, Senator Morfeld, I was absent while your debate was going on, but I certainly have been following this and I was hopeful that there were going to be some, some dialogue between many people before it got to Select because I think a lot of us did have the concerns over the high school. You know, as a parent and a grandparent, I believe not only us, but the school boards, the administrators, principals and

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teachers have to-- not necessarily control the environment because you're trying to allow them to do whatever they would like to do, and with oversight, of course, that you feel that is there, but, you know, these are our children and I have concerns with the indications that a child or a youth can be influenced by outside of the school and-- and outside of the faculty or the administration regarding issues that strongly divide not only our nation, but our state, our communities. So, you know, I was just a little taken back in the off session that I saw some very, very young children come to the Capitol, on the steps of the Capitol to-- to-- to support, I guess, climate change. Well, you know, not only that, but gun violence. Anything that-- that our schools would allow something like this to teach our children that you can do those things, but-- but as a parent, you know, we are trying to parent as well. And we also have views in our homes of whatever it might be. But I believe that the concern can-- can set up some adversarial situations that create disruptive educational environments with faculty and administration not having the authority to control certain things that happen within their community, that they would know that the community might be up in arms about. I'm listening to the-- to Senator Groene when he talks about people not being able to share in their papers, in their local papers about how they feel about certain things. I just-- I believe, you know, when you get to the college level, you're going to-- you're going to decide what direction you want to go in but with all the outside influence we have on our children as parents, I think that we need to take a look at this and and slow down. And-- and I just don't want to see it in the-- at the high school level. I don't know if these-- these young children, if you will, the young students of 14, 15, 16, 17-year-olds actually, I don't know, I'd have to ask Senator Morfeld a question, but I'll wait till I get what I want out here. But I don't know if they actually came to him and said, hey, can you help us out here? Or if there's been situations in the state of Nebraska that were taking place that would merit this being within this bill? You know, journalism programs-- I was in journalism. It was one of the best things I thought that in my high school days, it was a lot of fun. But at the high school levels, I think that they need to be able to focus on and direct programs to best educate the students and involve them in all the different programs. But the publications, when you are at a school level, at the-- at the high school level, you know, the school's name, their reputation, whether it's privately owned, you know, like a private school or, you know, I-- I just don't know that you can-- can say yes or no to-- and just put what you want in the paper to-- to

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wake things up, because I think it goes a little bit beyond whether it's a school--

FOLEY: One minute.

ALBRECHT: --sponsored program. I would like to know, does it include the school's website and does it preclude oversight and limitations with the faculty and administration to also keep an eye on that? So again, I stand in-- in support of AM2229 and thank Senator Clements for bringing the bill, the amendment. Thanks.

FOLEY: Thanks, Senator Albrecht. Senator Halloran.

HALLORAN: Thank you, Mr. President, and good morning again, colleagues. We've had a lot of good discussion on this bill this morning, and it does encourage me that freedom of speech is an important issue for all of us. And I think Senator Groene's point distinguishing between freedom of press and freedom of speech are two different things. And I think we're-- we're crossing-- we're crossing that divide a little bit here with this bill. Schools should have control over their publication and I'm concerned that this takes away a lot of that control. On page 3, line 20 through 27, no publication or other expression of matter by a student journalist is in the exercise of rights under this section shall be deemed to be an expression of a public high school's policy. No public high school, member of a school board or employee of such school or board shall be held responsible in any civil or criminal action for any publication or other expression of matter by a student journalist in the exercise of rights under subsection 2 of this section. Would Senator Morfeld yield to question?

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

HALLORAN: So this language holds-- apparently holds the school board-- member of the school board or employee of such a school board harmless from civil or criminal action, is that-- that's the way I read that, is that correct?

MORFELD: Yes.

HALLORAN: Is-- is there-- can the subject, or excuse me, can the student be subject to civil or criminal-- criminal action?

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MORFELD: Well, just like any adult, yes, they could. If it's slanderous or libel or something like that, yeah. So they have the same responsibilities as a-- as an adult journalist as a student journalist.

HALLORAN: OK. Thank you.

MORFELD: That's why we have the faculty advisor.

HALLORAN: Thank you, Senator Morfeld. So we're-- we're opening up that opportunity, I think, or it's not a positive opportunity, but that opportunity for if immediate advisor does not catch something or is concerned that they'll be abridging this-- this law by not allowing a student to print something and it ends up being something libelous or slanderous, then we're opening that circumstance where that student might be held liable, would that be right? Senator Morfeld, I'm sorry. Would that be correct?

MORFELD: So we're opening up-- are you saying that we're opening up opportunities for students to be liable for that? They're already liable for that if they posted something on Instagram, Facebook or anything else that was libelous or slander. So they're-- they're under that same standard already, like everybody else

HALLORAN: They're under that same standard now, but if under the-- under the direction of immediate advisor, if that media advisor feels like they're going to be abridging this law and is-- decides that that student go can go ahead and print whatever the student is wishing to print, aren't we kind of putting that-- that student at risk of printing something that may put them in jeopardy?

MORFELD: No, because they're already subject to those laws. The only thing that we did here was make it so that the administrators and the school board who would not be controlling certain aspects of this anymore would not be subject to that because they wouldn't have a say over that. So this was working with the administrators--

HALLORAN: Thank you, Senator Morfeld. I understand that, but what I'm saying is, won't a student be more at risk?

MORFELD: No, because they are currently subject to those laws.

HALLORAN: I understand, but under current circumstances, the media advisor might say, no, that's not something we're going to print.

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MORFELD: Actually, the media advisor doesn't have any power or protection right now so that's probably not the case.

HALLORAN: I'm sorry. Say it again.

MORFELD: So, so the media advisor right now could say that but that's-- that's the role of the media advisor and that's why we keep the media advisor there and we give them special-- special protections for standing up for the students' free speech rights. The media advisor still would have the authority, along with the student editor, to make editorial decisions that any editor would be able to make.

HALLORAN: OK. Thank you, Senator, but wouldn't they-- wouldn't they be-- wouldn't they be a little bit less likely to be willing to censor something because they might be in abridging this law?

MORFELD: No, because they're-- it's the same standard that they currently have to follow anyway. So they always have to be aware that there could be civil liability. Criminal liability is kind of a stretch, but civil liability definitely if they print something that constitutes libel or slander.

FOLEY: That's time, Senators.

HALLORAN: OK. Thank you.

FOLEY: Thanks, Senator Halloran and Senator Morfeld. We'll pause the debate for a moment for some items for the record. Mr. Clerk.

CLERK: Thank you, Mr. President. Your Committee on Health and Human Services reports LB255 to General File. Revenue Committee reports LB242 and LB705 to General File with amendments attached. Transportation Committee offers confirmation report. And finally, Senator Murman, LR308, that will be laid over. That's all that I have, Mr. President. Thank you.

FOLEY: Thank you, Mr. Clerk. Continuing discussion. Senator Moser.

MOSER: Thank you, Mr. President. One comment that was made earlier by Senator Slama I think misses the point of my objection to this bill. She said that censorship could be used against liberal thoughts or conservative thoughts. And my objection to the bill has nothing to do with whether I think that these are going to be liberal or conservative comments, my objection to the bill is that the newspaper is part of the system of the school. The system is run by the

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principal, the superintendent and the school board. And the school board is elected from within the community to run the school. And I think that the principal, superintendent and school board should have authority to control the-- and run the school newspaper in the way that they see fit. Now, that may be that in some of the bigger cities, the school boards would be more inclined toward liberal theories, I don't know. Maybe in western Nebraska, the school board would be more inclined toward conservative views. But those are things for the voters who elect the school board and for the school board who hires the superintendent, and for the superintendent that supervises the principal, and for the principal who supervises the advisor for the-- the newspaper, and then the students who write fall under that. So I-- I'm not trying to say that I'm against this because I'm conservative. Yes, I have some conservative views, but I'm-- I'm against it because I think it should be determined by the local school board, the local administration because they represent the voters of the school district where the school operates. And I think those are going to be different in different parts of the state and I don't think we can say that one size fits all that we should follow regulations from the Department of Education as to what we allow in a school newspaper. So I just wanted to make sure that my opinion was reframed and it's not because I'm trying to control liberal views-- views in a school newspaper. I think that's going to reflect the community that the school is in and it's going to reflect the school board that was elected by the citizens within those school districts. Thank you.

FOLEY: Thanks, Senator Moser. Senator Clements.

CLEMENTS: Thank you, Mr. President. I wanted to refer to the bill. On page 4, it says a student journalist shall not be disciplined for acting in accordance with subsection 2 of this section. And when you look at subsection 2, that was probably the part that I had difficulty with. All school-sponsored media are deemed to be public forums. I've discussed public forums before as opening up too much for student control, and then subject to subsection 3 a student journalist has a right to exercise freedom of speech and of the press in school-sponsored media. And this gives the student the right to exercise freedom of speech, but also freedom of the press. And I appreciated Senator Groene's pointing out that freedom of the press is not the person writing the article but that's the job of the newspaper, or in this case, the schools, the school's job. Authority has the freedom of the press and not the student. But this would appear to me to switch that authority to the student and take it away

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from the school. That was the primary problem I had with this. And the other thing I was-- is as I've been pondering this and really wondering why it was referenced to Judiciary, seems like we're talking about education, education all the time, and I'm not prepared to make that argument. But it is interesting that it went to Judiciary, not Education. Seems like it affects education mostly. And so they-- I just want to reiterate that the freedom of speech and freedom of the press are two different things, and I appreciated Senator Groene for pointing that out. Thank you, Mr. President.

FOLEY: Thanks, Senator Clements. Senator Groene.

GROENE: Thank you, Mr. President. I-- I wholeheartedly understand how our rights are so precious that we would assume that they are just unlimited. That is not the case. Senator Morfeld, I have a question for you. I mean, just because I want some clarity. Would you take a question? Thank you.

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

GROENE: Just a clarification. It says this section does not authorize to protect expression by student journalists that is libelous or slanderous, constitutes unwarranted invasion of privacy, and it goes on. I can't ascertain where that happens. Can the administration and the school board see what a student writes and then decide prior to publication if that piece should not be printed because it's libelous, violates federal or state law, or is this after the fact? It doesn't really clarify. Or is the school held liable because of one employee's decision on the matter?

MORFELD: So, Senator Groene, to answer your question, yes, the school can still exercise prior restraint and review the publication before that. If you want us to clarify that, I'm happy to join with you in an amendment on that. In addition, as I think it was, Senator--

GROENE: Thank you.

MORFELD: I think it was Senator Howard, to answer your second question, the school is not liable for that. We actually explicitly make them not liable and make it clear that this is not an expression of the school district and they're not civilly and criminally liable.

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GROENE: Thank you. Thank you. It's just not very clear. After the horses get out of the gate, it's kind of hard to get them back in, especially when some 16-year-old decides to write something that has the letterhead of the-- of the school in it. One of the lines that kind of bothers me is, you said in the bill, I'll go back to my concerns that all school-sponsored media are deemed to be public forums. So a lot of these schools have TV stations. My school does, where the kids in the class can-- they broadcast sporting events and plays and things. I'm assuming that TV station is covered by this too. And constitutionally, I'm looking at what a public forum normally is. The public forum and usually is, and I've done it, have a town hall meeting at the University of Nebraska's research farm, the meeting room at the county exhibit hall. That's a public forum. The officials aren't there. No government officials are there. No government officials are there presenting their side of things, and then I do my side. But when you look at a newspaper, in that same paper that the superintendent might write a, or the principal might write a story, have a weekly-- informing the kids and the parents about happenings at the school or a teacher might-- department head might write a-- an article defining something that's happening in the school. This is kind of a blending here of a public forum of government speak and private press and press rights. I don't believe a student newspaper belongs under the definition of a public--

FOLEY: One minute.

GROENE: --forum this-- or a public-- or a school website. Does that paper also have a website? I'm sure it does, with modern technology. The television station. Some even have radio stations. How far do you want to go with some 16-year-old who has a long way to go before they have formed their opinions on life to be in print without the guidance of the school board or the community as a whole? But this takes all that away. I understand the passion for it, but they can wait till they're adults and they get guidance from a-- from a publisher and an editor at a private newspaper and the advertising department who says, you can't print that because we'll lose the advertisers. There's free market factors involved in free press. This has none of it. Thank you, Mr. President.

FOLEY: Thanks, Senator Groene. Senator McCollister. Senator McCollister, we've only had six speeches on this amendment and there's only a couple more in the queue, so I'm going to let the debate continue. Senator Morfeld, you're recognized.

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MORFELD: Thank you, Mr. President. Colleagues, I think we're coming close to our time here and then we'll have another debate down the road on Select File again this session on this bill, it's not going away. A few different things. So I think that we need to kind of step back for a minute and pay attention to some pretty important distinctions that I think a lot of people have either just kind of ignored or not thought of or maybe purposely ignored. First, the difference between a publication at a public institution and a private publication such as the World-Herald, Journal Star, you name it, is that one is supported by the taxpayers and is the power of the state, state government or local government, and another one is a private forum. And in this case, this is a taxpayer-funded public forum that should be viewpoint-neutral because we don't want our government going out and telling people that they can say certain things on one hand and not say something on another hand, because then what happens is that administrator or that individual then has the power to engage in viewpoint discrimination. That's why we want it to be as viewpoint-neutral as possible and be able to foster that so that the power of the state does not get in the way of people expressing their views. That is fundamental to the First Amendment. And I'll remind you that the First Amendment encompasses both free speech and press. So it's-- it's hand in hand. It's hand in glove. It's tough for me to listen to some of this because what I see is a lot of people saying, well, we don't necessarily trust these young people to make these decisions. If you think about it, the person that's usually the editor-in-chief of their student paper, and that would be working with this adult advisor, is usually an upper-class person. So they're usually a 17- or 18-year-old, which I will remind you, a 17- or 18-year-old can go off and die and fight for their country, but they can then be suppressed with their speech at their government-funded newspaper. That doesn't make any sense. If we don't trust our students to be able to write what they want to write and exercise their First Amendment rights, then why are we trusting them to go off at war at the same age? Colleagues, I understand that some people's views make us uncomfortable. Some people's views may make the folks back home uncomfortable, but we need to be able to live in a society where people can express their views, learn the skills, the skills of ethics, journalistic integrity, to be able to exercise those rights and those powers in a way that is conducive to a democratic government, to a democracy, to a democracy of ideas in a community of people that are able to express those ideas sometimes feel a little uncomfortable, but be able to discuss them robustly. That is the point of a democracy. That's the point of the First Amendment. That's the

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the point of free press is to be able to have a marketplace of ideas and people with the skills to express them. If we do not protect-- if we do not protect young people's rights--

FOLEY: One minute.

MORFELD: --to exercise those rights at an early age, then they will not be equipped to do so at a later age. That is the point of this bill, is to protect fundamental rights that are exercised in a government forum that should be viewpoint-neutral and to build the skills of a next generation of young journalists and leaders for the future. Colleagues, we have overwhelming support of this bill in this body. We will come back on Select File again and discuss and debate this. It's not going away. I urge you to not adopt Senator Clements' amendment when that time comes. Thank you, Mr. President.

FOLEY: Thanks, Senator Morfeld. Before proceeding, Senator Geist would like us to recognize some guests today. We have with us 100 fourth graders from Waverly Elementary School in Waverly, Nebraska. Could those fourth graders please rise? We'd like to welcome you to the Nebraska Legislature. And Senator Hunt has some guests today. We have with us 30 seventh graders from Brownell Talbot School in Omaha, Nebraska, in the south balcony. Could the seventh graders from Brownell Talbot please rise? We'd like welcome you to the Nebraska Legislature. Speaker Scheer.

SCHEER: Thank you, Mr. President. We've used the allotted time on Select File for our first portion on LB206, so we'll pass over that and return back to Select File, please.

FOLEY: Thanks, Mr. Speaker. Senator Wishart, can you help us out. Senator Slama is not on the floor. Can you help us out with the Select File motions?

CLERK: Senator, with respect to LB381, I have E&R amendments, first of all.

FOLEY: Senator Wishart.

WISHART: I'm a little bit rusty on this. Thank you, Mr. President. I move the E&R amendments for LB381.

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FOLEY: Thanks, Senator Wishart. The motion is to adopt the E&R amendments to LB381. Those in favor say. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Hilgers would move to amend, AM2209.

FOLEY: Senator Hilgers, you're recognized on your amendment.

HILGERS: Thank you, Mr. President. Good morning, colleagues. AM2209 as I believe-- I believe is a friendly amendment. After General File, the Supreme Court had some discussions, some concern about this new expense reimbursement policy being applied to them. They wanted to retain the discretion to determine how they would do expense reimbursements within the judicial branch. So if you recall on General File, we excluded the Legislature, legislative counsel from-- from this bill, and what AM2209 would do would be to simply exclude the Supreme Court, the Judicial Branch from this as well. As I said, I think it's a friendly amendment early. Senator Hansen has no objection to it and I ask for your green light on this amendment. Thank you, Mr. President.

FOLEY: Thanks, Senator Hilgers. Is there any discussion on the amendment? I see none, Senator Hilgers, you're recognized to close on the amendment. He waives closing. The question for the body is the adoption of AM2209 to LB381. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 30 ayes, 0 nays on adoption of Senator Hilgers' amendment

FOLEY: AM2209 is adopted. Mr. Clerk.

CLERK: Nothing further on the bill, Mr. President.

FOLEY: Senator Slama.

SLAMA: Mr. President, I advance LB388 to E&R for engrossing.

FOLEY: That's LB381.

SLAMA: LB381.

FOLEY: Motion is to advance LB381 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB381 advances. Next bill, please, Mr. Clerk.

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CLERK: Mr. President, Senator Slama, LB477. There are Enrollment and Review amendments.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB477 be adopted.

FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: I have nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB477 be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB477 advances. Mr. Clerk.

CLERK: LB477A, Senator, there are E&R amendments pending.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB477A be adopted.

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

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB477A be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB477A advances. Next bill, please.

CLERK: LB68, Senator, I have E&R amendments, first of all.

FOLEY: Senator Slama.

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SLAMA: Mr. President, I move that the E&R amendments to LB68 be adopted.

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

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB68 be advanced to E&R for engrossing.

FOLEY: Motion is to advance LB68 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB68 advances. Next bill, please.

CLERK: LB107, Senator, there are E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB107 be adopted.

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

CLERK: Senator Dorn would move to amend with AM2117.

FOLEY: Senator Dorn, you're recognized to open on AM2117.

DORN: Thank you, Mr. President. And what we had on the original bill, we had some discussion. There was in the original bill, it was that they could charge-- the municipalities could charge a-- a cost to issue a permit. There was no top amount in that, what they could charge. After having some discussion with Senator Albrecht, Erdman and Lowe, we did come up with an amendment here and this now caps it at \$25. So what the-- and the city or the entity could charge for that permit is a maximum amount of up to \$25. The League of Municipalities, we have visited with them and they are definitely OK with this. I urge a green vote on AM2117.

FOLEY: Thank you, Senator Dorn. Is there any discussion on Senator Dorn's amendment? I see none, Senator Dorn, you're recognized to close on your amendment. He waives closing. The question for the body is the

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adoption of AM2117 to LB107. Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: 37 ayes, 0 nays on adoption of Senator Dorn's amendment.

FOLEY: AM2117 is adopted. Mr. Clerk.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB107 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB107 advances. Next bill, please.

CLERK: LB148. Senator, I have E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB148 be adopted.

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

CLERK: Senator Groene would move to amend with AM2176.

FOLEY: Senator Groene, you're recognized to open on AM2176.

GROENE: Thank you, Mr. President. Somewhat was brought to our attention by the natural resource districts. It's a simple amendment to fix something that shouldn't have been in there. It strikes a phrase in-- in a digital advertisement. This helps clarify that while notices must be published online if possible, it is not necessary to specifically publish this notice in an advertisement. Many newspaper websites, especially small towns, have a notice board and you can just put your notice on that board. This present language implies that they have-- that the taxpayers have to buy an advertisement. So that's not necessary. If they wish to buy an advertisement, then they can but-- so we're just striking unnecessary language and confusing language. So I'd appreciate a green vote on it. Thank you.

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FOLEY: Thanks, Senator Groene. Is there any discussion on Senator Groene's amendment? I see none, Senator Groene you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM2176. Those in favor of vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Groene's amendment.

FOLEY: AM2176 is adopted.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB148 be advanced to E&R for engrossing.

FOLEY: You've heard the motion to advance the bill. Those in favor say. Those opposed say nay. LB148 advances. Next bill, please.

CLERK: LB76, Senator, does have Enrollment and Review amendments.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB76 be adopted.

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

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB76 be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB76 advances. Next bill, please.

CLERK: LB236 does have Enrollment and Review amendments.

FOLEY: Senator Slama.

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SLAMA: Mr. President, I move that the E&R amendments to LB236 be adopted.

FOLEY: The motion is to adopt the E&R amendments to LB236. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB236 be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB236 advances. Next bill, please.

CLERK: LB266, I have no amendments to the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB266 be advanced to E&R for engrossing.

FOLEY: The motion is to advance LB266 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB266 advances. Next bill, please.

CLERK: LB731, Senator, does have Enrollment and Review amendments.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB731 be adopted.

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

CLERK: Nothing further on that bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB731 be advanced to E&R for engrossing.

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FOLEY: The motion is to advance LB731 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB731 advances. Next bill, please.

CLERK: LB534, Senator, I have E&R amendments, first of all,

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that the E&R amendments to LB534 be adopted.

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

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB534 be adopt-- be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB534 advances. Next bill, please.

CLERK: LB287 has E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB287 be adopted.

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

CLERK: Senator Quick would move to amend with AM2162.

FOLEY: Senator Quick, you're recognized to open on AM2162.

QUICK: Thank you, Mr. President. Colleagues, this is just a technical amendment to fix things that revisors in the Fiscal Office noticed after General File. The only substantive change is that the original-- in the original bill we intended to strike minimum annual resident motor vehicle permit fee, but the minimum of \$30 was unintentionally

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reinstated when we adopted the committee amendment. So I'd ask you to vote green on this amendment and thank you.

FOLEY: Thank you, Senator Quick. Is there discussion on AM2162?
Senator Erdman.

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

FOLEY: Senator Quick, would you yield, please?

QUICK: Yes.

ERDMAN: Senator Quick, explain that what you said, if you would, on that \$30 registration vehicle fee.

QUICK: It's on the minimum of the cap. So you have a cap-- the top cap and the minimum cap and the minimum, we're going to take that off so that they-- to allow them to do the packages for fees for promotions so they-- they have to reduce the mini-- reduce the minimum or take that off--

ERDMAN: OK.

QUICK: --in order to do the packages.

ERDMAN: All right. So if you know, and if you don't, that's fine too. If you know, where does this-- what do they do with this registration money? Where does that go, do you know?

QUICK: I guess it just-- no, I don't know.

ERDMAN: OK, that's fine. I was just curious. Well, anyway, I appreciate that. Thank you for your explanation.

QUICK: All right. Thank you.

FOLEY: Thank you, Senator Erdman and Senator Quick. Is there any further discussion on the amendment? I see none, Senator Quick, you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM2162. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 30 ayes, 0 nays on adoption of Senator Quick's amendment.

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FOLEY: AM2162 is adopted. Mr. Clerk.

CLERK: Nothing further on the bill, Mr. President.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB287 be advanced to E&R for engrossing.

FOLEY: The motion is to advance LB287 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB287 advances. We'll now proceed to General File. Mr. Clerk.

CLERK: Mr. President, LB267 was a bill introduced by Senator Bolz. It's a bill for an act relating to county government, provides a duty for the county board relating to deficient bridges, and authorize a tax levy. Introduced on January 15 of last year. At that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Bolz, you're recognized to open on LB267.

BOLZ: Thank you, Mr. President. LB267 is the bill that would provide an option to counties across the state to utilize an existing authority to address increasing number of bridges across the state that are growing older and less safe. It would also provide counties additional flexibility to address an increasing number of bridges damaged by recent flooding. A county already has the authority to bond for courthouses, jails, and other county buildings. This bill diversifies the current authority for counties to utilize bonding for the repair, retrofitting, reconstruction, or replacement for bridges that are deemed deficient or scour-critical pursuant to Department of Transportation standards. The ability to bond at a current capped threshold already exists in statute and allows counties to address emergency situations. This is particularly helpful and important as counties patiently wait for reimbursent-- reimbursement from the Nebraska Emergency Management Agency and allows them to preserve their existing transportation budgets while they respond to bridges that are in dire straits. In what remains a historically low interest rate environment, bonding allows counties to fund needed infrastructure repair now and counteract the ever increasing construction cost escalation within this industry. I would note that the amendment which

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Senator Brewer will discuss reflects some compromise language to articulate that there should be a high standard for using this authority and that it should be used only in emergency situations. The only opposition to the bill was from the Lincoln Independent Business Association, which after the-- the introduction of the amendment language changed their position to neutral. I would say one more thing, an introduction to this bill, which is that after the flooding this spring, more than 1 in 10 county bridges, 11.8 percent are structurally deficient. So in terms of responding to our county needs, keeping our infrastructure safe and helping our communities to build back from the dire flooding situations that we had last spring, I would ask for your support of LB267. Thank you, Mr. President.

FOLEY: Thanks, Senator Bolz. As the Clerk indicated, there are amendments from the Government Committee. Senator Brewer, you're recognized to open on the committee amendment.

BREWER: Thank you, Mr. President. We heard LB267 in the Government Committee on March 7 of 2019. We did hear from a lot of support from the people of Lincoln and Lancaster County. We also heard from the county engineer, Pam Dingman, who shared photos and other information about how bad the bridges were. Let there be no doubt in anybody's mind that those were rather revealing of some of the problems in Lancaster County currently with their bridges. We advanced the bill to General File with a committee amendment, AM1245. The amendment tightens up the original bill in two ways. First, it limits usage of the levee authority to emergencies where there is a presidential disaster declaration. And the second is that the bridges must be labeled scour, critical, or structurally deficient. Both of these would fall under Department of Transportation rules. All levee increases under this law would require a two-thirds vote. Right now they only need a simple vote. AM1245 makes the bill better. With that said, I have problems with this bill. Even with the limits added to the committee amendment, it does give permission to local government to raise property tax without a vote of the people. Obviously, the requirements in Lancaster County are critical, but even in my district with the flooding, if I was to vote for something that did give local governments ability to raise taxes without a vote of the people, it would be a very bad day. I would encourage you to vote green on AM1245. I think it makes the bill better, but I'm not gonna be able to vote green on LB267. The taxpayers have a chance to-- should have a chance to vote no on new taxes. Thank you, Mr. President.

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FOLEY: Thank you, Senator Brewer. In the speaking queue, we have Senator Erdman, Senator Ben Hansen and Senator Moser. Senator Erdman, you're recognized.

ERDMAN: Thank you, Lieutenant Governor. I appreciate that. Senator Brewer, thank you for explaining your amendment. And as I read the bill and I see that this does allow a vote of the board, a majority vote of the board to collect more property tax. I know that Senator Bolz introduced this bill several months before the flood happened. So I'm concerned about what the rationale was there, so I was wondering if she would answer a question or two.

FOLEY: Senator Bolz, would you yield, please?

BOLZ: I'd be happy to.

ERDMAN: Senator Bolz, who brought this bill to you at your-- who brought this to your attention that something needed to be done here?

BOLZ: Lancaster County.

ERDMAN: OK. So you introduced this bill before the flood happened, is that correct?

BOLZ: That's correct.

ERDMAN: OK. So once-- once the flood happened, then it became more-- more desirable to have your bill come to the floor so that they could fix those damages that happened because of the flood, would you agree?

BOLZ: I would agree. I would also say it was inspired by a 2014 report that found that out of the 11,763 city and county bridges, 7.7 are functionally obsolete--

ERDMAN: OK.

BOLZ: --and 20.2 percent are structurally deficient. So there's a history here.

ERDMAN: OK. So would you agree with this statement that the current legislation-- the current statutes we have in place would allow a county board to bond for replacing a bridge now?

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BOLZ: No, not the statute that we're referencing in this bill. The statute that we're referencing in this bill allows for things like courthouses, but not bridges.

ERDMAN: OK. Let me try to ask that differently. Do county boards have the authority in any statute of the state that they could bond now to build a new bridge?

BOLZ: To build a new bridge?

ERDMAN: Or fix this bridge or repair a bridge?

BOLZ: It's-- it's-- I'm-- I don't believe so.

ERDMAN: You don't believe so?

BOLZ: I do not know. I'm sorry.

ERDMAN: OK, that's fine. The point I'm trying to make here is this is a property tax increase. And as Senator Brewer very well-described, we're going to allow the county board to make a decision to bond for a repair to a bridge and raise taxes without a vote of the people. And I don't know if you remember when you were in school, you heard about this event that happened over there on the East Coast, they threw a bunch of tea in the water and they're all fired up about something, and they called that, they were upset because it was taxation without representation. So if you want to do bonding to repair a bridge, and you've had a flood or whatever it is, if you have a legitimate concern and need, explain it to the voters, we have this need, we need to do this bridge. We're going to raise your property tax. Here's how much we're going to raise it. Are you in agreement that we should spend your money to do this? That is the question. And so we're going to let two-thirds of the board and in most counties, and I'm going to say this with some experience and understanding, most counties have three county commissioners. So you're saying a majority of the board is two. So if two commissioners agree that we should raise your taxes and all the rest of the people in this community or county don't believe that that's the case, shouldn't do that, you're going to raise my taxes. And so it's a situation that I find very peculiar that we continually talk about property tax relief here in this Chamber, and that's the number one issue we talk about--

FOLEY: One minute.

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ERDMAN: --and by the way, I do have a solution for that. But anyway, so we talk about that, but we don't ever seem to want to do anything about it, but we continue to add to it. And that's what this is. So I don't-- I'm not disagreeing there's a need. I'm not disagreeing with that. But what I'm saying is, if you have a need, it's legitimate, and you can explain that to the voters and they agree with you, they will then allow you to do bonding. Until then, I don't think this is good legislation to force people to pay more taxes because I never have received a notice in the mail that said, we're going to raise your property tax, can you afford to pay that? They just send me a notice, say, send it in. That's what's wrong. We have not taken into consideration the people who pay the taxes, we're always worried about those who collect the taxes. The focus is wrong. And this bill is wrong by allowing them the authority to bond without a vote of the people. So I'm going to be in opposition to LB267.

FOLEY: That's time, Senator.

ERDMAN: I'm not sure whether-- thank you.

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

B. HANSEN: Thank you, Mr. President. I'd like to maybe just echo a lot of same sentiments and comments as Senator Erdman, and my concern about the potential of this bill and what it can do to the taxpayer when it comes to property taxes. And I just maybe want a couple clarifying questions about the bill, if Senator Bolz would yield, please.

FOLEY: Senator Bolz, would you yield, please?

BOLZ: I'd be happy to.

B. HANSEN: Thank you. Maybe if you could just run us through the process of like who declares the-- like right now currently I notice, my understanding is the county board that declares the emergency by two-thirds vote. How does the process work? So like, is that kind of an immediate process, and then when they declare the emergency, does it have to be as-- I think it has to be as a resolution, it said as a resolution if I remember right. And then-- and also, who determines like the emergency?

BOLZ: Sure. So I want to start by saying counties-- in terms of answering your question about process. Counties already have limited

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authority to bond for certain purposes. So in the larger counties they can bond for up to two million dollars for courthout-- houses, jails and other county buildings. This bill would just add bridges to that list. So I just want to be clear that it's not adding additional bonding authority, it's adding an additional purpose for the purpose of bonding. So again, that cap is two million for Lancaster, Douglas, and Sarpy and 300,000 for some of the smaller counties. So they would have to use that authority. They would have to bring forward a proposal that's under those caps. And the amendment would require a two-thirds majority vote of the members of the board and a declaration by legis-- resolution that an emergency exists. So that would have to be an on-record declaration of an emergency by those elected county officials. The rest of the amendment references a bridge being replaced in the county which is destroyed or damaged as the result of a natural disaster. And here's the part that I think is also an answer to your question, which is, in which a federal disaster declaration was issued by the President of the United States. So that would be another circumstance, a presidential declaration of disaster. So it has to be an on-record declaration of an emergency by a county board and/or a circumstance in which there is a presidentially declared declaration of a disaster. Does that answer your question, Senator?

B. HANSEN: Yes, it does, actually. And you said it's an and/or so it doesn't technically have to be a declared emergency by the federal government.

BOLZ: So I'll read the amendment to you. May pursuant to a two-thirds majority vote of the members of the board and a declaration by a resolution that an emergency exists, repair, retrofit, reconstruct, or replace any bridge owned by the county which is, one, destroyed or damaged as the result of a natural disaster for which a federal disaster declaration was issued by the President of the United States, or designated as scour-critical or structurally deficient pursuant to Department of Transportation standards. So they're-- the emergency has to exist in one form or the other form. It can be under a presidential emergency declaration, or the couple up of the emergency situation declaration by the county commissioners, coupled up with the proof that they are scour-critical or structurally deficient pursuant to Department of Transportation standards.

B. HANSEN: OK, yeah, that does clarify that part for me. And I think maybe the one thing I maybe have a little bit of heartburn here with me because I like the intent of the bill, like the idea that if there

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is an emergency such as a flood, because that's kind of I think the idea that I-- I felt like the intent of this bill was maybe for--

FOLEY: One minute, Senator.

B. HANSEN: --was we have-- thank you. We have a flood. We have a natural disaster. We have some kind of circumstance where we would need to now take some immediate action. However, I personally like the idea of it going more to a vote of the people first as opposed to the county board, because I-- and I also like the idea that I feel like our government should be doing as much as I think they should, but I think one of the duties of our local government is especially take care of our infrastructure and our roads and our bridges in a timely manner. And if that doesn't happen, I see spending on all ends of the spectrum, cities and counties before or ahead of infrastructure repair. And so I think we need to be a little bit careful about how we interpret this bill. I am for the amendment. I still got some heartburn over the bill. I'm still determining what I'm going to do with that one yet. But I just want to-- just want to kind of bring everyone's attention about the potentiality of what can happen with our property taxes if this bill passes. Thank you.

FOLEY: Thank you, Senator Hansen. Items for the record, please.

CLERK: Mr. President, an amendment to be printed to LB206. A reminder, the Government Committee will have an Executive Session following their hearing this afternoon. Name adds: Senator McCollister, LB540 and LB640; Blood, LB643; Hunt and Matt Hansen, LB850; Lowe, LB911; Matt Hansen, LB1020, and Blood LR294CA, or, excuse me, LR294, not CA. Mr President, Senator Linehan would move to adjourn the body until Monday, February 3, at 9:00 a.m..

FOLEY: Members, you heard the motion to adjourn for the weekend. Those in favor say aye. Those opposed say nay. We are adjourned till Monday.