

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

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

HILKEMANN: Good morning. Good morning, citizens of the state of Nebraska. Dear Lord, we thank you this morning for this absolutely glorious and spectacular day that you have given us. What a privilege you have given us to serve you and the people of this state. Thank you. Lord, yesterday, we advanced a \$9.7 billion budget. Thank you for providing the resources that we can help to serve, protect, and assist the citizens of this state. Lord, we are so grateful, but I'm also mindful that we don't always get it right, and I'm sure, Lord, that we make decisions that grieve you. Sometimes we forget the least, the last, and the lost. For those times we ask that you forgive us. Lord, we work together. We work together as 49 elected citizens, 49 different minds, 49 different perspectives, 49 different ideas of what is right. So Lord, to help us work together, extend us grace. Extend us grace to each other. And Lord, help us to model that grace to one another when we cause pain and hurt. We love you, Lord, and it is in your name we pray. Amen.

HILGERS: Thank you, Senator Hilkemann. Senator Linehan, you're recognized for the Pledge of Allegiance.

LINEHAN: I pledge allegiance to the United States of America, and to this republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

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

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

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

CLERK: I have no corrections.

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

CLERK: One item, Mr. President, a new resolution, LR95 by Senator Morfeld. That will be laid over. That's all that I have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

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

CLERK: I do. I understand Senator Geist would like to make an announcement this morning.

HILGERS: Senator Geist, you are recognized for a personal announcement.

GEIST: Yes. Thank you very much. And I just wanted to announce the birth of my eighth grandchild. His name is Jones Bryan Plouzek. So my daughter Alexis and her husband Marcus are doing well. He was born at 8:15 last night, weighs 7 pounds, 5 ounces. And the Geist family is celebrating today. So thank you very much.

WILLIAMS: Thank you, Senator Geist, and congratulations. Senator Brandt would like to recognize the doctor of the day, Dr. Jason Bespalec from Geneva. He is doctor of the day. Would you please stand and be recognized by your Nebraska Legislature. Speaker Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I normally have reserved the end of the week to give people an opportunity to see what we're-- what's coming in the weeks to come. I didn't do one last week as we were getting through the budget. And now that we have gotten through at least Select File on the budget, I think the rest of the schedule is starting to come into a little bit more of focus. And so I do want to do a brief refresh for everyone to kind of give you a sense of what's going to happen the next two weeks. I will have an announcement tomorrow with the bills, as I typically have done with the bills that are coming next week. So big picture, a couple-- just things that-- to be aware of what's coming. So first, the-- the budget, as you know, got through Select File. I initially had thought-- and this was in pencil-- that we would do Final Reading on the budget tomorrow. Given the timing and given the-- the amount of work that still needs to be done to get it ready for Final Reading. I am not going to have Final Reading tomorrow. I will have Final Reading on the budget next Tuesday. You may remember, under the situation in which we had the Final Reading on the budget tomorrow, my intent was to have the tax and spending bills come up next week. But because we're going to start Final Reading-- we're going to do Final Reading on the budget next Tuesday, it's my intent to have-- to start the following week, at the beginning of that week, with the tax and spending bills, so the week of the-- April 26. There are about 18 to 20. I don't think I'll have that full list tomorrow for the body. I might, I might. But if you have any questions of whether yours is on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

that list or not, please ask me. So those will be announced. So those will be coming, and my intent will be, for those two weeks-- April 26 and the week following-- that those will be reserved to focus on those bills. We may not need all that time; I don't know. But those following two weeks is-- is what I intend to have for the tax and spending bills. Next week we'll continue with some Select File. And I will-- I will announce some additional bills tomorrow morning that I intend to have up on the schedule next week after the budget is done on Tuesday. So I did want to give that reset-- reset because I know I've had some questions about whether or not Final is going to be tomorrow. Are we going to do taxing-- tax and spending bills at the beginning of next week? The answer to those, both those questions, are no. So at least you have some sense of what's coming. So if you have any questions about a specific bill, please let me know. But we will have a more fulsome update tomorrow morning. Thank you, Mr. President.

WILLIAMS: Thank you, Speaker Hilgers. Mr. Clerk.

CLERK: Mr. President, our first bill this morning, LB527A. It's bill by Senator Walz, it appropriates funds to implement LB527.

WILLIAMS: Senator Walz, you're recognized to open on LB527A.

WALZ: Thank you, Mr. President. Good morning, colleagues. This is an appropriations bill for LB527, which, as a quick reminder, would change the age that schools are required to begin transition planning for those with disabilities, from the age of 16 to the age of 14. Over the next biennium, this bill would appropriate-- appropriate just under \$1.6 million, 82 percent of which is funded by federal dollars. I would appreciate your help ensuring these federal dollars are not being left on the table with a green vote on this bill. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Walz. Debate is now open on LB527A. Seeing no one in the queue, Senator Walz, you're recognized to close. Senator Walz waives closing. Members, the question is the advancement of LB527A to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

CLERK: 33 ayes, 0 nays on the advancement of the A bill.

WILLIAMS: The bill advances. Next item, Mr. Clerk.

CLERK: LB664A by Senator Groene. Appropriates funds to implement LB664.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

WILLIAMS: Senator Groene, you're recognized to open on LB664A.

GROENE: Thank you, Mr. President. This is the appropriations bill, of course, for LB664, the mutual fund organizations for rural fire departments. As you will see, it has no effect on the general budget. It is just a further, better usage of the existing fund, the Mutual Finance Organization [SIC] Fund. It is estimated it's going to be \$4,060,000 additional use given to rural fire departments. There probably will still be a couple of million left over that is not used this next year that will be swept into the General Fund in June. So I'd appreciate your support of LB664A.

WILLIAMS: Thank you, Senator Groene. Debate is now open on LB664A. Seeing no one, Senator Groene, you're recognized to close. Senator Groene waives closing. Members, the question is the advancement of LB664A to E&R Initial. All those in favor vote aye; those opposed vote nay.

HILGERS: Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: 41 ayes, 0 nays on the advancement of LB664A.

HILGERS: LB664A advances. Turning to Select File 2021 Speaker priority bills. First bill, Mr. Clerk.

CLERK: Mr. President, Senator McKinney, LB9. I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB9 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB9 advances. Next bill.

CLERK: LB152. Senator, I have E&R amendments, first of all.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendment to LB152 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

CLERK: Senator Slama would move to amend AM840.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

HILGERS: Senator Slama, you're recognized to open on AM840.

SLAMA: Thank you, Mr. President, and good morning, colleagues. AM840 would add an E clause to LB152, that Nebraskans can benefit from this bill by this Fourth of July. The Fire Marshal has signed off, so I'd like to ask for your green vote on AM840. Thank you.

HILGERS: Thank you, Senator Slama. Debate is now open on AM840. Seeing no one in the queue, Senator Slama, you're recognized to close. Senator Slama waives closing. Question before the body is the adoption of AM840. All those in favor vote-- vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: 34 ayes, 2 nays, Mr. President, on the adoption of the amendment.

HILGERS: The amendment is adopted.

CLERK: Nothing further on the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB152 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB152 advances. Next bill, Mr. Clerk.

CLERK: Mr. President, LB583. Senator, I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB583 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB583 advances. Next bill, Mr. Clerk.

CLERK: LB500, Senator. I have E&R amendments, first of all.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendment to LB500 be adopted.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

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

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB500 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB500 advances. Next bill, Mr. Clerk.

CLERK: With respect to LB247, no E&R, Senator. I do have other amendments. Senator Pansing Brooks, AM857, AM740, I understand are to be withdrawn, Senator. Mr. President, Senator Pansing Brooks would move to amend with AM949.

HILGERS: Senator Pansing Brooks, you're recognized to open on AM949.

PANSING BROOKS: Thank you, Mr. Speaker. Members of the body, good morning. AM949 makes a few technical changes to LB247, the Mental Health-- Health Crisis Hotline Task Force, the 988 number to coordinate with 911. First, it strikes "wireless device" in Section 1 and replaces it with-- with "telecommunications services, wireless device services, and Internet protocol-enabled voice." This terminology is more consistent with terms used in the federal National Suicide Hotline Designation Act of 2020. AM949 also adds telecom-- "telecommunications industry representatives" to the task force. These changes were inadvertent admissions and these were-- and the representatives of the telecommunications industry clearly need to be part of the process. These additions to the bill-- this addition to the bill was also in AM857 that Senator Friesen filed. And I want to thank Senator Friesen for pulling his amendment so that we could combine it with mine and make these technical changes together more expeditiously. Finally, AM949 makes two changes to the executive branch's ex officio members of the task force. Lauren Kintner, the Governor's policy research officer director-- office director-- asked yesterday that we specifically include the director of Behavioral Health at DHHS instead of the CEO of DHHS. So we accommodated that change. They also asked that we remove the director of the Crime Commission, as he will be busy working on other important issues in the interim, including Corrections issues. I have been assured that the Crime Commission will still be available to provide whatever data and information we need from them for LB247. Since we have local and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

county law enforcement already included in the task force, I thought this request was reasonable. I want to, again, thank Speaker Hilgers for recognizing the importance of this bill and making it a priority. Again, I want to remind you that rather than just bringing a bill, I decided to have a-- a broadly written study so that we can-- can do this the Nebraska way. And I have no preconceived notions how this will come out, but it's important that we prepare to enact 988 in our state, as is going to happen across the country. I ask you to vote green on the advancement of LB247 and AM949. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Pansing Brooks. Debate is now open on AM949. Seeing no one in the queue, Senator Pansing Brooks, you're recognized to close. Senator Pansing Brooks waives closing. Question before the body is the adoption of AM949. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

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

HILGERS: AM949 is adopted.

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

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB247 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB247 advances. Next bill, Mr. Clerk.

CLERK: LB501, Senator. I have E&R amendments.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB501 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

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

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB501 to be advanced to E&R for engrossing.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB501 advances. Next bill.

CLERK: LB497, Senator. I have E&R amendments.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB497 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

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

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB497 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB497 advances. Next bill.

CLERK: LB527, Senator. I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB527 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB527 advances. Next bill.

CLERK: LB664, Senator. I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB664 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB664 advances. Next bill.

CLERK: LB423. I have Enrollment and Review amendments, Senator.

HILGERS: Senator McKinney for a motion.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

McKINNEY: Mr. President, I move that the E&R amendments to LB423 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further pending to LB423, Senator.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB423 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB423 advances. Next bill.

CLERK: LB423A, Senator. I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB423A be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB423A advances. Now turning to Select File 2021 committee priority bills. We will pass over LB156 and LB156A because Senator Wayne is not here. And we will turn to the next bill, LB507. Mr. Clerk.

CLERK: Senator, I have E&R amendments, first of all, with respect to LB507.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB507 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

CLERK: Senator Gragert would move to amend with AM786.

HILGERS: Senator Gragert, you're recognized to open on AM786.

CLERK: Do you want to withdraw that, Senator?

GRAGERT: Yes, I wish to withdraw.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

HILGERS: Without objection, the amendment is withdrawn.

CLERK: Mr. President, Senator Hughes would move to amend with AM859.

HILGERS: Senator Hughes, you're recognized to open on AM859.

HUGHES: Thank you, Mr. President. Good morning, colleagues. This is a mess-up on my part on this bill. I should have done a better job, but there are four bills contained in LB507. One of them had the E clause, and the start date for the other two needed to be changed-- or for the additional bill needed to be changed. So what my amendment does just makes the E clause for the entire bill rather than trying to have two or three different E clauses within the bill. So I would appreciate the-- the-- your green vote and 30 votes to add the E clause to the entire LB507. Thank you, Mr. President.

HILGERS: Thank you, Senator Hughes. Debate is now open on AM859. Seeing no one in the queue, Senator Hughes, you're recognized to close. Senator Hughes waives closing. Sorry. Senator Bostelman. Oh, Senator Bostelman would-- Senator Bostelman, would you like to be recognized?

BOSTELMAN: Sorry. Thank you, Mr. Speaker. My light--

HILGERS: OK.

BOSTELMAN: It's not working, but I was just going to say this is a friendly amendment, and we did work on this, and ask for your green vote. But my light's not working, so you know, I don't know if anybody else's--

HILGERS: Thank you, Senator Bostelman. Anyone else in the queue wishing to speak on AM859? Senator Kolterman, you're recognized. Senator Kolterman waives the opportunity. Senator Hughes, you are now recognized to close. Senator Hughes waives closing. The question before the body is the adoption of AM859. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: 41 ayes, 0 nays on adoption of Senator Hughes's amendment.

HILGERS: AM859 is adopted.

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

HILGERS: Senator McKinney for a motion.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

McKINNEY: Mr. President, I move that LB507 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB507 advances. Turning to Select File 2021 senator priority bills. First bill, Mr. Clerk.

CLERK: LB320, Senator. I have E&R amendments.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB320 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. E&R amendments are adopted.

CLERK: I have nothing further pending on LB320, Senator.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB320 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB320 advances. Next bill.

CLERK: LB320A, Senator. I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB320A be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB320A advances. Next bill.

CLERK: LB639, Senator. I have E&R amendments.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB639 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. E&R amendments are adopted.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

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

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB639 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB639 advances. Next bill.

CLERK: LB650, Senator. I have E&R amendments.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB650-- I move that the E&R amendments to LB650-- LB650 be adopted. Sorry.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. E&R amendments are adopted.

CLERK: Mr. President, Senator Flood would move to amend with AM976.

HILGERS: Senator Flood, you're recognized to open on AM976.

FLOOD: Thank you, Mr. President. Members, we're moving quick today, and Senator Bostar and I worked between General and Select File on this amendment to address some of the concerns that he had regarding this process. You'll see in the amendment, which will be posted here in a second-- I literally just gave it to the Clerk. So this is on me, and you'll see copies here in a moment. This amendment essentially clarifies some language, and it also states that the Oil and Gas Commission concurrent, you know-- or I shouldn't say concurrent-- according to the EPA process, will look at seismic activity. You'll-- you'll recall that on General File, Senator Bostar expressed a concern about the situation in Oklahoma, which were actually Class I wells. These are Class VI injection wells that we're talking about in Nebraska. I wish he was here just in-- and maybe momentarily to-- to visit about this. But this amendment is our best attempt to remedy this. It's possible that more work may-- may need to be done. But I-- I would offer this to the body as our compromise between Senator Bostar and I on LB650. It would be AM976. Thank you, Mr. President.

HILGERS: Thank you, Senator Flood. Debate is now open on AM976. Senator DeBoer, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

DeBOER: Yes. I was wondering if Senator Flood would yield to a couple of questions.

HILGERS: Senator Flood, would you yield?

FLOOD: Yes.

DeBOER: Senator Flood, since Senator Bostar isn't here, I have a couple of questions for you about some of this that is maybe a lot more elementary than he would ask. But nevertheless, one of the things I noticed is that the carbon is transported in a supercritical state. How is that transported from the point of creation to where it's going to be injected?

FLOOD: Well, that is-- that is-- I've got a diagram on that. It's an extremely fortified pipe process that has like three different layers with concrete in the middle, obviously fortified steel, concrete placed around that, another concrete-- or another steel pipe, and then actually a third. So it's-- it's a process that is approved and only permitted by the EPA. And I can get you specific information on exactly the kind of vessel that is used to transport that CO2. And then you were correct, in it's supercritical state.

DeBOER: So it-- wherever it is generated, then it might have to transport-- about how long of a distance does it normally have to transport in order to be injected?

FLOOD: Well, it takes-- obviously it's-- it depends on the geology and of the terrain and the subsurface of the earth-- the-- north of the bedrock and in the earth's crust. And it's usually about a mile. That's, of course, approximate, depending on the geology.

DeBOER: So sometimes as much as a mile, we'll say.

FLOOD: Or more.

DeBOER: Is that correct?

FLOOD: Or more.

DeBOER: And then that's basically like a pipeline, that it's being used to transport from the origin point to wherever it's going to be injected, perhaps a mile. Is that correct?

FLOOD: Would you restate your question?

DeBOER: Yes. It's basically like a pipeline system that's going to be used, since it's a liquid, to transport it from wherever it is created about a mile to wherever it's going to be injected. Is that correct?

FLOOD: Well, I wouldn't say pipeline. It is-- it would-- it has some of the same safety characteristics of-- of a-- of a transport pipeline. But it's-- it's essentially a well, an injection well.

DeBOER: So is it a permanent transport between wherever the injection well is and wherever the point of origin is?

FLOOD: Help me understand what you're asking there.

DeBOER: Whatever transports the liquid hypercritical carbon from its origin point where it's created to where it's going to be injected, is that transport mechanism permanent in the ground or is it something that goes away?

FLOOD: Yes. It's-- it's permanent.

DeBOER: So if we had multiple of these injection sites, there would be multiple of these transport mechanisms, as well?

FLOOD: Yes.

DeBOER: OK. And--

FLOOD: But you wouldn't have more than one injection well in a six-mile diameter area, so it wouldn't be like you'd have multiple in-- in the same area. And these are extremely expensive to build. And, you know, I-- I wouldn't foresee having-- and-- and the geology is so strict, and the permitting process is so strict that I can't imagine there would be-- these aren't like oil wells, is what I'm trying to say, like where you'd have 15 oil rigs in an oil-rich area. Does that make sense?

DeBOER: Yeah.

FLOOD: OK.

DeBOER: But for every one of these injection wells we have, there would have to be some sort of mechanism for transporting the liquid carbon to that injection well. Correct?

FLOOD: Right. And the-- the application that we're looking at here, especially, is, you know, for, say--

HILGERS: One minute.

FLOOD: --an ethanol plant from the point of emission into the ground, the least-- the most cost-effective way to do that is to limit the amount of transport--

DeBOER: Correct.

FLOOD: --facilities--

DeBOER: So--

FLOOD: --from the point of emission to the ground.

DeBOER: So tell me, how long is hypercritical carbon stable for?

FLOOD: Supercritical?

DeBOER: Supercritical. Supercritical. How long is supercritical carbon stable?

FLOOD: Thousands of years. I mean, once it's in that state and it's injected into the ground, it stays in that state, into the microscopic pores that are in the crust of the earth, indefinitely. And it's seen as a way, obviously in the public benefit, to reduce emissions. So I-- I can get you more information on that. I need to maybe understand the-- the question.

DeBOER: Yeah, well, I'm just wondering if one of the concerns is that it might change from the hyper-- the supercritical state.

HILGERS: Time. Time, senators. Thank you, Senator Flood and Senator DeBoer. Senator Erdman, you're recognized.

ERDMAN: Good morning. Thank you, Mr. Speaker. I appreciate the comments or questions that Senator DeBoer has raised. I was wondering if Senator Flood would yield to a few more questions.

HILGERS: Senator Flood, would you yield?

FLOOD: Yes.

ERDMAN: Senator Flood, let me see if I can drill down on what I think Senator DeBoer was going. And she can put her light on and say whether this is true or not. So if you have an ethanol plant in Grand Island, the geological formation is not conducive to injecting in Grand Island. Would you agree?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FLOOD: I can't speak to where it is or is not. I know that the further west you go, the better it is. But likely that Grand Island is not as attractive as somewhere in southwest Nebraska.

ERDMAN: OK. So most of the oil wells in the state are in the western part. Would that be a true statement?

FLOOD: That's the most geologically appropriate area, yes.

ERDMAN: OK. So I'm not a geologist and I don't claim to be. I didn't stay at Holiday Inn Express and I didn't play one on TV. But I do know this, that that's the place where that stuff is going to be injected. So how do you get the carbon monoxide from Grand Island, in my example, to, say, Sidney? How do you-- how do you get that out there, put it in a-- in a semi and transport it?

FLOOD: Well, I think it-- well, I think what people are wanting to say is, can this be used in a pipeline? And that would be different than what this bill accomplishes. This bill doesn't have anything to do with that. It has to do with the subsurface property rights, more or less. But it would be pretty cost-inefficient to-- to transport from Grand Island to Sidney, for instance. But I-- I think that would be how it would get there. It wouldn't-- it wouldn't be transported in a truck.

ERDMAN: OK. So then you're going to have to have some sort of right of eminent domain or something to-- to construct a pipeline from York or Grand Island to Sidney. Would you not?

FLOOD: You know, I haven't really considered how you would do this off site. This bill really is directed at-- for me and my interest, the idea of an ethanol plant using this to safely sequester its carbon dioxide emissions. And nothing in this would permit or allow or disallow the transport of any gas anywhere in Nebraska, other than the specifics of taking this from the point of emission into the ground. And anything that would happen would be completely permitted by the EPA.

ERDMAN: Right. But the-- the point is this, that if you capture the carbon dioxide and you have no place to inject it, this bill is moot. It doesn't do anything for anybody if you can't find a place to put that stuff in the ground. Would that be a true statement?

FLOOD: Well, this bill is silent on the issue of pipelines.

ERDMAN: Say that again.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FLOOD: This bill is silent on the issue of pipelines.

ERDMAN: Right.

FLOOD: There is nothing in this bill that deals--

ERDMAN: Right.

FLOOD: --with the concept of-- of a pipeline.

ERDMAN: But the point I'm trying to make, you maybe need to amend your bill to include that because if you don't have a way to distribute it, you don't have a way to transport it to the site where it needs to be injected, your bill is moot. If you capture the carbon dioxide and you have no place to inject it economically, what value is your bill?

FLOOD: Well, all of that is permitted by the EPA. This bill really deals with property rights and the ability for a ethanol plant, for instance, to be able to transport or-- or I shouldn't say, I should say, inject CO2 from its supercritical state into the earth's crust. And-- and that--

HILGERS: One minute.

FLOOD: --the state that is the earth's crust.

ERDMAN: Yeah, I'm having trouble connecting the dots. Maybe I'm just too simple, but it doesn't look to me like this is anything that's going anywhere quickly. But it'll probably pass, and so be it. Thank you for answering the questions.

FLOOD: You bet.

HILGERS: Thank you, Senator Flood and Senator Erdman. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President and colleagues. Good morning. I just want the body to know that I've had a number of conversations with Senator Flood, and they are incomplete conversations regarding compensation of individuals who-- whose property, farm, home-- whatever-- is above one of these fields and whether the process provided for in the bill takes care of people's due process rights to a determination of the value of their interest if any value has been lost. That's something-- I just don't want you to think that if I stand up on Select or on Final Reading, that-- that-- that I'm sandbagging Senator Flood. We are having ongoing conversations about

that. He's been very accommodating, trying to explain the process. We will look at it further to make sure that the rights of the people, who own land below the field under which these injections will be placed, have been afforded due process for a determination of the value of the land or any loss that they have sustained as a consequence of this well field, if I can call it that, being below their property, if I put that right, Senator Flood. I appreciate the ongoing conversation about this. It's a serious question and a serious conversation and dialogue that we're having. And with that, I intend to move or-- or vote to move the bill on to Final Reading with the understanding that it may be a situation where-- where I feel like we need to amend it to provide for a clearer due process for the landowners. And with that, thank you, colleagues.

HILGERS: Thank you, Senator Flood and Senator Lathrop. Senator Pahls, you're recognized.

PAHLS: Thank you, Mr. Chair. Senator Flood, could I ask a question?

HILGERS: Senator Flood, would you yield?

FLOOD: Yes.

PAHLS: I should have probably asked this question first time around. I support the concept that you're going after, but I've had-- this is brought up to me at a breakfast I had last weekend. The person who at one time lived in Boyd County-- and he says, how is this different? Because, remember, that was a pretty much of a fiasco up there. How-- how is this different than what happened then? Remember, that was supposed to be a-- for waste up there.

FLOOD: Right. You know, Nebraska was part of a compact with several states. And the compact chose Boyd County in the late 1980s for the site of a low-level nuclear waste facility-- some would say dump. And the residents of Boyd County, among others in the Sandhills and across the state, and then-Governor Ben Nelson, rejected that idea. And ultimately, the state was sued. And I think we paid out \$165 million as a result of our state actions to the other states in the compact in 2005. This is carbon. You know, obviously, if it's an ethanol plant, carbon-- we're not talking about storing like the fossil fuel carbon. We're talking about the carbon that is generated by the sun through photosynthesis, that grows in the plants that is emitted from the ethanol plant into the air, but in this case, captured and then safely sequestered well underground, and it's all permitted by the EPA. So I think for-- for the gentleman in Boyd County, you're talking about

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

low-level nuclear waste, and here you're talking about carbon dioxide, which is something that is a-- is a naturally occurring gas. So--

PAHLS: Right, yeah. Well, I thank you for that clarification. I just want to make sure that those words came from somebody who has-- who has the proposal in front of him. Thank you.

FLOOD: Thank you.

HILGERS: Thank you, Senator Pahls and Senator Flood. Seeing no one else in the queue, Senator Flood, you're recognized to close.

FLOOD: Thank you, Mr. President. This is an amendment that I worked with Senator Bostar on to adopt some language to assuage his concerns, especially as it relates to seismic activity, given some of what he's recalled in the state of Oklahoma. I would urge your adoption of this, and I look forward to working with Senator Lathrop on some of his concerns as we proceed toward Final Reading. Thank you, Mr. President.

HILGERS: Thank you, Senator Flood. Question before the body is the adoption of AM976. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: 40 ayes, 0 nays on the adoption of Senator Flood's amendment.

HILGERS: AM976 is adopted.

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

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB650 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB650 advances. Next bill, Mr. Clerk.

CLERK: LB650A, Senator. I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB650A be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB650A advances. Next bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

CLERK: Mr. President, the next bill is LB338. I have E&R amendments, first of all, Senator.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB338 be-- be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

CLERK: Senator Bostelman has AM913, AM928. I have notice to withdraw both those, Senator. Senator Bostelman would move to amend with AM977.

HILGERS: Senator Bostelman, you're recognized to open on AM977.

BOSTELMAN: Thank you. Thank you, Mr. Speaker, and good morning, colleagues and Nebraska. AM977 does three things, and I spoke about that on General File a little bit, that we'd have an amendment coming. First, it adds an emergency clause to the bill. Second, it would prohibit cities, villages, and counties who receive federal funds for the expansion of broadband from using federal funds to overbuild broadband services in areas that are already served by 120 speeds. And number three, the amendment also clarifies that this section would not apply to any disbursement from any of the Nebraska Telecommunications Universal Service Fund wireless infrastructure grant programs. I want to thank all parties involved for working on this language, and I ask for your support of AM977 and a green vote on LB338. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Bostelman. Debate is now open on AM977. Seeing no one in the queue, Senator Bostelman, you're recognized to close. Senator Bostelman waives closing. Question before the body is the adoption of AM977. All those in favor vote aye; all those opposed vote nay. Have all those-- have all those voted who wish to? Please record, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Bostelman's amendment.

HILGERS: AM977 is adopted.

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

HILGERS: Senator McKinney for a motion.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

McKINNEY: Mr. President, I move that LB338 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB338 advances. Next bill, Mr. Clerk.

CLERK: Mr. President, the next bill is LB88. No E&Rs. Senator Erdman would move to amend with AM662.

HILGERS: Senator Erdman, you're recognized to open on AM662.

ERDMAN: Thank you, Mr. Speaker. We have spoken several times on LB88, and it-- it appears that the bill is going to move. And so we have tried in the past to amend that bill to make the bill better. So if it's going to be adopted, we need to make sure that we have it in the best form we can. So I offer this amendment because it is essential that we continue to hold the faculty members, including high school media advisers, accountable for the teachers and the youth appropriate in their-- stay within their boundaries, the ethical standards associated with journalism, even in high school and college. This includes tendencies toward bullying or oppression or others through the use of student media. LB88 currently gives a blanket protection to those who we expect to teach our children these principles, prohibiting employment actions that may be the most necessary and effective in proper instruction and in protection of our children. AM662 allows those employment at-- those employment actions to be made and allows a faculty member to have appropriate review or due process before it happens. I'd like to reread some of the experts from the republic-- from the publication called The Dynamic Ethical Protocol from the Free Responsibility Student News Media by the McCormick Foundation [SIC]. Stakeholders in scholastic journalism and diplomatic-- diplomatic learning know the effective communication is essential. In schools where a communication is accompanied by accountability, transparency, partnership, respect, trust, ethics, and competent leadership, mutual understanding also can be achieved, and "scholastical" journalism and diplomatic learning can thrive. LB88 is currently in a form that does not require competent leadership in the form of media advisers. In Section 5 of LB88, protections-- protects incompetent media advisers from media advisers who act to protect student conduct without defining what type of action the adviser may take. There must be opportunity for the school administrators to have appropriate oversight of their employees. AM662 allows that to happen. In his book, Free Responsibility for Students [SIC], Robert Dardeene, chairman of the Department of Journalism and Media students at the University of Southern Florida in St. Petersburg, lists ten functions

of the student press. Number one, to educate. Beyond the diverse skills journalism hones for the protitioner-- practitioners, it's a news media-- the news media educate their consumers about practical matters and issues, as well as more abstract ideas and concepts. Number two-- number two is from posting the school calendar to showing which topics letter writers are concerned about, student media-- student news media inform the ways that offer both convenient and essential services, the protocol for a free press responsible for student media. Number three, provide diversity. In its range of coverage from the issues of the perspectives to creeds and cultures, media provide diverse voices considerate-- to considerate-- be considerate in the marketplace of ideas. Number four, to involve people as a forum for all student media involved-- people throughout the community in conversations about the issues and events important to them. Number five, to find common ground. Reporting differences can also help the diverse-- discovery of common ground, which boasts-- which boasts of civility and tolerance. Number six, to encourage discussion. When they encourage-- when they encourage discussion, student media open opportunities that can help eliminate distrust, alienation, misunderstanding, and other detrimental features of a poor relationship. Number seven, to entertain. By providing responsible entertainment, student media can lift moral-- morale and improve the school climate. Number eight, to persuade. In editorials, columns, letters, advertising, and other features, the change to persuade satisfies an inherent need for people to make contributions to the potential for improvement. Number nine, to interpret. In the word div-- divulged in information, the student media interpret the facts and provide a context for-- which reveals a significant-- which reveals the significance of the context. Number ten, share school culture. Student media share school culture, perverse-- preserving history and impacting its present state. Quoting from the dynamic ethanol protocol [SIC], the value of scholastic journalism and free responsible student news media is far reaching. No other course and extracurricular, and extracurricular can offer more potential for impacting learners, school culture, and the whole community. So this is the issue that we find ourself in with LB88, and I think it's important that we understand what we are doing here. No-- not anywhere, but in a growing number of the schools, true journalism is dying. In part, the victim of the ad-- is a victim of excess, too much pervisive-- "perversiveness" and too much-- too much without control and too much apathy and too much self-centeredness. The authors went on to say be cautious in pointing and accusing the finger at singling out authoritarian administrators. All deficient stakeholders in school-- "scholastical" journalism share a responsibility for the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

decline in a free and responsible student media and serve the best interest of the schools. AM662 provides a needed balance in holding those with respect and careful guidance and ensures students follow appropriate guidelines and the policies. I think it's important that these teachers, these instructors have an opportunity to have a due process to make sure that they are heard as to what they are doing and how they did it. I think without due process, this bill stands a chance of eliminating-- a lot of schools eliminating their school paper because they're not going to go through the-- the difficulty that they're going to find themselves in once this is implemented. So I would recommend you adopt AM662 to LB88. Thank you.

HILGERS: Thank you for your opening, Senator Erdman. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, well, we're back here today. I'm, I'm interested in debate. I'll certainly engage in it and I'll also-- just want to note a few different things. One, this is not a free-for-all. This is not a blank check. It's not a free pass for students. I urge you to read the bill in its entirety. In order to have these protections, you must be under the supervision of a student media adviser, which is a teacher. You must not fall into any of the exceptions from the protection, which is not just libel and slander, but also a whole host of other things, including rules and regulations that can be adopted and promulgated by the school. There are a lot of folks on the floor and outside this Chamber that have characterized this as a free-for-all. It is not. And if you read the plain language of the bill-- and I'm happy to walk anybody through it on the floor-- you will find that yes, does it provide some more protections? Absolutely. That's the point of the bill. But it does so in a way that is nuanced and it does so in a way that still allows the school and the student media adviser to be able to provide reasonable guardrails. This is not a liberal bill. This is not a conservative bill. This is a bill that is content neutral and protecting the free speech rights of everyone. In the testimony that came before the committee the last three years or the last three times that this bill has been up, we heard students that were conservative, liberal, and everything in between and outside that had, had their ideas and thoughts censored. We want to make sure that there is an environment in which they can express their ideas in an ethical, honest, and professional way so that they can learn the skills to not only be good journalists, but be good citizens and residents of our community and our society. If we do not provide these types of forums for them to be able to do that, these students will go out and do that in other ways outside of the class time. So if you're concerned about students saying things that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

might hurt their future careers or professional or personal lives, then you should be in support of this bill because this bill teaches those skills in a supervised environment on how to do that. Because otherwise what happens is, is people with thoughts, people with ideas go and express them in whatever way they can. And in many cases, that's going to be on Facebook, it's going to be on Twitter, it's going to be on some blog, it's going to be on their website that they have that's outside of the school. This provides those important protections in the context of a school with clear guardrails. Colleagues, I urge that you keep an open mind on this legislation. It is not a free pass. In fact, many of the people that I work with think that I have been too expansive with some of my exceptions. And perhaps they're right, but it's after coming to the table--

HILGERS: One minute.

MORFELD: --the last several years on this type of legislation, trying to find a middle ground. Would Senator Erdman yield to a question?

HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes.

MORFELD: I'm looking at your amendment to LB88. If I agree to this amendment and we adopt it, will you support the legislation?

ERDMAN: Say that again?

MORFELD: If I agree to your amendment that you just introduced, will you support the legislation?

ERDMAN: I would, I would-- if you agree-- if I pass this-- if you pass this amendment, it will make your bill better.

MORFELD: But will you support the legislation?

ERDMAN: I haven't decided yet. Let's see what the other amendments do.

MORFELD: OK, thank you, Senator Erdman. Colleagues, I'm willing to work with people in good faith, but I'm not willing to work with folks that come up with amendments, say it's going to make the bill better, and then still not be in support of the legislation. If you have a good faith amendment that you think will bring-- make it better and then will also bring your support, I'm more than willing to work with you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

HILGERS: That's time, Senator.

MORFELD: Thank you, Mr. President.

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

CLEMENTS: Thank you, Mr. President. I support this amendment. It-- on the last page, page 5, adds due process for the student media, student media adviser, but I also don't think it would quite bring it to the level of approval of the whole bill because there are other problems in other sections. The due process, I think due process could be-- could go both ways. It could protect the media adviser or it could also allow the school to have a little bit more authority over what gets said because the-- in section (5)(b), it says: the adviser shall not be dismissed for refusing to infringe upon contact-- conduct that is protected. Well, the conduct that this protected, in my opinion, comes from the language on the previous page, section (2)(a), "All school-sponsored media are deemed to be public forums." And this is what we've discussed before, where they-- difference of opinion is as to creating a public forum for all schools in Nebraska, rather than allowing each school to decide whether they want to have a public forum. I'd like to read from an article from Cornell Law School, an article about public forums and the over-- overview of this is saying that a public-- a forum in First Amendment law refers to the place in which a speaker speaks. The First Amendment's protections regarding the right to speak and assemble will vary based on the speakers' chosen forum. In *Perry Education Association v. Perry Educators' Association*, the Supreme Court divided forums into three types: traditional public forums, designated forums, and nonpublic forums. First, traditional public forums. Traditional public forums include public parks, sidewalks, and areas that have been traditionally open to political speech and debate. Speakers in these areas enjoy the strongest First Amendment protections. In traditional public forums, the government may not discriminate against speakers based on the speakers' views. Doing so is called viewpoint discrimination, which is prohibited under the First Amendment. In my opinion, that's what we're changing the school publications into when we declare them public forums. Going on, the government may, however, subject speech to reasonable, content-neutral restrictions on its time, place, and manner. When considering government restrictions of speech in traditional public forums, courts use strict scrutiny. When the government restricts speech in a traditional public forum, strict scrutiny dictates that restrictions are allowed only if they serve a compelling state interest and are narrowly tailored to meet the needs

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

of that interest. So I think this-- adding public forum to this bill and to all the schools-- public schools in the state makes it very strict on what content could be edited by administration or the media adviser. Then regarding designated public forums--

HILGERS: One minute.

CLEMENTS: --sometimes the government opens public property for public expression even though the public property is not a traditional public forum. These are designated public forums. After, after opening a designated public forum, the government is not obligated to keep it open. However, as long as the government does keep the forum open, speech in the forum receives the same First Amendment protection as speech in traditional public forums. Examples of designated public forums include municipal theaters and meeting rooms at state universities. So the designated public forums is not what we're creating here. We're creating a absolute public forum, in my opinion, and I would rather allow each public school to designate a public forum if they wish and keep the forum open when they want, but have the ability--

HILGERS: Time, Senator.

CLEMENTS: --to remove it. Thank you.

HILGERS: Thank you, Senator Clements. Senator Groene, you're recognized.

GROENE: Thank you. I stand in opposition to LB88, as I did on General File. I concur with everything Senator Clements had said. This is an attempt to subvert the Constitution of the United States that declares Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble. These are two distinct rights. In this bill, it says "a student journalist has a right to exercise freedom of speech and of the press." That student has the right to write anything it wants in an essay, in a composition. Let me ask Senator-- if he-- Morfeld a question. I, I didn't forewarn him. It isn't too bad a question.

HILGERS: Senator Morfeld, would you yield?

MORFELD: Yes.

GROENE: Does a reporter for the Lincoln Journal Star have freedom of, of speech?

MORFELD: Yes.

GROENE: So if an editor spikes his story, has he "afringed" on his-- that journalist's right of freedom of speech?

MORFELD: No, but under my bill an-- a student editor would be able to do the same thing to a student journalist.

GROENE: Thank you, sir. Student editors are not mentioned in this bill. The Kansas bill puts all the responsibility of the content, as in a regular newspaper, on the student editor. This bill is a free-for-all. Every student has a right to free speech, to print whatever they want in the newspaper. A student adviser can advise, can teach ethics, but cannot censor. This bill is an attempt to subvert the Supreme Court-- the Hazelwood case, which stood up for the rights of the free-- of freedom of the press of a local school district. It is their paper. They are the publishers. They are the editors. In that Hazelwood case, it said unless that school district-- referring to Senator Clements-- on an individual basis declares that they're-- they no longer have a student paper, but they have a public forum, unless that happens, that school district, acting under the freedom of the press, can spike a story. That is how every paper works. That is how journalism works in this state. This bill negates teaching children who seek to be a journalist, a professional journalist, negates any ability to teach them beforehand, before they go on, that there is responsibilities and they do not have freedom of speech as an employee of a newspaper. They work for an individual or corporation that has freedom of press. They are employees. So do you want to create young people with the misconception of our constitutional rights that somehow freedom of the press-- blur that line between freedom of the press and freedom of speech? There is a distinct line in court cases, in our constitution and that is our responsibility to teach our children that constitution and the rights they have. I-- I'll refer--

HILGERS: One minute.

GROENE: --back to Senator Flood. He got upset he couldn't write what he want. The system works, so he created his own underground newspaper and he, he created such a passion within himself. He is a media Mongol [SIC], at least in Nebraska standards, now because it works. It works. To make it simpler, easier, without going through the, the growth and the process of being promoted in a newspaper to-- so the-- to the editorial page where you start having a little freedom of speech. We just said at the age of 16, you got it and you can write what you want. You can print what you want and nobody, nobody can tell you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

there's a difference between the freedom of the press and free speech. But now on a national level, this is happening. Our constitution is being blurred. This is our attempt, locally in this state, to blur a line between constitutional rights and it is wrong and we shall not--

HILGERS: Time, Senator.

GROENE: --should not support that.

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

HALLORAN: Good morning. Thank you, Mr. Speaker. Good morning, colleagues. I regret that the last time LB88 was debated, I was not here for my own amendment. My wife had surgery and I thought that was a priority and so I hope you all understand that. But AM6-- AM690 dealt with local control and I noticed-- we all noticed that the title of this bill, protect free speech rights of student journalists and student media advisers. It's a very positive title and we all do this. We all put very positive titles on our bill to give a, a very positive spin if we can. But I would add in addition to that title the following: and to eliminate local control of local school boards and school administrators in regard to school-sponsored media. That's, that's the practical result of this bill. I don't want to replot plowed ground, so I won't spend too much time on that, but, but I will, I will read from an email from an ESU 9 administrator from Hastings. He said: Senator, I like your amendment to LB88 that would allow schools to opt out. Fact is, these kids are learning to be journalists. You don't give a kindergartner learning to cut paper a pair of adult scissors and you give them free rein. You supervise them. As these high school kids are learning to become journalists, we need to supervise them to help them understand right and wrong, appropriate and inappropriate. Unless they are 18, they aren't going to get sued for defamation or slander. The school district, who doesn't have the authority to censor them, will be getting sued. This makes no sense the way it's written and I could live with it as per your amendment. But otherwise, I wonder how many districts might decide uncontrolled student journalism isn't worth the risk and just drop their programs. It appears LB88 was-- has some support, so I wish you good luck in your effort. On that note, several high school superintendents have contacted me and said just what Mr. Harris said, the ESU 9 administrator. They told me that if this bill passes, quite simply, they will drop their programs, their school papers, and even possibly their annuals because they're not going to subject themselves to the headaches and the heartaches of potentially being sued.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Interestingly, UNL had an issue with, with an article that was published in the Neb-- in the Daily Nebraskan. Their response was simply to get rid of their opinion section altogether when the article was published that was uncomfortable. I want to read from The Daily Nebraskan. After examining the decisions we made in publishing a column on March 17, we've decided to pause publication from our opinion section for the rest of the semester-- that's the University of Nebraska, aside from work that is already in progress. We will take this time to conduct internal conversations about how we can make better choices on the viewpoints we elevate in our publications. The role of our opinion section is to facilitate the exchange of ideas on campus, even ideas that some may disagree with. The section's goal is to give columnists a platform to share their ideas and opinions--

HILGERS: One minute.

HALLORAN: --in a thoughtful, informed manner without harm. These opinions are never intended to reflect a view of The Daily Nebraskan. We recognized this week we failed in assessing how harmful a controversial opinion could be without providing a, a competing viewpoint. We have addressed this with our staff, the mistakes we made in our editing and publishing process, and have assured they will not be repeated. Colleagues, if the University of Nebraska recognizes the need to have supervision, surely we should recognize the need for a younger group of students in high school to have at least that kind of supervision. And I understand the bill suggests there's media advisers, but they had media advisers at the university as well. Thank you.

HILGERS: Thank you, Senator Halloran. Senator Hilkemann, you're recognized.

HILKEMANN: Thank you, Mr. President. Is Senator-- would, would Senator Albrecht yield to some-- couple of questions?

HILGERS: Senator Albrecht, would you yield?

ALBRECHT: Sure.

HILKEMANN: Senator, during the first round of debate on this, I, I voted against this bill, but I did vote for cloture and part of it was based-- you had a-- you said you were researching this topic in, in other states where there were some-- could you tell me what your research determined as far as this bill for high school students?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

ALBRECHT: Well, I had asked Senator Morfeld if this is happening throughout the country and I understand there's only one state that actually has the ability with a public forum with high school students and that's what I was most interested in.

HILKEMANN: And what, what state is that that has that?

ALBRECHT: I'd have to look it up in here. I think it's back east.

HILKEMANN: OK. Well, I just wondered, but yeah, I, I think it's important that when we have these discussions that, that we have the opportunity to ask the questions now and that's the whole purpose of debate. And therefore, I wanted to find out what you had-- if, if you had found-- learned anything that would enlighten the entire body, I would-- just wanted that opportunity to share it and-- thank you, Senator. I'm still listening to this-- to the debate and I haven't, I haven't determined whether we've, we've debated this well enough that I would support a, a, a cloture motion on this again today. I, I don't-- I still stand in opposition to the bill in general. Thank you, Mr. President.

HILGERS: Thank you, Senator Hilkemann and Senator Albrecht. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Chairman. Looking at the amendment that Senator Erdman has up, I think that it is a good amendment and I do support the amendment and my concern is-- I guess what I would say what I had-- hear from both the adviser or from the administration is that if something would come up with a student that is-- I don't know if it's controversial or otherwise, that, that-- if that guidance person, that, that administrative person has the opportunity to have, you know, a due process, has an opportunity to speak to why they made the decision, why they made the guide-- gave the guidance. Without that, I think that really hinders what our admin-- administrators are willing or wanting to do to ensure that they have a, have a journalism staff and adviser there that provides the guidance and support that they need for the students, but also recognizes the needs of the administration and the school. And without that, I think this really puts that adviser in a, in a very tricky situation in the sense of not knowing really what direction they need-- how that advice should be given out. Because if they're not going to be provided the opportunity to defend themselves, if you will, will, or give purpose or, or comment as to why they made that decision that the administration may not like or a school board may not like. If they don't have that opportunity to do that, I think that would really hinder the process

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

and the teaching and the opportunity for instruction for those guidance to the students that's needed. Because if I have to second guess everything-- every time that I make a, a-- maybe a questionable or a controversial or, or a, a decision with a student that goes ahead and, and then writes something or posts something that was either supported or not by that adviser, they need to have that opportunity to stand up for themselves and have that process in place to be able to respond to any actions done by, by the administration. I think this is just a, a no-brainer on the part of being able to provide that. Again, I guess it's due process for that adviser. I would think that currently in, in, in administration in schools that that adviser has that opportunity, as any teacher instructor in that school has that. Why are we-- I don't think we should take that away. I think that's an important part of, of what we provide or what the administration or the school board provides to their teachers, gives them that framework of how to make decisions and act upon those decisions and provides that opportunity in the case, if there is a disagreement, to properly address it and have an opportunity to defend themselves if that's what is so needed. I do believe that the administrators work with that and current faculty and teachers and instructors work with that and, and it's an important thing that continues to be provided for our advisers, for instructors within the schools. Having said that as well, I, I guess a couple of comments I'd make is a student at-- that is providing written or video or other type of, of journalistic or written material on behalf-- on school format is--

HUGHES: One minute.

BOSTELMAN: --separate and different than that-- if, if that student goes home and decides to get on Twitter or Facebook or whatever it is that, that they use, that's their choice. And then when they're on that, on that medium, that's their decision to do and it's-- and it effects upon them, but not upon the school. So if the school doesn't have the ability to oversee and provide instruction and guidance and critique on that and withhold certain type of material that may be damaging, I think that's very, very concerning. So with that, I do support AM662 and I'm going to continue to listen to debate as we go on. Thank you, Mr. President.

HUGHES: Thank you, Senator Bostelman. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, I just want to respond to a few of the different things that were said by Senator Groene and others. One, we are not creating a public forum that's a free-for-all.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

This is a very limited public forum. It's a very limited public forum because if you read the beginning of the bill, the only way that you have any of these protections is if it's done under the supervision of a media adviser, if it's done not just for a class, but for something that is meant for broad dissemination within the school. And it does not hit any of the exceptions, which there's four or five of them, which are fairly broad. So when you say, hey, look, there's 15 or 14 other states that do this, which ones create public forums of their, of their publications, you can't compare this to another state that's just created a complete public forum because that's not what we've done. We've created a very limited public forum. Senator Groene noted that I'm trying to subvert the constitution or the court's ruling in Hazelwood. Colleagues, I teach constitutional law and I'll tell you right now, one of the, one of the tenets of constitutional law is that states cannot infringe upon rights, but can provide greater protections of civil rights. That's what we're doing here. It's perfectly permissible. It's not subverting the Supreme Court. The Supreme Court is interpreting the First Amendment based on the facts put before it in Hazelwood. And states all the time go and provide greater protections than what is protected in the constitution, so we're not subverting anything. We're using our prerogative as a State Legislature to protect our citizens and to protect people-- free speech rights. And I'll be honest, I'm just a little bit shocked, quite frankly-- I'm not anymore, but I was at the beginning of this debate. I'm a little shocked that Senator Groene, Senator Halloran, and Senator Erdman are leading the charge on filibustering a bill that protects students from government intrusion of their freedom of speech rights. Because we sat on this floor two or three years ago when a young woman at the University of Nebraska-Lincoln was allegedly told that she could not express her free speech rights. And it was Senator Halloran, Senator Groene, and Senator Erdman that came up on this floor and said how dare state officials come and tell this conservative student that they cannot express their free speech rights? How dare them? It is hypocritical to say that, colleagues, and then come and say, oh, but it's perfectly fine that these other state officials, funded by taxpayer dollars, can go and tell a conservative student that they can't publish their column about President Trump and how they support them. This is hypocrisy, colleagues. It's hypocrisy for those three senators to be leading the charge against a bill that protects the very thing that they were opposed to two years ago at the University of Nebraska-Lincoln. Anybody who cares about conservative students being able to express their voice and not be impeded by government officials should support this bill. Colleagues, so far the opposition to this bill-- and I'm trying to sit back and be neutral on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

this in the sense of thinking are there some good points that are bringing-- being brought up? I can legitimately say that so far, the opposition to this bill is either clearly misinformed and they just haven't read the bill and they don't want to and they don't want to acknowledge or, two, it's opposition that goes against everything they said two or three years ago--

HUGHES: One minute.

MORFELD: --in the exact same situation where a government official, whether knowingly or not, impeded on the free speech rights of a student. Senator Halloran brings up the UNL Publications Board. I served on that board for 15 years. The university is actually doing exactly what this bill does. So if he thinks that the university is onto something with The Daily Nebraskan, a board that I served on for many years, then he should be in support of this bill. This bill basically models what the University of Nebraska-Lincoln's policy is with their publication of The Daily Nebraskan. But I am not convinced that anything I will say or anything I will point out will convince these individuals because they are going to oppose it and filibuster it no matter what, regardless of the truth, regardless of the facts, and regardless of the point that it actually protects what they were fighting against two years ago.

HUGHES: Time, Senator.

MORFELD: Thank you, Mr. President.

HUGHES: Thank you, Senator Morfeld. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I'd like to continue with the discussion of forums that I had and I do still disagree with, with this bill and the-- especially the public forum section. I earlier had given an amendment to remove high schools from this and to leave the university in, which would have kept the university students under this language, but-- because I feel they are maybe more mature, but I think that I want the public schools to not have to follow this the way I interpret it. But we're-- so anyway, back to the Cornell Law School article about public forums, started with the traditional public forum and designated public forums. The next one, there are limited public forums. A limited forum is a type of designated public forum. Here, the government limits access to a designated public forum to certain classes or types of speech. In *Good News Club v. Milford Central School*, the Supreme Court held that in a limited forum, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

government may discriminate against classes of speakers or types of speech. However, the government is still prohibited from engaging in viewpoint discrimination. For example, the government-- which would be the school-- may limit access to public school meeting rooms only-- by only allowing speakers conducting school-related activities. It may not, however, exclude speakers from a religious group simply because they intend to express religious views. And so that type of speech or organization has already been protected without this bill. Then nothing-- nonpublic forums, nonpublic forums are forums for public speech that are neither traditional public forums nor designated public forums. According to the Supreme Court in *Minnesota Voters Alliance v. Mansky*-- in 2018-- in a nonpublic forum, the Government may restrict content of a speech, as long as the restriction is reasonable and the restriction does not discriminate based on speakers' viewpoints. Examples of nonpublic forums include airport terminals, a public school's internal mail system, and a polling place-- where you aren't able-- aren't allowed to campaign with people standing in line to vote. Finally, some public property is not a forum at all, and thus is not subject to this forum analysis. For example, public television broadcasters are not subject to forum analysis when they decide what shows to air. And I think we've experienced that, that we don't have any-- the government doesn't have ability to censor public television broadcasters. At one point, I think they did, but I believe that-- I'm not an expert in that field, but I think that has gone by the wayside. Getting back to the bill on the high school section, Section 2-- page 4, section (2)(a) tells--

HUGHES: One minute.

CLEMENTS: Pardon? One minute? OK-- talked about the public forum. These students or anybody has that on the sidewalk. They-- students have that on their own social media, on their personal websites, on blogs, and so I think they have ample opportunities to express their viewpoints without having to be censored by the school on their own private media outlets. The-- another important thing to me is that high school students are minors and they should be subject to parental control. When I sent my kids to school, I wanted them to be under the authority of the school that represented my values. Is there time left?

HUGHES: Two seconds.

CLEMENTS: Oh, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

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

M. HANSEN: Thank you, Mr. President, and good morning, colleagues. I rise in continued support of LB88 and what I wanted to talk about was we seem to be wading into some constitutional issues. And in my mind, some of the opponents are kind of twisting constitutional issues in a way to create opposition or create doubt for this bill. In my mind, I understand if you want to support the school control and the school censorship of student media publications. If that's something that's just fundamentally-- you think the school-- that's good policy-- Senator Clements just referenced that-- I get that. I disagree, but I get that. However, please don't twist this bill into saying it violates the constitution, it, you know, conflicts with the constitution, it "misteaches" the constitution because it doesn't. It pretty clearly doesn't. You know, for example, Senator Clements, not that he was doing this, but was reading off a pretty good summary of the wide protections and different standards of forums, including that limited public forum section he's talked about. That's probably the most applicable to LB88, even though other commenters-- so I appreciate him reading that article actually, even though other kind of opponents are acting as if it's a traditional public forum and applying a different standard, as opposed to the more restrictive, narrow standard. I'm getting a little bit off topic for where I originally wanted to talk about, but fundamentally-- and Senator Morfeld referenced this-- fundamentally a civil liberty such as those granted in the Bill of Rights are a prohibition on specific government action. In other words, it's something the government can't do in kind of any context. In freedom of the press, the main thing is prior restraint, which is a fancy word for censoring an article before it's published, stopping the publication of an article or in-- nowadays, you know, a TV segment, a radio, radio segment or what have you, but it's stopping publication before it happens. And that is something that the freedom of press has fundamentally been held that the government cannot do and that is, is what LB88 is focused at. And again, I bring up civil liberties-- and Senator Morfeld referenced this-- civil liberties are the floor. We can create more statutory provisions. We can put more statutory limitations on government than the Bill of Rights. We do that all of the time. The Bill of Rights is to stop us from going in the other direction in passing laws, attacking newspapers, attacking, you know, passing laws, censoring journalists, arresting journalists. It's not stopping us from passing laws, giving journalists more protections, more opportunities, just the same way that, you know, the Fourth Amendment, the Fifth

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Amendment, some of the ones in criminal procedure doesn't stop us from changing court procedure because we've already laid them out in the Bill of Rights and we can't touch it. No, it stops us from, you know, you know, stops us from abolishing the need for search warrants. It doesn't necessarily create us having requirements to, you know, not have court procedure. Think about it that way. It's a minimum. It's a thing we cannot go below. So we are free as a state to create new statutory provisions, to kind of give new statutorily created civil liberties, for lack of a better term, to groups, including to students and including to journalists and that is what we're looking at here. Kind of the key issue for me is when we talk about freedom of the press, yes, editors at, you know, the Journal Star or the World-Herald, The New York Times, The Washington Post or what have you, yes, there are editors who get to control the content of those articles, but at the end of those days, those editors are not beholden to the government in any way.

HUGHES: One minute.

M. HANSEN: Thank you, Mr. President. And here, what we're hearing some of the opponents of LB8-- LB88 talk about is they want editors who are beholden to the government, who are beholden to the school boards, to, to, to, to exercise pretty specific control of the student publications. And I'll hit my light and continue this, but that's to me the fundamental difference. So we talk about, yes, you don't get to put-- you know, you don't get hired onto the Journal Star and get to publish whatever article you like, but there's nobody in the government telling the Journal Star what articles they can and cannot publish, as opposed to a student newspaper where we see some pretty clear advocates for the government wading very deeply into content and that is the distinction we're trying to make here. And with that, I know I'm about out of time, so I-- and thank you, Mr. President.

M. HANSEN: Thank you, Senator Matt Hansen. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. You know, when we came down here or when we were running, we were given some good advice and that was to watch all the bills that were more than ten pages long because there could be something hiding in those bills. And that was good, sage advice that we look at our bills and we study our bills because this year we had 600 and what-- 84, 85 bills brought to us this year? And to read all those bills is, is a daunting thing to do, but we do that. We look at the bills and we decide which ones are good and which ones are bad, which ones we can support and which ones we struggle to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

support, but we still will support them because it's for the good. We also look at the ones we will not support and that is also good. Sometimes those bills aren't ten pages long. They're simple bills. They're bills that are easy to read and you think that, wow, this is pretty good, pretty common sense. It goes along with our beliefs. But the hair on the back of your neck begins to bristle and you wonder what's wrong and you look at the bill again and the bill seems pretty good, pretty common sense, but there's something amiss and so you begin to study. You take time on a very simple bill and you might miss the larger bills, the bills that are over 10 pages, that are 30 pages, that are 40 pages long, but you take time on that five-page bill to see what's in it, to see why, to see what's happening, to see what's happening across the country on similar bills like that five-page bill. Now while I was in high school, I was a journalism student. I enjoyed journalism. We learned the who, what, when, where, and whys that had to be in every article, preferably in the first paragraph. I learned photography. We went through that the last time we discussed LB88. And now it is so easy to pick up your phone and take a picture. You don't have to adjust the aperture. Life has become so easy, kind of like this bill. This bill is a five-page bill. It's about the freedoms that Senator Morfeld wants to grant our journalism students-- well, actually all the students because it's the student, student body. You know, the last time I, I knew, most of those students in the high school were minors, pretty much all of them, and a minor we have to keep control of. We have to because it is a learning time. It's a great time to experiment. It's a great time to do everything, but they have to be taught. They have to be taught the values of what our society wants them to have.

HUGHES: One minute.

LOWE: So with that, I'd like to yield my time to Senator Albrecht because I believe, Senator Morfeld, you were going to find a question out for her. So would Senator Albrecht like my time?

HUGHES: Senator Albrecht, 46 seconds.

ALBRECHT: 46 seconds, so then I'll just-- I was going to go on the mike and ask Senator Morfeld to please provide us with the question we asked in the previous session that we were on LB88. How many schools in the country actually do what this bill does and do they have a public forum in every school if there are that many out there? Thank you.

HUGHES: Senator Morfeld, will you yield?

MORFELD: Yes.

ALBRECHT: I didn't know that--

HUGHES: Was that a question for Senator Morfeld?

ALBRECHT: I didn't know that we-- well, I just thought if I only had 40-some seconds, he could look that up and get back to us.

HUGHES: That is time. Thank you, Senators Lowe, Albrecht, and Morfeld. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you very much, Mr. President. If I have any time left over, I'll yield the rest of it to Senator Morfeld to answer that question if he wants. Just got a couple of legitimate questions for Senator Morfeld, if he, if he'd be willing to yield to question, please?

HUGHES: Senator Morfeld, will you yield?

MORFELD: Yes.

B. HANSEN: Good. My question is some-- is about libel. I'm maybe a little bit unfamiliar with kind of how libelous stories work, when-- who determines what they are, when they're determined, and so, Senator Morfeld, so when someone-- you say they're protected from libelous stories that they might write. When-- who determines when that happens? Is it, like-- like, is-- they have a media adviser, but they may not be able to stop them from printing something, but they can advise them, but if they still want to print it anyway, is it after the story has been printed or is it before it-- when it becomes libelous?

MORFELD: It's, it's before, so they can still exercise prior review on any of the exceptions that I put in there. So if, if the principal is reviewing the publication before it goes to print and says, hey, I think that this constitutes-- likely constitutes libel or slander, they can stop it.

B. HANSEN: OK, that's what I was curious about and actually-- genuinely curious, so I appreciate it.

MORFELD: Yeah.

B. HANSEN: Some-- and, and that's really all the questions I had. I-- because I was a little unfamiliar with that. Thank you.

MORFELD: Yeah, thank you.

B. HANSEN: And I, and I, and I do appreciate Senator Morfeld's passion for spree-- free speech. I mentioned that before. I think him and I may have just come from different aspects a little bit about how we, how we, how we look at this bill because I also have a passion for free speech. But what, what my big concern is and what I've mentioned before is do we want our school newspapers to be more, more like social media or less? And I think when we look at the statistics, when you look at the data, social media has been harmful, especially to our youth. When you look at suicide rates, when you look at depression, when you look at the amount of prescription drug use, social media has done harm to our society, in my opinion, sometimes more than good. And so my concern is that if this bill passes, our school newspapers will be more like social media and so do we want that or do we not want that? I like the idea of having somebody say, look, this might-- you know, a principal specifically who is an extension of the school board, right, the-- he's, he's-- that's the part I believe he plays. He does represent the parents. And so he says, look, OK, this might not be very appropriate because it might upset a bunch of parents. It might, it might be-- might constitute defamation. It might be libelous, like Senator Morfeld has well said. So it's a whole host, I think, of concerns that the principal can bring up and then stop a, a story from being printed or not and so I like having that role there. I like having that there and again, that's just a personal opinion of mine. And Senator Matt Hansen brought up also that the Lincoln Journal Star does have an editor and he's, you know, he's-- I'm assuming they do. I'm assuming most credible news organizations have an editor and it's not the government stopping them from printing something, it's the editor. And in my opinion, the principal is, is our editor. I don't know of too many credible news organizations that do not have an editor that says, OK, the buck stops here. I'm going to determine what's printed and what's not. And so I think that's the role our principal plays and he should, he or she should as well continue that role. And so I'm, I'm concerned if this bill passes, we're going, we're going to take away that, that, that power. And I'm not looking at this merely from a constant-- from a conservative standpoint because I believe there's some-- may be some conservative opinions that might be far right that a principal may not deem appropriate, whether they might be talking about immigrants coming to our state, which is not appropriate to be printed in a school newspaper, if it's, you know, if it's derogatory. I mean, so we'll look at it from both aspects as well and so I'm hoping we can just kind of think about that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

a little bit when especially when it comes to do we want our school newspapers--

HUGHES: One minute.

B. HANSEN: --to be more like social media or less? With that, I will yield the rest of my time to Senator Morfeld if he wants it to answer the question from before. Thank you.

HUGHES: Senator Morfeld, 47 seconds.

MORFELD: OK-- 46, 47 seconds, great. So the answer to the question is, is I wasn't able to find any information that Senator Albrecht wanted on states. She just asked me how many schools in the country. I definitely don't know that, but I did do some preliminary research and I couldn't find how many schools are public forums and my bill doesn't do that. This is a limited public forum, so I don't think it's necessarily relevant. Thank you.

HUGHES: Thank you, Senator Ben Hansen and Senator Morfeld. Senator Groene, you're recognized.

GROENE: Thank you. I'll let Senator Halloran address the university situation. He will explain to Senator Morfeld the difference between protecting free speech and freedom of the press. I don't think that young lady was working for any newspaper at the University of Nebraska. And as one famous man said, I don't agree with what you said, but I'll defend your right to say so. That's the freedom of speech that was infringed, that philosophy at the University of Nebraska, and the issue that Senator Erdman, Halloran, Brewer, and I defended that young lady. Maybe Senator Morfeld needs to understand or take a course in the difference between freedom of speech and the rights and the freedom of the press. Senator Matt Hansen, when you talked about a government owning a newspaper and we're-- all right, so we're going to allow these kids to play newspaper person. You forgot one important part of what a newspaper is. Yes, you have the reporter. By the way, this bill does not mention an editor, does not mention an editor-- it's a free-for-all for everybody who is on the press-- has an editor and they have somebody called the publisher or an owner. Locally, we had-- the Omaha World-Herald was owned by the employees, then by Buffett, now by the Lee family. It's privately owned by the Lee family, about every newspaper in the state is. That family has the right to dictate to their publisher, to their editor what the content is. It's called freedom of the press. They have it. Ultimately, that family has the freedom of the press. Everybody else is an employee.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Yes, and it varies, some give free rein to their editors. There's no editor in this bill. The Kansas law strict-- does defend freedom of the press. This is not freedom of the press. Freedom of the press currently works in our public schools. You have a publisher, the school. You have an editorial board even, the school board. You have an editor. Some student rises from a freshman on up, becomes the editor. And then you have the journalist. It works. The system works. Freedom of speech works. In a, in a-- any class, journalism class or composition class, a student can write what they want. It's called freedom of speech. As in the North Platte case, one newspaper, the student newspaper, did not print it because of the editor's veto power. They spiked it. Now came into play freedom of speech. They sent a letter to the editor and it was printed by a local newspaper. It works. This is an attempt-- reminds me of growing up and everybody under-- over 30 you couldn't trust them. Quite frankly, now that I'm 65, I don't trust anybody under 30 real well and it's because they don't have a lot of experience. But anyway, this is teaching them the art of journalism, how to write a precise article. That's what we do in our schools. Go out and interview the kid that got an Eagle Scout, became an Eagle Scout, and put a paper-- an article. Cover the football team. Cover the student council. They're children. And by the way, there's a huge difference between a 14-year-old and an 18-year-old, huge difference. You got an 18-year-old writing something sexually explicit about abortion or something or freedom of religion or something and you got a 14-year-old, ain't shaving yet and he's reading that newspaper.

HUGHES: One minute.

GROENE: That is why we protect. That is what the school board does and that principal does, make sure the content of that paper fits all who read it in that school. It's the same thing in the free press. The free press, publications target certain audiences and then that editor and that, and that publisher says, no, that story don't fit our target. I spike it. There is a huge difference between freedom of speech and freedom of the press. I don't know how many times I have to repeat it. This is an attempt to subvert and to quit teaching our kids what the freedom of the press really intent is. The school is the publisher. Every pub-- every paper, every publication has a publisher and owner. Senator Matt Hansen says, no, not in this case. We just have the kids own the paper and run the paper and do whatever they want--

HILGERS: Time, Senator.

GROENE: --no editor. Thank you.

HILGERS: Thank you, Senator Groene. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, just to clear up a, a few different things that were said that I think need to be cleared up. In response to Senator Groene's comments just now, the analogy with what happened at UNL is that you had a government actor censoring a student. That's the same thing that's happening in the K-12 public education context that this bill is trying to protect against. Now you can split hairs, whatever makes you sleep well at night, but the bottom line is, is that it's the same thing that is happening, is you have a government actor that is censoring private citizens and their ability to express themselves. And yes, if you can't acknowledge that there's a difference between a privately owned newspaper and a government-owned newspaper, then you just simply aren't somebody that I can have a reasonable discussion with in terms of the constitution and the implications of that. A government-owned paper is different than a privately owned paper. A government-owned paper has different implications with the constitution than a privately owned one. Government should not be censoring its citizens using taxpayer dollars. That's the difference. Yes, a publisher at a privately owned newspaper can call the shots, but they aren't a government actor using government funds. That's what we're talking about here, colleagues, is the power of the state being able to unnecessarily censor private citizens. That's what's happening right now. That's what this bill provides guardrails against and in fact, I have a ton of exceptions here where they can still censor. So if you're pro censorship of private citizens by the government, which it appears as though Senator Halloran, Erdman, and Groene are, regardless of how they want to characterize it, then they're in luck. The government will still be able to censor private citizens under my bill. In terms of the UNL Publications Board that Halloran touted and brought up, that's actually a horrible example for him to bring up as an opponent of my bill because, in fact, UNL is doing exactly what my bill does in policy and in practice. How do I know? Because I served as the chairman of that board for many years. I served as a member of that board for many years. I know exactly the procedural posture and the legal posture of the university with The Daily Nebraskan and it does not go in Senator Halloran's argument's favor at all. In fact, the university has required a faculty adviser because they have taken the stance and the position that they are not going to touch The Daily Nebraskan or any of its editorial decisions. That's why they required that there be a, a media adviser in lieu of that. So in fact,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

University of Nebraska is basically doing what my bill does, but going even further. And that's what The Daily Nebraskan has been doing for decades and it's known as one of the finest student publications in the country in terms of student newspapers. Colleagues, if we're concerned about social media, as my colleague Ben Hansen or Ben Hansen brought up, if we're concerned about social media, that's one of my concerns. That's one of the reasons--

HILGERS: One minute.

MORFELD: --why I introduced this bill because I want there to be a forum in which there is supervision required for any protections at all, which this bill does and I wanted there to be-- required that there is education and partnership with higher education on teaching journalistic standards, which this bill requires, so that students, when they are conducting themselves outside of the, the forum that we've created here, they will have more skills in order to conduct themselves professionally and responsibly when they are using their private social media. We have to teach those skills here. We also have to give them a forum and an outlet to express their opinions in a professional way. This is not a free-for-all and in fact, we specifically state in here that student media advisers have the ability to conduct themselves and enforce--

HILGERS: Time, Senator.

MORFELD: Thank you, Mr. President.

HILGERS: Thank you, Senator Morfeld. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I wanted to focus again on section (2) (a), talking about "All school-sponsored media are deemed to be public forums." And then it goes on to say "a student journalist has a right to exercise freedom of speech" except for a few exceptions in, in item 3, which is libel and slander, invasion of privacy, violating laws, and departs from ethical standards, but the-- otherwise, still a public forum in any other expressions they do in their media and that's why I wanted to review the Hazelwood case. In the U.S. District Court in Missouri, students cited declarations that their First Amendment and Fourteenth Amendment rights had been violated by undue actions of a public official, the school, and the Supreme Court did have a ruling on that. It's called the Hazelwood case and they, they granted judicial review and then the case was argued and they handed down its decision overturning a circuit court 5-3 ruling and it set a

precedent that school-sponsored activities, including student newspapers and drama productions, are not normally protected from administrative censorship under the First Amendment. And I think the-- well, let's go on. A majority of the justices held that the school principal was entitled to censor the articles. The majority opinion, opinion, written by Associate Justice Byron White, stated that officials had never intended the school paper to be a public forum. And this bill, in section (2) (a), says this is a public forum. It doesn't even use the words limited public forum or designated public forum. And so in the opinion, they did find that the school had not created a public forum. White went on to say that educators do not infringe on First, First Amendment rights when exercising control over student speech in school-sponsored activities, so-- quote, so long as their actions are reasonably related to legitimate educational concerns, unquote. The court established that the student publication could be regulated by school officials and that they reserve the forum for its intended purpose as a supervised learning experience for journal-- journalism students and that's what I would like to see, supervision. A school need not tolerate student speech that is inconsistent with its basic educational mission. And that was another thing I mentioned earlier, that parental control is important to me and that the basic educational mission should have ability to edit what content comes out from the student. So the school need not tolerate student speech that is inconsistent with its basic educational mission, even though the government could not. Judicial action to protect students' rights is justified only when the decision to censor a school-sponsored publication, theatrical production, or other vehicle of student expression has no valid educational purpose. The decision overrode the precedent set in the Tinker case, which had permitted censorship of--

HILGERS: One minute.

CLEMENTS: --student speech only if it violated the rights of other students or threatened to cause campus disruption. The majority opinion in Hazelwood held that this case was different. The majority opinion said that school administrators are not required to tolerate speech that is contrary to the school's academic mission and continued, the question of whether the First Amendment requires a school to tolerate particular student speech is different from the question whether the First Amendment requires a school affirmatively to promote particular student speech. The former question addresses educators' ability to assign the students' personal expression. The latter question, it concerns educators' authority over

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

school-sponsored publications. And so I agree with this majority opinion that the--

HILGERS: That's time, Senator.

CLEMENTS: --school should have-- thank you.

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

M. HANSEN: Thank you, Mr. President. Colleagues, a few minutes ago, Senator Groene challenged me and Morfeld to maybe go take a class on the constitution. I would like to remind everybody, Senator Morfeld and I are attorneys. That is a required course that both of us have taken at the law school and that is why we are both standing up in agreement on what the constitution means in disagreement with Senator Groene. I just couldn't let that lie. Senator Groene, yes, I understand there's a difference between freedom of speech and the free press and that is why I've been walking through what the free-- what the constitutional and civil liberty for freedom of the press is because it's been misapplied and misstated and misunderstood by a number of senators on the floor. As I said before, I'm actually really appreciating Senator Clements just reading some case law onto the microphone because it agrees with what Senator Morfeld and I are saying. Yes, you can make a policy decision to not apply that in this specific case, but it is certainly laying the groundwork that Senator Morfeld and I are saying, that this is fine, this is not an attack on the constitution. This is not twisting whatever you want to say. This is something we as a state have the ability to do. We can go above and beyond the minimums that the First Amendment created. And one thing I think I-- as I've been listening to this debate for hours and hours and hours now, I think I finally got to an understanding of where some of the opponents are coming from. Some of the opponents think that the freedom of press rights are rights the school has or the school board has, that they're the ones who have the rights to freedom of the press. They do not. Government entities don't get civil liberties from the constitution. Civil liberties are limitations on the government that are liberties individual citizens, individual persons have. The school does not have free press rights. Journalists have free press rights and journalists have free press rights regardless of whether or not they work for school-sponsored media or for private, other media, whatever-- however you want to categorize that, and that is what we're talking about. There are a series of Supreme Court cases that do allow schools to have some legitimate limitations on students. And we, as the state of Nebraska, can say, hey, the Supreme Court has set the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

minimum rights of student journalists below what we want them to be and we would like to raise them a little bit, which is what Senator Morfeld is trying to do in LB88. It is adding some more standard free press rights that journalists out in the field, in the adult world, the professional world, however you want to spin it, get to have. I want to make that very clear. The schools do not have freedom of the press. The schools cannot have freedom of the press because the First Amendment is a right-- the right the, the people of this country have, not a right the government of this country has or the political subdivisions of this country have. So if you're in favor of strict limitations on student speech, if you're in favor of censorship, like-- by all means, like, I, I get that. I disagree. I'd get that. That argument at least holds water for me. Framing this is like an attack on the First Amendment is-- it's, it's-- it doesn't follow. It doesn't follow for me. It doesn't make sense. If you want to say the schools need to crack down, the schools need to do whatever they need to do, schools shouldn't have newspapers, like, I kind of get that. Like, if you were-- just stood up on this floor and argued for the abolishment of student newspapers because it's too hot button, that would probably be a fair argument to me than framing this as an attack on the First Amendment. I do want to talk a little bit-- and I know I've used up most of my time on this mike a little bit-- I do want to talk about-- and Senator Clements has brought it up a couple of times in the article he's been reading-- there is a concept of viewpoint discrimination and viewpoint discrimination is a, a protection against government, including that student groups have had under the, the *Rosenberger v.*--

HILGERS: One minute.

M. HANSEN: --the *Rosenberger v. University of Virginia* case and that is a fine line that governments have in the sense of if you provide an opportunity for students, you have to provide an opportunity for the students or the student groups collectively. You can't necessarily pick and choose. And in that particular case, it was a university not supporting a Christian newspaper in the same way they supported other newspapers and that was ruled as an unconstitutional because the university was wading into viewpoint discrimination. And I just-- I know I'm about out of time, so if I could just finish, that is something that I've actually heard some people come close to advocating on the floor. Some of the things you want the school board and school districts to do, in my mind, would be unconstitutional as it is as viewpoint discrimination. So some things you want or think the school districts are doing, they probably shouldn't be under the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Supreme Court case. And with that, I realize I'm about out of time so thank you, Mr. President.

HILGERS: Thank you, Senator Hansen. Senator Halloran, you're recognized.

HALLORAN: Thank you, Mr. Speaker. Good morning again, colleagues. Just to help clarify a little bit, Senator Morfeld expressed with some righteous indignation that Senators Erdman, Groene, and I were hypocrites for having defended a sophomore student, Kaitlyn Mullen, who was tabling-- tabling is a-- an expression used on the university where students are allowed, allowed to put up a folding table in a public forum-- and I emphasize public forum-- and that's where Kaitlyn Mullen was. She was not in a journalism class, Senator Morfeld. She was in a public forum where she had every right to set up a table to promote a group she was interested in promoting on campus, Turning Point USA. And yes, she was verbally and-- verbally assaulted by a-- an assistant graduate student and that created quite a stir and it should have. But again, it wasn't a case where she was, she was in a journalistic class. She was in a public forum outside the student union. Senator Morfeld says that, that my point that I made with The Daily Nebraskan using its control and authority or the school was using its control and authority over deciding to do away with the opinion piece in The Nebraskan-- Daily Nebraskan exactly expresses the point we're trying to make, Senator Morfeld. The University of Nebraska didn't need to have LB88 to give them the authority to have control over their publications. The university does that. Matter of fact, the university gets a little frustrated and a little hyper intensive whenever anyone in the Legislature suggests doing anything policy wise or creating policies for the university and maybe they should. The same should held-- hold true for our high schools. We really don't have business telling high schools, school boards, principals, superintendents how to manage their school in regard to their, their journalism. So it's a, it's a fine example, Senator Morfeld, and I will refer you-- refer to you as Senator Morfeld, not just by your last name. Just for, just for courtesy sake, I think we should all do that. Thank you, Mr. Speaker. I yield the balance of my time.

HILGERS: Thank you, Senator Halloran. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. Speaker. I want to talk about a couple of things. I believe what Senator Erdman's amendment is looking at is high school specific and not to colleges. I think it is high school

specific, but I do want to talk about a couple of things and I do want to read something-- testimony that came into the hearing. But really, I think what we're talking about, there's, there's already-- the standard is already out there. The Hazelwood already is and the Tinker stand-- the Hazelwood standard and the Tinker standard already apply and if schools wanted to do this now, I believe they probably could. And there's a format here and I'll read it later when I have some time, perhaps, if, if need to again, but it walks through the process the administration takes in determining whether content, I'll call it, of a certain-- or-- that's being published or, or is being proposed to be published, how they work through that to determine whether they have the ability to censor in this case, that language or that medium. But before we do that, I want to talk-- I want to go back to what was in the hearing on the bill itself and I'm going to read from the transcript from the hearing. It says: I am here representing the Nebraska Council of, of School Administrators and I am also the president of our state principals group as well. I have a strong belief that relationship, relationships impact culture in a building and that culture impacts the ultimate results for students. In any school, we try to put in types of preventative measures. In any school, we try to put in types of preventative measures. So, you know, maybe not in COVID times, but in most times we love to have guests. We love to have speakers, military recruiters, college recruiters, and parents to come to our buildings, but, but we still screen them. We still have locks on our doors and we allow people in. We have a sign in and sign outs. We escort people around the buildings. So constantly as a building principal, we're putting in protective measures for our students at all times. One of the things-- and I'm not a legal expert at all, but one of the things you learn very early on in your principal preparation is the Tinker standard or the Tinker case. And the Tinker case basically-- case basically what it means to a principal is I can intervene in advance if there's a reasonable likelihood of a disruption of an operat-- of the operation of school. And because we're trying to prevent to make sure the culture is protected and prevent to make sure our kids are protected as much as we possibly can, I would much rather prevent and try to put toothpaste, toothpaste back in the tube. So we've-- so I'd rather much-- so I'd much rather prevent and try to put, to put toothpaste back in the tube. So we've heard some about provisions and exceptions. Some of the exceptions, one in particular draws my attention. Clearly, if the story is libelous or slanderous, then that's an exception. That story can be stopped, right? And that's a question. Can it? And so, however, you know, I'm not legally trained and I don't know if I know what a libelous and slanderous actually meant-- might mean. Somebody

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

probably does, but that would mean I'd have to, to maybe work with an attorney to figure that out. If the story is unwarranted or invasion of privacy, again, that probably requires me to do some legal analysis. And that's not necessarily my forte.

HILGERS: One minute.

BOSTELMAN: You know, one of the exceptions, and I don't need to go through them all, but the exception, I think, is the biggest difference or biggest challenge for me as a building principal or my colleagues, it's on the last page, lines 3 and 4 of the bill, but it's if the publishment of the publish-- or the publishing is shown to cause material or substantial disruption. So if you compare that to the Tinker language, it says reasonably likely that it would cause a disruption. That allows me to prevent the language that says causes material and substantial disruption. Again, to me-- it sounds to me like I have to wait for it to cause material or substantial disruption and now I'm clean-- I'm cleaning up the toothpaste that's already out of the tube. So for my con-- for, for-- so from a concept of what a school principal deals with is, I would much rather keep the cap on, if I can, to protect kids versus trying to clean up a mess--

HILGERS: That's time, Senator.

BOSTELMAN: --of the toothpaste that's out of the tube. Thank you.

HILGERS: Thank you, Senator Bostelman. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker. I listened to the conversation between Senator Morfeld and, and what Senator Groene had to say and others and I appreciate Senator Halloran bringing up the fact that the young lady was in a public forum, was in a forum in public when she was harassed there. This LB88 would have done nothing for her at that point, but I've heard Senator Hall-- Senator Morfeld mention several times this is a limited public forum, limited public forum. In the bill, page 2, Section 2, subsection-- Section 1, subsection (2)(a), it says: All school-sponsored, sponsored media are deemed to be public forums. That's exactly what the bill is doing in making the school media a public forum. And I was wondering if Senator Morfeld would yield to a question.

HILGERS: Senator Morfeld, would you yield?

MORFELD: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

ERDMAN: Senator Morfeld, would you be agreeable if we put the word "limited" in front of public forum?

MORFELD: If that gets you to support the bill, sure.

ERDMAN: So is this the first time that we have defined or declared that school-sponsored media are public forums in this bill?

MORFELD: Limited public forum, yes.

ERDMAN: So it-- you've said limited public forums many times. Explain how this bill describes limited public forum.

MORFELD: Well, if you go to page 2, line 4, it defines what school-sponsored media is and so it's not just simply saying any student publication is a public forum. It has to follow the guidelines under line 4, page 2 for it-- in order to-- for it to fall under that limited public forum.

ERDMAN: So line 4, page 2 is: School-sponsored media means any material that is prepared, substantially written, published, or broadcast by a student journalist at a postsecondary education-- educational institution, distributed or generally made available to members of the student body, and prepared under the direction of the student media adviser. School-sponsored media does not include any media intended or distri-- for distribution of the transmission solely for the class in which the media is, is produced.

MORFELD: And then--

ERDMAN: Tell me how that--

MORFELD: And then--

ERDMAN: --how is that limited?

MORFELD: Well, that, that limits it to media that is supervised by a student-- student media adviser. And the other way that it's limited is you also have to read page 3, line 1: This section does not authorize or protect expression by student journalism that-- so that's what makes it limited, is that it's not just a public forum. If you say it's a public forum, then it opens a floodgate of different things unless you have specific limitations. We have at least five or six specific limitations in both those sections. That's why it's a limited public forum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

ERDMAN: OK, I think I follow what you said. You said line-- you, you referenced line 3-- line 1 on page 3?

MORFELD: Line 1, page 3, and then all the exceptions.

ERDMAN: OK, the exceptions on line 1 through 7.

MORFELD: Yeah, line 1 through 7. Yep, line 1 through 7.

ERDMAN: OK, thank you.

MORFELD: Thank you.

ERDMAN: So the thing that is concerning is the fact that-- and this is what the amendment does. If you read, if you read the amendment that I have up there, it-- on, on page 5, line 8, it strikes that line and replaces it with "disciplined, reassigned, or transferred without due process." I think it's important that we have--

HILGERS: One minute.

ERDMAN: --that put in the bill because if someone is removed-- say, the media adviser doesn't like the article that is written and then the principal is going to remove that person because he didn't like what was written, I believe they ought to have a chance to defend themselves and have due process. So that's what the amendment does. It's pretty simple, straightforward. I would hope that you would adopt it. Thank you.

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

LOWE: Thank you, Mr. Speaker. "Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth when published with good motives, and for justifiable ends, shall be a sufficient defense." That is in the Nebraska Constitution, freedom of speech and press. So does that mean we can say everything that we want to say? Can I say something about one of the other senators here and not offend them? We have freedom of speech, but we also need freedom of heart and our morals so that we don't do that. We need to be well educated so that we don't offend other people. Freedom of speech belongs in most places. We obviously have it here on the floor of the Legislature because for the past four years, many of us were be-- berated for being white. Senator Flood and Senator Morfeld both found ways to get, to get what they wanted published to the

public body of the schools that they went to. They found a way. They had freedom of speech, even though the school paper wouldn't print it. They found a way. Their thoughts were published. We have many ways today that our thoughts can be published, many varieties of social media, and even those sometimes are found not to be printable in those forums of social media. But there is always another app, always another program that you can go to, to have your thoughts printed and published because of our school papers and what they want to do to keep the thoughts clean for all students there, to keep the thoughts proper for all students there. Now let's look at the age groups of those students. When you're 14, you don't think the same way as you do when you're 18. When you're 16, you don't think the same way as you did when you were 14. When you're 18, you probably don't think the same way that you did when you were 16. And we have all these ages that will be reading the paper that we must be reliable for. We have the student publisher. We have the student--

HILGERS: One minute.

LOWE: --adviser. Thank you, Mr. Speaker. We have the student adviser. We have the administration. There are lots of eyes looking over everything that will be published. Most of the time, the administration doesn't look over things, but they trust that student adviser. And then we have the school board. And then over the school board, we have the public who will or may choose not to reelect those board members. We need to keep this process whole. It is a good process. It has worked for many years. Thank you, Mr. President.

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

BOSTELMAN: Thank you, Mr. Speaker. I do want to talk about a couple of things strictly to the advisory immunity that, that we're talking about right here and with their ability to have certain rights to, to due process. There are a number of states that have something similar to what we're talking about to LB88 that's enacted. I want to go through some of these as we're talking about them and Arkansas would be the first one. And do they provide some immunity? Yes, they do. California, it does say that, yeah, they do provide some immunity, but responsibility of the adviser to supervise their production, to maintain professional standards on English and journalism, and to maintain pro-- provisions of certain things. So California says, well, yeah, you do, but there are, there are some things you have to be responsible for, so not completely. Colorado says you have to have responsibilities attached. So there are certain things that that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

adviser has to be responsible for in order to do their, do, do their work. Illinois says no, there is no immunity there. Iowa says no, that the advisers shall supervise the production and to maintain professional standards of, of English and journalism and to comply with, with this section. Specifically, some of the things we're talking about, obscenity is not protected. That's in Iowa. In Kansas, there is some, but you cannot condone or request the conduct under grounds for suspension and obscenity is not protected. Maryland includes limitations on profanity, vulgarity, lewd or obscene language, or language that has the intent to harass, threaten, or intimidate. So a student media adviser may not use the adviser's position to influence a student journalist to promote an official position of a, of a county board or a public school. Massachusetts says no. Nevada, yes, but it does not protect bullying or cyberbullying or intimidate any person. North Dakota does not protect obscenity. Oregon is-- does not protect content that violates a, a school policy. Rhode Island does provide some. And then Vermont does not protect profanity, threatening or intimidation, harassment or hazing or bullying. And Washington does not protect content creating violation of a school district policy or procedures, limited protection for political expression. So they do have a yes there as well, so that's a little bit on the advisory immunity where that applies. I spoke before on Hazelwood and let me see if I can find it here real quick. It's in the back here. And as we walked through that-- I walked through that last time I was on the mike-- and schools can do this already and it does not infringe upon free speech, I, I don't feel-- in my opinion. Let's see if I can find it real quick. So what you look at-- the, the process starts at looking at can the publication be considered school sponsored and has a school lent its name to the resources to the publication? So is it a school resource and is it one their publications? So if the answer is yes, then you can-- then can the publication be described as a part of the school curriculum, part of the school curriculum? Was it created by the school to impart particular skills to students and is it supervised by a faculty member even if it is produced outside the classroom setting? If the answer is yes, then I go to has the publication by either school policy or practice--

HILGERS: One minute.

BOSTELMAN: --been opened up as a pub-- quote, public forum, end quote, or quote, forum for student expression, end quote, where students have been given the authority to make the content decisions? If the answer is yes, it goes to the Tinker standard, which says can school officials show that their censorship is based on the reasonable

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

forecast of material and substantial disruption of school activities or an invasion of the rights of others? Before Hazelwood, all censorship was controlled by this standard. If the answer to the Tinker standard is yes, then they can do censorship as permitted. If the answer is no, then censorship is not permitted. If we go back to the question that I-- comment that I made before, if the answer is no to has a publication by either school policy or practice been opened up as a public forum or a forum for student expression, where students have been given the authority to make the content decisions--

HILGERS: That's time, Senator.

BOSTELMAN: --if the answer is no, then we go to--

HILGERS: Time.

BOSTELMAN: --the Hazelwood standard.

HILGERS: Time, Senator.

BOSTELMAN: Thank you.

HILGERS: Thank you, Senator Bostelman. Senator Murman, you're recognized.

MURMAN: Thank you, Mr. Speaker. I don't know that I have a lot-- anything really new to present, but I haven't spoke on this yet, so I would like to speak for the amendment and against the underlying bill. I, I want to emphasize these are students. If students don't learn about freedom of the press now, if we just give the students freedom of speech and not freedom of the press in high school, for example, how are they really going to learn about freedom of the press? I-- the-- one of the other amendments did limit this to-- this bill only to college. I could understand that a lot better, would possibly support that. But, but as a high school, like, there's no way I can support it because, well, they don't-- students don't have a school newspaper typically in grade school or pre high school, so, so this is the opportunity they have to learn what freedom of the press is and what the difference is between freedom, freedom of speech and freedom of the press. The students need direction from the media adviser or the teacher or ultimately the administration and the school board, which, as was mentioned before, those entities act as an editor in a newspaper situation. The newspaper is not a public forum and the paper actually does represent the school and the community. So as a newspaper representing the school and the community, the students, as students, need guidance from the-- ultimately the school board. It's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

all about free-- the difference between freedom of the press and freedom of the speech. I do have a Zoom once a week, or every other week, I guess it is, with the, the schools in my area-- the superintendents typically and the ESUs-- and the ones that have voiced an opinion on this, which is-- that is, that is several of them, are dead set against it, against LB88. They are very concerned that if this would pass, there will be lawsuits. And for, for that reason, some of them have, have told me that they are going to eliminate their school newspaper because just-- only because of the fear of lawsuits. So just for that reason alone, I, I need to be opposed to this. You would-- we would be eliminating that learning opportunity for journalism students if-- or at least very, very limiting that opportunity to learn for journalism students if the school newspaper was eliminated. So I think there's just too much risk with this bill, what it would do to, to school newspapers, and for that reason-- and, and actually the reason of the differences between freedom of speech and freedom of the press,--

HILGERS: One minute.

MURMAN: --thank you very much, Mr. Speaker-- I, I have to stand up against this bill. So with that, I'll yield the rest of my time to the Chair.

HILGERS: Thank you, Senator Murman. Senator Brewer, you're recognized.

BREWER: Thank you, Mr. President. Well, I've kind of tried to stay out of this fight because I got a zillion other things going on, but I've been a little overwhelmed with email messages here from some of the teachers in the district that have concerns, so I'm going to at least come on the mike and go on record in support of AM662 and, and against LB88. And with that, I'd like to yield the remainder of my time to Senator Clements.

HILGERS: Senator Clements, 4:30.

CLEMENTS: Thank you, Mr. President. Senator Bostelman was talking about what other states do and Senator Hilkemann had asked about what other states do. And some of our staff had researched some of the other states and I wasn't involved in doing the research, but I do, do have a report that was generated and I'll just go down a list of states of what they found. The question on, on all of these would be whether the state in question says that they're creating a public forum with their, their bill on student media. Arkansas says no. They, in 2019, expanded from publications to all student media. California

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

said no, the governing board or body shall adopt rules and regulations. Colorado, it's limited. It lists where prior restraint was not allowed. In 2020, it broadened media. Then they, they encourage students. They cannot force publication of content that violates school rules. Illinois says not directly a public forum. In Iowa, no public forum. Publications are limited to school rules and regulations set by the school board. Kansas found that it was not specifically a public forum. The review of material in a manner consistent with high, high standards of English and journalism shall not be a restraint on publication. So they can have a constraint with high standards of English and journalism. In Maryland, it says it's not a public forum, it's limited. And Massachusetts says, no, it's voluntary by cities and towns which accept the law. The board of education may adopt guidelines and school committees shall adopt rules and regulations. Nevada, no, it's limited. Each school district board can adopt a written policy. And that's what I would prefer to see, that each Nebraska public school have a policy. If they want to adopt LB88, they're welcome to do that, but I'd like to leave it up to each school like it says Nevada does. North Dakota, it says no without comment. Oregon, no public forum. Rhode Island, no, the school may adopt a written policy with reasonable restrictions. Vermont, no, without a comment.

HILGERS: One minute.

CLEMENTS: And finally, Washington State said, yes, it's a public forum. And so I didn't count as I was going, but the research that we've seen is one state specifically said it's a public forum, other ones have limitations. The limitations that LB88 have are not adequate in my opinion. They're not-- as much as I'd like to be able to give school administrators to be able to limit. The-- my opinion, this allows a student, each student to determine their content more than I would like. The advisers are able to advise, but it doesn't say they can edit.

HILGERS: That's time, Senator.

CLEMENTS: Thank you.

HILGERS: Thank you, Senator Clements. Seeing no one else in the queue. Senator Erdman, you're recognized to close.

ERDMAN: Thank you, Mr. Speaker. I appreciate that. So let me go over what my amendment does, a very simple, straightforward amendment. As we've seen last time we debated this bill, Senator Morfeld had the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

votes to move the bill and I would assume he probably does again. And so if it's going to be moved on to Final Reading, I think we need to have it amended to where it makes it a better bill. So what my amendment does on page 5 of the bill, starting on line 7, the following is read there. It says: A student media adviser shall not be dismissed, suspended, disciplined, reassigned-- and this is what my amendment does-- or without due process for acting to protect a student journalist engaged in the conduct under subsection (2) of this section. So we have seen in the recent past-- and Senator Ben Hansen had alluded to social media, in the society in which we live today, you are guilty until proven innocent if someone put something on social media. And I think it would be inappropriate that an adviser who is advising a student that's not accepted or it has been publicized on social media they did something wrong and they are removed without having the opportunity to defend themselves. And so this amendment makes this bill better. I don't like the bill as it is generally as is stated now. And Senator Morfeld asked if I'd vote for it if this is adopted, that will depend on how it looks when we're all done with it, but I would encourage you to vote for this amendment because it does make sense in the, in the society that we're now living. So I would encourage you to vote green on AM662 and I would request a call of the house.

HILGERS: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 15 ayes, 3 nays to place the house under call.

HILGERS: The house is under call. All unexcused senators, please return to the floor. All unauthorized personnel, please leave the floor. The house is under call. Senator Erdman, did you request a roll call or machine vote? Roll call vote in regular order has been requested. Senator Walz, please check in. Senator Linehan, please check in. Senator Flood, Senator Bostar, please return to the floor. The house is under call. Senator McCollister, please check in. Senator Erdman, we're waiting on Senator Bostar. Would you like to wait or proceed? We're waiting on Senator Bostar. Would you like to wait or proceed? All unexcused senators are now present. Question before the body is the adoption of AM662. A roll call vote in regular order has been requested. Mr. Clerk, please call the roll.

ASSISTANT CLERK: Senator Aguilar voting no. Senator Albrecht voting yes. Senator Arch voting yes. Senator Blood voting yes. Senator Bostar voting yes. Senator Bostelman voting yes. Senator Brandt not voting.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator Dorn voting yes. Senator Erdman voting yes. Senator Flood voting yes. Senator Friesen voting yes. Senator Geist voting yes. Senator Gragert voting yes. Senator Groene voting yes. Senator Halloran voting yes. Senator Ben Hansen voting yes. Senator Matt Hansen voting yes. Senator Hilgers. Senator Hilkemann voting yes. Senator Hughes voting yes. Senator Hunt voting yes. Senator Kolterman voting yes. Senator Lathrop voting yes. Senator Lindstrom. Senator Linehan voting yes. Senator Lowe voting yes. Senator McCollister voting yes. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Morfeld voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Pahls voting yes. Senator Pansing Brooks voting yes. Senator Sanders voting yes. Senator Slama voting yes. Senator Stinner voting yes. Senator Vargas voting yes. Senator Walz voting yes. Senator Wayne. Senator Williams. Senator Wishart voting yes. Vote is 44 ayes, 1 nay, Mr. President.

HILGERS: AM662 is adopted. I raise the call. Mr. Clerk for an amendment.

ASSISTANT CLERK: Mr. President, next amendment from Senator Murman, AM661.

HILGERS: Senator Murman, you're recognized the open on AM661.

MURMAN: Thank you, Mr. Speaker. My amendment starts on the top of page 5, lines 1 and 2, but I am going to start reading on page 4, line 26: This section does not authorize or protect expression by a student journalist that: and (a) is, Is libel or slanderous; (b) Constitutes an unwarranted invasion of privacy; (c) Violates federal or state law; (d) Departs from prevailing journalistic ethical standards; or-- and then (e) is the part that my amendment changes and I would like to strike "So incites students" and instead insert can re-- "Can be reasonably expected to incite students so." So the purpose of AM661 is to prevent rather than respond to a, a disruption caused by the publication, including bullying reasonably expected to be caused by publication of controversial or highly politicized materials. So given the current language, you wouldn't know if the purported guardrail placed in the bill would be triggered until after it happens. For instance, if the expression by the student journalist advocates students to storm the State Capitol in support of a particular cause and the students stormed the State Capitol causing damage, you couldn't cite the current language to stop the speech because the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

behavior had not yet occurred. How would you know if a, if a particular expression by a student journalist so incites the commission of an unlawful act or violation of policies until after the fact? The student journalism [SIC] committed to a cause may not think that their actions would so incite such behavior, but the likelihood of such an unlawful act or violation of policy would be apparent to a reasonable, rational, seasoned individual. The language offered in AM661 would provide additional clarification as to when this guardrail should kick in place. Therefore, the words "So incites" should be modified to "Can be reasonably expected to incite." I see this as a commonsense amendment that would make the bill better. It makes the language proactive rather than reactive, so the purpose of my amendment is to make the bill better. As several others have, have said earlier, I'm not sure I would support the bill, I'll be honest. I don't, I don't think I would support the bill for high school students-- to, to affect high school students, but I do think this language is an improvement of the bill. So thank you very much, Mr. Speaker.

HILGERS: Thank you for your opening, Senator Murman. Mr. Clerk for items.

ASSISTANT CLERK: Thank you, Mr. President. Amendments to be printed: Senator Walz to LB408; Senator Hughes to LB616; additionally, amendment from Senator Brewer to LB236. Your committee on Revenue, Chaired by Senator Linehan, places LB194 on General File. That will have committee amendments, Mr. President. Finally, priority motion, Senator Briese would move to recess the body until 1:30 p.m.

HILGERS: Colleagues, when we come back, we'll keep the queue that we have. Senator Morfeld, Senator Groene, Senator Matt Hansen when we, when we come back from recess. Colleagues, you've heard the motion to recess. All those in favor say aye. Opposed say nay. We are in recess.

[RECESS]

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

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

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

ASSISTANT CLERK: I don't, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FOLEY: Thank you, sir. While the Legislature is in session and capable-- capable of transacting business, I propose to sign and do hereby sign the following two legislative resolutions: LR84 and LR86. We'll now proceed to where we left off on the agenda this morning. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Matt Hansen would move to amend Senator Murman's AM661 with FA24.

FOLEY: Senator Matt Hansen, you're recognized to open on FA24.

M. HANSEN: Thank you, Mr. President, and good afternoon, colleagues. I rise in continued support of LB88 and actually rise in support of Senator Murman's amendment, AM661. What my floor amendment would do is would before the two places in the bill where they are referenced as being public forums, it would insert the word "limited." So the two different places in the bill would change the sentences to say, "All school-sponsored media are deemed to be" and after the "be" we would insert the word "limited." So it would say: All school-sponsored media are deemed to be limited public forums. I've had some conversations with Senator Morfeld and he is supportive of this concept. Just before I was introduced to speak, we were potentially working on a different amendment. But I believe this addresses concerns that we've heard in the microphone, is that just using the term public forum without qualifying it or without clarifying it creates some doubt and some uncertainty in some minds of some of our colleagues. So this is a genuine, sincere attempt to clarify what we, in fact, mean in this instance. As it's been described, the fact that there are limitations set in statute in my mind make it de facto a limited forum. And I think officially calling it a limited forum would be an improvement, and in my mind, help clarify some issues. It was, it was kind of funny. Senator Erdman posed this question to Senator Morfeld before lunch, right as I was walking up to Senator Morfeld to ask about the same thing. Although I will say, as I said before, Senator Morfeld and I were discussing maybe a potential language tweak. And so I'm going to continue my conversation with him and may come back with some new language. But failing that, I think expressly saying "limited public forum" eases or should ease some of the concerns that we had heard that on whether or not this was a truly, fully open traditional public forum or not. With that, I would encourage the body to support, well, everything on the board, LB88, Senator Murman's amendment and my floor amendment. And with that, thank you, Mr. President.

FOLEY: Thank you, Senator Matt Hansen. Debate continues. Senator Morfeld.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

MORFELD: Thank you, Mr. President, and colleagues, right before we ended before lunch here, I think what you saw was near unanimous support of Senator-- I believe it was Senator Erdman's amendment. And so I'm, I'm willing to work with people. I thought his amendment actually made the bill better. I don't mind Senator Murman's amendment. I kind of like my language the way it is right now, but I'm open to supporting Senator Murman's amendment. And I think Senator Hansen's amendment as well provides a little bit more framework. And it was made in listening to some of the debate and concerns that we've had on the floor. So, colleagues, I am more than willing to work with all of you on making this a better bill. Now there's a few things that obviously, if there-- it's an amendment that totally cuts against the, the intent of the bill, I'm not going to agree to that. But things that tweak it, things that make it a little bit better, things that make things a little bit more clear. I think it's clear in the bill that it's a limited public forum, as is, because we have all the exceptions and restrictions and limitations. But if we want to spell that out, I'm more than willing to work with you to do that. So just as we supported Senator Erdman's amendment, I would urge you to also support Senator Hansen and Senator Murman's amendment. I think they're reasonable amendments. I personally like my language the way that it is right now, but as with everything, we have to work together and I'm happy to work together on any other amendments that you may have. I want to step back real quick and remind the body the reason why this bill is important is, is because it is important that young people in our state, young Nebraskans who are exercising their rights for the first time, particularly in a government institution that should be content and viewpoint neutral, have the ability to exercise those freedom of speech rights with supervision of a student media adviser, with the supervision of their principal or administrator as well. The principal or school administrator still has the ability to supervise the content before it goes to print under those exceptions. They can still stop publication if they believe as though it violates some kind of journalistic ethic, including the truth. So there is still broad latitude and discretion of a school administrator to take action, or in some cases, to be able to have prior restraint or prior review. It's clear. These exceptions and these protections only exist if you don't hit any of the exceptions and only if there is supervision by a student media adviser. So, colleagues, I think I've demonstrated this morning in the adoption of Senator Erdman's amendment and I'll demonstrate again this afternoon in the support of Senator Murman's amendment, along with Senator Hansen's, that I am working in good faith to make it a better bill. And I hope that that demonstrated good faith will get you to either support the bill or continue to support

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

the bill and, if necessary, vote for cloture so we can go to the next round. This is an important bill. This is a bill that we had hours of testimony on by young Nebraskans across the state, conservative Nebraskans, liberal Nebraskans and everybody in between and outside. They were passionate young people who are articulate, some of our best and brightest, that were just trying to exercise their constitutional rights in a government institution.

FOLEY: One minute.

MORFELD: A government institution that should be content and viewpoint neutral, a government institution that should be supporting their citizens' and residents' rights to be able to exercise their First Amendment freedom of speech. Colleagues, I'll remain here on the floor until we're at end of debate. I'm happy to work with any of you to make the bill better and to make it so that we can move on and to make it so that this bill doesn't come back year after year, because these students aren't going away, these advocates aren't going away. And I'm not going away when it comes to this issue. So we'll be back every single year, even if I'm not back here after term limits. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Groene.

GROENE: Thank you, Mr. President. As far as I'm concerned, this bill can never be made better unless the publisher is in charge, and that's the administration and the school board. Until that is returned or-- and also public forum is removed and free press replaces it. Also, we cannot have an employee in a school that is not susceptible to discipline for any reason or to being removed from a classroom for misbehavior. I don't know of another case we do that with a teacher or a public employee who is exempt. There is nothing that makes this bill better. Well, excuse me. Let me take that back, Lincoln Journal Star, before you misquote me in an editorial, again, take things out of context. A lot of times on this floor when there's a op-- a chance that bad, bad legislation can pass, senators try to bring amendments to ease the pain. Senator Erdman did that just in the case it gets passed. I did that the other day on Senator Williams' LB322. He accepted that amendment and worked with me, a form of what I wanted with some other-- he did a good job. But on Final Reading, I'm not going to vote for it. I voted for the amendment because I knew this thing would pass and it made it better. So to imply that somehow you worked with people and you made your bill better that at-- and that implies that it's a good bill. I understand the game we're playing here. Limited public forum, all free speech is limited. That's a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

nonsense word because none of us can libel somebody. Free speech is limited. None of us can constitute an unwarranted invasion of privacy. There's paparazzi out there. I've learned that lesson by taking pictures of people when they did not want their pictures taken. Free speech is limited. Mr. Hansen, Senator Hansen, when you get on the mike, it is limited. And a public forums are limited. You can stand, stand there naked and give a speech. You will get arrested in a public park. Certain places you can't have foul language or call somebody a derogative name, it's limited. So to try to tell us that to add the word limited makes a difference, it does not. You've taken freedom of the press and turned it into free speech. You're telling, telling our children who involved in this that there are no boundaries as far as what you want to write about. No employer, no boss who tells you no on the topic you want to write on. That is not how the free press works. By the way, Senator Hansen, I, I imply-- I mean, when you say something like-- I was, I was taken out of context in that Journal Star editorial. I don't consider anybody have taken a constitutional law class unless they went to Hillsdale or University of Chicago or George Washington University, because they teach it right. But not some college that's--

FOLEY: One minute.

GROENE: --rated 87th in the nation, the law college, as UNL is. But I'm in the same boat with you. I hold a degree from there also, not from the law college, but from the college. So anyway, and I don't know if I should apologize to Senator Flood or not. Some people thought I called him a mongrel, some people called him-- I called him a Mongol, and I thought I called him a mogul. But after discussing with him, I think he qualifies for all three. I think he's got mixed heritage, so that qualifies him as a Mongol-- or a mongrel, and he is aggressive, so that does qualify him sometimes as a Mongol. So anyway, whichever compliment you wish to take, Senator Flood, I meant them all in good meaning. But he should be rewarded for his free enterprise and, and complemented what he's done in his life and created a--

FOLEY: That's time.

GROENE: --economic boom.

FOLEY: That's time, Senator.

GROENE: It's time?

FOLEY: That's time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

GROENE: Thank you.

FOLEY: Thank you, Senator Groene. Senator Matt Hansen.

M. HANSEN: Wish to withdraw FA24 and go to FA25.

FOLEY: Without objection, so ordered. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Matt Hansen would move to amend with FA25.

FOLEY: Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. And thank you, colleagues, and thank you for, for those listening and debating. Frankly, in light of the comments that Senator Groene just made, this is a perfect amendment. This just strikes that whole sentence that references public forums at all. There seems to be a lot of confusion and a lot of misnomers about public forums. That is actually not a substantive part of this bill, as I view it. So talking with Senator Morfeld, he viewed it as a bit of a concession, but striking that language entirely should just resolve the issue. We will no longer reference public forums and instead we will just lay out statutorily the different elements of-- the different elements as we protect for student media advisers. I do have to say and take a little exception, frankly, Senator Groene is being rude and confrontational in ways that are undeserved. And I hope more members of this body recognize that he's just making stuff up with the intent of being rude. Senator Clements read a law review article that laid out the case history of the term limited public forum. And then I try to address concerns, address concerns that Senator Erdman raised on the microphone and put a constitutional term that our Supreme Court regularly uses. And Senator Groene makes fun of the law school I go to and accuses me of making up a nonsense legal term. Colleagues, this is a routine Supreme Court precedent on public forums that everybody who does anything on constitutional law should just know or have at least heard of. And to say it's made up and go on some nonsense story about standing naked on the street corner just belies that Senator Groene does, in fact, not have any sort of factual basis he is standing on. He is the one making up terms and making up nonsense. You want to oppose the bill, oppose the bill, fine. But don't say I'm unqualified to talk about constitutional law because I went to UNL. That is ridiculous. That is offensive. That is absurd. And cuts across any remaining credibility that Senator Groene should foster in this body. He's being absurd. He's being rude. He's being obnoxious, obnoxious for no particular

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

point. You can spend four hours on a bill. You can block people trying to make it better. You can block people trying to make a compromise. That's fine. When you start making fun of people just openly on the microphone to fill time because you lack any sort of substantive ideas in the debate-- you are accusing me of making up a term that two of your colleagues who support your position have read and talked about on the microphone somewhat knowledgeably. I appreciate Senator Erdman. I appreciate Senator Clements. They are at least trying to get their heads around constitutional law, and I think they understand it fairly well. They just disagree with the policy implication we are at at the end. All right, I digress. So to get to FA25, to, to clarify, my amendment adds new language to Senator Murman's amendment. Senator Murman's amendment, as I understand it, adds a reasonable person standard, which is a common standard in legal parlance, to kind of frame the scope of inquiry potentially in an ensuing court case or some standards. My amendment strikes kind of some of the language that we've had the most debate and the most concern and the most confusion for. So rather than referencing a public forum, rather than my first suggestion of referencing a limited public forum, we are just going to strike that sentence altogether. So that on, on the sections, it will just say, oh, I've lost my bill now. It will strike the sentence that says all public-- here, let me get the language exactly right. And while I'm pulling it up, let me say I appreciate the Clerk's staff working with me on multiple floor amendments. So on page 2 and in a similar section on page 4, we are going to strike the phrase, "All school-sponsored media are deemed to be public forums." So that line is going to be stricken and it's just going to start with (2)(a) and then go to "Subject to subsection (3)." We're not going to create or at least by name create a new public forum. We're not going to imply that it is a regular public forum, a traditional public forum, a limited public forum, which is in fact a thing. We are just going to strike the term entirely. I believe Senator Morfeld views this as a friendly amendment. I intend to have us vote on it and include it in the bill. I intend to support Senator Murman and appreciate him bringing the reasonable person standard. And I stand in continued support of LB88. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good afternoon. I just was able to pull up FA25, Senator Hansen's amendment. I was wondering if Senator Hansen would yield to a question so I can kind of clarify what he wants to do here?

FOLEY: Senator Matt Hansen, would you yield, please?

M. HANSEN: Yes.

ERDMAN: Senator Hansen, OK, so your floor amendment strikes: All school-sponsored media are deemed to be a public forum on page 2, line 18, and then again on page 4 on line 10, is that correct?

M. HANSEN: Correct.

ERDMAN: So striking that, does that change that-- the statute-- the status of this bill? Is it, is it a public forum or not?

M. HANSEN: I would say it's a limited public forum.

ERDMAN: So by doing that, removal of that sentence doesn't change anything about the way the bill functions?

M. HANSEN: In my mind, no. But some people were viewing that sentence is being pretty substantive. So I-- that's why I suggested we take it out.

ERDMAN: OK. So in that-- in those two sections, right below what you have stricken, it talks about according to subsection (3) of this section, and it goes on to talk about student journalism have the right to exercise freedom of speech and, and so on. So this doesn't change any of that. So it still could be considered a public forum.

M. HANSEN: Yes.

ERDMAN: OK, so how does that help us? Striking that sentence, how does that improve the bill?

M. HANSEN: It was your argument earlier that by saying the phrase public forum we were creating a traditional public forum. And I think this would remove any doubt that we are creating a traditional public forum--

ERDMAN: OK.

M. HANSEN: --because--

ERDMAN: All right. Well, in, in your, your testimony just a minute ago, what you shared was it doesn't change it. It does not make it-- it is still a public forum, according to what you said, even if you leave that sentence out.

M. HANSEN: A limited public forum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

ERDMAN: And so I guess what I'm trying to figure out is making it a public forum is a problem for me. So how do we rectify that?

M. HANSEN: I mean, if we don't pass LB88, public newspapers are already a limited public forum.

ERDMAN: The school newspapers are already considered a public forum?

M. HANSEN: Yeah, of course.

ERDMAN: OK.

M. HANSEN: A limited public forum.

ERDMAN: Say that again.

M. HANSEN: They're a limited public forum.

ERDMAN: Oh, limited. OK. All right, thank you so much. I appreciate that.

M. HANSEN: Thank you.

ERDMAN: So as we go forward here, I'll try to get my hands around that. I did not go to law school. I didn't stay at a Holiday Inn Express and I didn't play a lawyer on TV, so I need to try to figure out where we're at on this one. But that is an issue that I think is important for us to understand that if we open this up, if it does-- if it is a public forum and we have these issues, and as Senator Murman had commented on his comments earlier about what will happen in the local schools, is they will just eliminate the newspaper rather than having all the issues that this may bring forward. And I find that to be the case in my district as well. And so what we're trying to do to help young people learn journalism may actually eliminate an opportunity for them to learn journalism at all. So I'll keep listening here to see what happens next. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Want to continue on what I was looking-- reading at before we adjourned, or we stopped for lunch and the Hazelwood standard. And one question I think I'll talk to Senator Morfeld about is does LB88 actually-- the term would be does LB88 in essence actually override or kill the Hazelwood decision? So what's the Hazelwood standard we're talking about? So before we went through the list of the Hazelwood standard, it says, we kind of got to the

bottom one that has publication by either school policy or practice been opened up as a public forum or forum for student expression, where students have been given the authority to make a-- the content decisions. And if it's a no, then it goes to the Hazelwood. Before it was a yes, remember, it goes to the Tinker standard. So the Hazelwood standard is can school officials show that they, specifically that they have a valid educational purpose for their censorship and that the censorship is not intended to silence a particular viewpoint that, that they disagree with or that is unpopular. If it's yes, then the answer is it's censorship. If it's no, then the censorship, I mean, if it's yes, the censor-- censorship is permitted. And if it's no, the censorship, censorship is not permitted. So let's run through this one more time looking at the Tinker standard. So if we begin, can the public be considered-- can the publication be considered school-sponsored and has the school lent its name and resources to the publication? If the answer is no, we go to the Tinker standard. Next, can the publication be described as a part of the school curriculum and was it created by the school to impart particular skills to students and is it supervised by a faculty member even if it is produced outside of the classroom setting? If the answer is no, we go to the Tinker standard. Finally, the question is, has the publication by either school policy or practice been opened up as a public forum or a forum for student expression where students have been given the authority to make the, the content decisions? And if it is a yes, I think that's where LB88 perhaps applies and then if it's the Tinker standard, can school officials say that their censorship is based on a reasonable forecast of material and substantial disruption of school activities or an invasion of the rights of others? Before Hazelwood, all censorship was controlled by this standard. So if that standard is yes and censorship is permitted, and if the answer is no, then the censorship is not permitted. So once again, I, I think LB88 is not, it's not necessary. Schools can already do-- can already provide students with the ability to, to write what they feel they, they need to write. They can make it, if you want to say the public forum, they can, the schools can allow that to happen. The school boards can allow that to happen. So I don't think LB88 is really necessary. I also feel that the adminis-- and I'm opposed to LB88, because I feel the administration needs to have that authority, if you will, or that opportunity, as I read from the principal earlier, what he was saying is, you know, they control everything, if you will, within that school. The people who come in, people who visit, the content of what is provided for students' educational opportunity. Every bit of what happens within that school--

FOLEY: One minute.

BOSTELMAN: --is there is some control over that by the administration. And there's rules and there's other policies that they follow by school board administration. And there's no other time that an administrator does not have that ability if there is something of harm or otherwise that a student is going to do that the administrator cannot, I'll say, have some interjection or have some cause as to whether that harm will impact the school, the student, or the faculty. And I think that's an important portion that we need to remember that there's no other place in the school today that this is allowed. The Hazelwood standard and the Tinker standard are there for a purpose. They provide that guidance, they provide that tool, if you will, for our administration,--

FOLEY: That's time.

BOSTELMAN: --our school boards, our teachers.

FOLEY: That's time.

BOSTELMAN: Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Eight senators in the speaking queue. Senator Matt Hansen, you're next.

M. HANSEN: Thank you. Colleagues, a couple of things I've been trying to get on the record kind of all afternoon. One of the concerns, I think it's a concern with the ensuing amendment, it's been-- come up a few times, is the concern about liability and the concern about being sued. And I just want to remind people, I said this in General File too, people can file lawsuits now. People can file-- we don't-- our courts are open such that if you create and are able to articulate a plausible case, you can file that lawsuit now. And I don't think this bill changes any of that, including that this bill very expressly allows schools to restrict slibel-- excuse me, libel or slander, which in my mind are the main things you would be concerned about being sued for. And that has to be a statement of fact, not of opinion, a statement of fact that is known or reasonably known to be false, that the author or speaker has to know or reasonably know to be false. It's even a higher standard if it's against an elected official or a public official. And that's something that when we talk about, you know, people writing a controversial opinion section seems to be what we're most worried about. If it's an opinion section, inherently it-- you-- it's an opinion. An opinion cannot be libel or slander because it is,

in fact, opinion. And opinion is not a statement of fact. Now, sure, could there be a muddy case or gray some waters? Sure. But that is something that we can do now. And I kind of wanted to talk about the public forums real quick. So, again, public forums are a constitutional term of art that are very commonly used in constitutional law. And there are three, four categories depending on how you frame it. But the main one is obviously a traditional public forum, so a place that invites open speech and debate. The government can have almost no restrictions of a traditional public forum. The classic example is, you know, standing, standing on the street corner giving a speech, you know, handing out fliers in the park, what have you. You are, you are doing an activity that is common, available to everybody in a position that's traditional to it. And in that, the government cannot discriminate against speakers based on their speech. So in a traditional public forum, the main benefit you get-- or the main restriction is that viewpoint discrimination is prohibited. This is in contrast with other types of forums, such as a limited public forum. And a limited type of public forum falls into a category that is also kind of sometimes called a designated public forum. And that is where you allow some groups to use a public forum, but for kind of desirable reasons, you can limit it to the types of speech-- sorry, the types of speech or the classes of speech. So one of the examples, and I think somebody has referenced it before, is that, for example, if like a public building is open to public meetings, you know, somebody can rent out a classroom, rent out a gymnasium and hold a meeting, you have to be just open to any group that has the meetings. And you could say, you know, nobody reserves it on weekdays because we're closed. But, you know, weekday evenings and, and weekends are free. That would be considered more of a limited public forum. So somebody can't walk into a school gymnasium in the midst of a school day. But if you allow, say, neighborhood groups to rent it out on Saturdays, you'd have to--

FOLEY: One minute.

M. HANSEN: --allow any group who wishes to rent it out on Saturdays. And this is additionally in contrast to the third type of forum, is what is a nonpublic forum. And a nonpublic forum is just what it sounds like, and is a place that the public is not able to access and there's not a reasonable expectation that you have public things. So one of the classic examples is kind of interagency mail. You know, the state of Nebraska does this, school districts do this, cities do this. And that's something just for government business. That is something that the public doesn't have a, a reasonable right to access or expect to access, so there's no obligation for the government allowing people

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

to send interagency mail that. All of these have an extensive history of case law and are terms that are routinely used in court cases, in legal standards by the Supreme Court. And these are all terms that exist before this debate in LB88 and are, in fact, terms that if when arguing about the First Amendment are kind of--

FOLEY: That's time, Senator.

M. HANSEN: --foundational. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Groene.

GROENE: Thank you, Mr. Senator-- Mr. President. Senator Hansen, I guess I got to learn better how to-- learn better isn't right English, but learn better how to give a compliment. I said you went to the university law school, which is rated 87th and I graduated from that college too. The bachelor's degree at the University of Nebraska is rated 133rd. So you actually-- I gave you a compliment. You went to a higher rated institution, the law college. So take it for what it is. But anyway, hopefully 40-some years ago it was rated higher than 133rd when I went through it. Gonna make it clear removing that stand in-- the FA25 makes no difference, because what remains in this bill is, each student journalist is responsible for determining the news, opinion, features, sports, and advertising contents of such student produced for a school-sponsored media. No oversight. I was-- after Senator Morfeld's introduction on the 16th of March, I took his word for it that that said supervision and then I made a comment that the Lincoln Journal Star took out of context. That they had put one person over the, over the top of the students. And because I believe the word supervision, there is no word supervision in this law, in this bill at all. There is no supervision. What it says is super-- shall not be construed to prevent a student media adviser from teaching professional standards in English and journalism to student journalists and ensuring that school-sponsored media adhere to prevailing journalists ethics standards as set forth in the society. They don't-- they can listen, but they don't have to do. The student is still can write and do whatever they want. If you look at the Kansas law, which has been quoted here in the past, here's what it says: The liberty of the press of student publications shall be protected. School employees may regulate the number, length, frequently-- frequency, distribute-- distribution and format of the students' publications. [INAUDIBLE] not be suppressed. It goes on to say: Student editors of student publications are responsible for determining the news, opinion, and advertising content of such publication. That's how a regular paper works. The word editor is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

nowhere in LB88. I believe if a judge seen that, now I know just as much as a lawyer does, because, as I've said, past lawyers who tried to say I don't know what I'm talking about, all I know about lawyers is half of them are wrong every day in the courthouse. So I got to flip a coin, I can be right too. This bill is not necessary, as Senator Bostelman said. We have Supreme Court cases. We understand a basic understanding of what the freedom of the press is and what the freedom of speech is. They don't always coincide. And this bill still, even by striking public form, still says freedom of speech. The Kansas law says freedom of the press, it reaffirms what the freedom of the press is, it sends a civics lesson to these kids that this is what the freedom of the press is. It also goes on to say that if such student editor and other students have attained the age of majority, they shall be held liable in any civil or criminal action for matters expressed in student publications to the extent of any such student editors or other students' responsibility. That teaches a civics lesson. You are responsible.

FOLEY: One minute.

GROENE: In Kansas, you are responsible. There's nothing like that in LB88. They don't-- this paper doesn't even need to have an editor because every student is on their own. It's a free-for-all. I don't think anybody's newspaper or radio station or TV station operates that way, but that's what we're going to teach these kids in the state of Nebraska. We will teach them, if you're going to have a paper, this is "shall", shall. Not you can make a choice like UNL did at The Nebraskan, The Daily Nebraskan. They made that choice on their own. If this bill was passed, it would have been a shall. You shouldn't create a public forum. This bill is not necessary, goes down the wrong road, and it grays the areas between our constitutional rights and we all know that. So I won't be voting for any amendments anymore because I'm not going to have anybody tell me, well, they will stand up--

FOLEY: That's time, Senator.

GROENE: --and say this bill is OK.

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

KOLTERMAN: Thank you, Mr. President. Senators, I rise in support of LB88, AM661 and FA25, and I also supported Senator Erdman's amendment. I wasn't going to talk on this bill, but you know what? You sit here and you listen and you listen and listen, and I've heard all the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

discussion. And I'm tired of the insults that have been hurled at our state. We just had one of our senators that graduated from UNL talk about how unappreciated our law college is. I'd like to tell you that five of our Supreme Court justices are graduate of our UNL law college, including the chief justice. I would tell you that Senator Hansen, Flood, Williams, Pansing Brooks, Briese, DeBoer, Patrick, our Clerk, are also graduates. And Senator Slama is choosing to go to UNL law school. I don't particularly like the insults that were hurled at our state, and we just saw a little backpedaling on that. Have we really gotten to the point that we have to put up-- put each other down to try and prove our point? I don't think our law school has to take a backseat to anybody or any other school in the nation. We have a wonderful state that we live in, we should be proud of our land grant institution called UNL. I would say that if you don't appreciate your degree, Senator, Senator Groene, send it back. At this state, they might just accept it. Closing, I just want to say we're talking about free speech here today. It's OK for us to stand on this floor and have all the speech we want, but we don't want to give it to 18, 19-year-olds or 17-year-olds that are being supervised. This is good legislation. Let's stick to the legislation and quit insulting each other. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Halloran.

HALLORAN: Thank you, Mr. President. And good afternoon, colleagues. I agree with Senator Kolterman, there needs to be a lot of respect shown to everybody. And I would like to, I would like to show some respect to some of the schools that this bill might affect or impact. This is not an inclusive list of high school publications, but it's 34 long. And I would, I would ask that the patrons of these schools and the school administrators pay particular attention to the potential for them to lose supervision over these publications. I'll run through the list. The SPUD, Alliance High School in Alliance; The Thunderbeat, Bellevue West Senior High School in Bellevue; The Tom Tom, Bellevue East High School in Bellevue; The Blue Streak, Bennington High School in Bennington; The Scoop, David City High School in David City; Gretna Media, Gretna High School in Gretna; The Duster, Holdrege High School in Holdrege; The Advocate, Lincoln High School in Lincoln; The Oracle, Lincoln East High School in Lincoln; The Clarion, Lincoln Southeast High School in Lincoln; Gator Galaxy, Lincoln North Star High School in Lincoln; The Northeastern, Lincoln Northeast High School in Lincoln; The Hawk, Lincoln Southwest High School in Lincoln; The Prowl, Conestoga Junior/Senior High School in Murray. I could go on, but the list is not inclusive. There's many more than that are on this list of high schools that have publications that will have to make a

decision if this law passes. A decision that may be counterproductive, may be a nasty unintended consequence. But they may, they may choose. They may, it's up to them, but they may choose to discontinue these publications rather than to deal with the potential liabilities. Now, that would be a travesty. I'm not saying that that's the intention of this legislation, but we talk about it all the time. The unintended consequences could very well be that. And how sad would that be if we shut down these publications because we are putting upon these schools potential liability that they don't currently incur. So my message to these high schools and patrons is to please pay attention to what's happening here on this bill. We want to keep your school publications in place. It's a great learning opportunity. There needs to be supervision and it shouldn't be run by the students themselves. So with that, I return the balance of my time, Mr. President.

FOLEY: Thank you, Senator Halloran. Senator Flood.

FLOOD: Thank you, Mr. President. Members, good afternoon. Quick note, very positive note, concerns our law school. Matt Williams, Senator Matt Williams found out at noon today that he was named the alumnus of the year at the University of Nebraska law school. So, yeah. Now we're going to need to see his report card. I think the university was drunk when they signed Senator Groene's degree. I'm giving him a hard time. No, I, I apprec-- I appreciate Senator Groene's comments. And, you know, one of the things that this whole conversation is about is, is about what we're talking about in journalism. And for me, and I appreciate where Senator Halloran is and where Senator Bostelman and so many of others are on school liability and the role of the school superintendent, I can't imagine that you could teach in autobody a student how to put a car back together without really getting into the pieces and putting the parts on the car. I can't imagine that you can teach a preengineering student how to be an engineer without diving into the formulas and the math and the science that goes into mechanical or chemical engineering. And one of the things about journalism is you can't teach it without free speech. And when I think about the benefit, weighing all of the challenges that have been brought up, and I, and I recognize I wouldn't want to be a school administrator today trying to navigate these waters. But what we're trying to do in journalism, and especially for students, is inspire these students to question. To question authority, to make people think about what they're doing to express themselves in a way that makes people better. It's really, if you think about it, the whole reason that we have this concept, and I'll use it, of a university, and I know we're talking about high school students here, but you can't teach journalism without teaching them to question. And you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

can't teach them how to question with these boundaries that the, the teacher and the school sponsor have. Granted, I'm not running a K-12 institution and I do in my day job run media efforts. And some of those are journalism. I think what we're trying to do here is to inspire these students to navigate the waters of our political system, to question at every corner to think and, you know what somebody said, well, what happens if you write something when you're 16 and you change your mind when you're 25? That's life. Like that's the whole purpose we go through this process. You know, like in 20 years, Senator Hunt could be like the chairwoman of the Washington County Republican Party. We don't know. It's too early. She's been there. She's been there. But I, I, I say I think that this is valuable and I think that our students benefit from it. I think it allows journalism teachers to teach journalism using the same standards that journalists have. Libel still applies, slander still applies. There's still a right to privacy. There's still the ability to sanction a student. There is a protection here for the teacher, which I think is absolutely phenomenal. And there's, of course, the chance that we hand a 16-year-old the keys to their brain and their future ability to think and to go places. I don't want to sound overdramatic, but I think you have the ability with this law to unlock something special in a lot of people. And yes, it comes at a cost of being uncomfortable. And certainly Senator Groene has lined out some of the liability issues that he sees. I don't see it the same way. I'm going to vote for the bill.

FOLEY: One minute.

FLOOD: Thank you, Mr. President.

FOLEY: Thank you, Senator Flood. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. Coming up after these last several speakers on the microphone, we've had Senator Hansen, Senator Halloran and Senator Flood, it reminds me of a Blazing Saddles quote. And I'm not going to say that because it has words in there that shouldn't be said, but it's when Taggart is listening to Hedley Lamarr, and Lamarr just gets done saying, "My mind is a raging torrent flooded with rivulets of thought cascading into a waterfall of creative alternatives." And then Taggart gives a comment. It's a flattering comment. But that's what fine speaking does, it makes you think. And I appreciate those senators who have gotten up on the microphone and have spoke. Senator Flood said we need to challenge these students and this bill will help. We have had newspapers in this country since the beginning of time, well, since the beginning of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

country anyway. We didn't have this bill then. We've had journalism students who have graduated and have gone on to college and become journalism majors and they have gone to work for the newspapers. They didn't have this bill, they had people watching over them. They had somebody telling them the right ways and the wrong ways to do things. Now, Senator Halloran pointed out several of the high school papers across the state. The Echo was mine. And the log was our yearbook. It just takes one mistake, one dreaded mistake, as we have seen in this country in the last year. One mistake to ruin things. One mistake, only one student writing something and getting it published, to have the parents respond, to have that school take down that newspaper forever. And then what do those journalism students have after that? One mistake. The journalism students can still be in class, they can still learn, they can still go to their social media pages and publish anything that they want, as we have seen. Matter of fact, they do it and they're sitting next to each other just to get a rise out of the person next to them. We have media now that has gone rampant. Without controls. We need to look at what that has done and then think, is this what our school papers are going to do? I know if my son was on a school paper and he was publishing some of the things, not that he has published, because through high school we kept a pretty good rein on them. But if they were to publish things, that shouldn't have been done--

FOLEY: One minute.

LOWE: --thank you, Lieutenant Governor-- we would have come out of our skins and we would have gone to the school paper, to the administrator, to the, to the publisher, to the school board, and voiced our opinion for what was published. One mistake and our school newspapers and our yearbooks will begin leaving. Do we want to cause that? I don't think so. I'm not in favor of LB88. I appreciate everybody who has spoken on this bill today. Thank you, Lieutenant Governor.

FOLEY: Thank you, Senator Lowe. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I'll keep responding to some of these things. Hopefully people are still listening. So first off, the doomsday scenarios that Senator Lowe just pointed out, yearbooks leaving, school newspapers shutting down, none of that's happened in any of the other states that have passed this. So sure, I guess we could all get hit by an asteroid tomorrow and not have to worry about any of this, but we can talk about hypotheticals all day. But the bottom line is in the states that have done this, states that

are surrounding us, newspapers haven't shut down, yearbooks haven't gone away. There's still been supervision and there still will be supervision under my bill. I think it's also important to note that a lot of senators have brought up that this is going to expose the schools to a ton of liability, that they're going to get sued for libel and slander. Well, if that's your concern, then go over to Revised Statutes Section 13-910, the Political Subdivisions Tort Claims Act and go down to Section 7. Any claim arising out of an assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, none of those apply. So right now, and even after my bill is passed, a school cannot be sued for libel or slander on them. So don't worry about the, the liability. They current, they currently can't be sued for it. Colleagues, the bottom line is, is that this legislation makes it so that young people in our state can exercise their constitutional rights with guardrails when a government institution or government actor is involved. And that's the way that we should be dealing with government at any level when it comes to free speech, we should allow people to be able to express themselves and not have the government unnecessarily impede their right. And Senator Groene is right, not all rights are absolute. That's one of the things that we teach in law school or in constitutional law right away, is none of your rights-- all of those rights that you see in the Bill of Rights, they are not absolute. But the state can provide greater protections for them. The state can provide greater protections for our constitutional rights, and that's what we're talking about here. And it's important that our youngest Nebraskans understand both the power and the consequences of the First Amendment with supervision. Again, principals and administrators will still be able to supervise these publications. They can still stop publication if it violates any of the exceptions. We can pretend like they no longer supervise them, but that's not the truth. That's not-- if you read the plain language of the bill, that's just not factually correct. And I'll tell you that I looked at schools all over the country after I got done graduating from UNL, or as I was getting closer and looking at law schools, and the University of Nebraska College of Law was one of the best. I went to other states and I kept going back to the fact that the University of Nebraska College of Law has the same caliber of professors, has in many cases better resources, better facilities than a lot of the other law schools. And I got a pretty politically diverse education there. I took probably about four or five courses--

FOLEY: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

MORFELD: --focused on con law, and one of those were constitutional law sem-- seminar taught by Professor Robert [SIC] Duncan, a well-known conservative professor. And we had a lot of fun debates in class, and I learned a lot from him. So I won't get into the, the alumni, you know, college debate on, on whether or not you should be able to talk about constitutional law, depending on which school you went to. But the bottom line is, is that these are basic constitutional principles that, Senator Hansen, we're talking about and we're trying to answer those questions and alleviate those concerns based on the constructs of the constitution and reality. And colleagues, I remain more than happy to work with any of you to improve the bill and to get it onto the Final Reading. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Clements.

CLEMENTS: Thank you, Mr. President. There was a comment made, I think Senator Matt Hansen, that said the school is already a limited public forum. And if it's already a limited public forum, I'm not sure why we need the extra language in this bill. And I'd rather just leave it the way things are. The bill still contains the, the phrase "freedom of speech" for the student and doesn't have enough supervision, in my opinion. And there are some other provisions that are still a problem for me. I also want to stand up as a proud University of Nebraska-Lincoln graduate. But I was a math major, not a law school student. And I'm obviously not a public speaker. Numbers are my friends, words are a little more difficult. But my father and my brother are also UNL law school graduates and I'm proud of them. My grandfather, my grandfather studied on his own to be a lawyer. He never went to the university or any college, but he passed the bar exam on his own without attending college. He was just a high school graduate attorney. So sometimes that does give me the right to make lawyer jokes. But I still try to do it with respect. But I still do want some more school oversight. And that, I believe, is lacking in this bill. I wanted to go on to the testimony from the hearing, January 29 on LB88, from a woman from Lincoln. She said: I'd like to thank you, Senator Lathrop, and the committee for giving me the chance to speak today. I'd also like to thank the students for speaking out. I think that's very brave of them. Anyway, I'm a K-12 educator in Nebraska. I am licensed in Nebraska. And I'm just here to speak out against-- in opposition to LB88 because I think it could lead to disruption of the classroom and the learning environment. And there are many other issues that could come from allowing young students to publish articles without the guidance and oversight from the administrators. This could not only lead to disruption of a learning

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

environment, but also lead to the bullying of others. And I know that we have had many issues with that in our classrooms. And by allowing any type of speech without oversight, it could give the possibility of weaponizing our children when they are sent to school to concentrate and learn. When I send my children and my grandchildren, I have six grandchildren in the LPS system right now, I expect that they receive guidance in their writing processes and not to worry about what is getting published. There are so many places for a student to express themselves through social media platforms such as Facebook, Instagram, Snapchat, Twitter, YouTube, Messenger and Reddit, just to name a few. The Supreme Court determined that students' freedom of speech and press must be balanced against the interests of the schools in maintaining institutional order and good learning environment. I want to keep our learning environment for Nebraska to-- students safe by voting against LB88. And I just want to thank all of you again for allowing me to speak out.

FOLEY: One minute.

CLEMENTS: Thank you for the opportunity because I haven't really done this before. I just felt compelled to do it today. So that was a Lincoln Public School educator who has students here and expressed the, the sentiments that I also have regarding needing to maintain the oversight that we have. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Senator Groene.

GROENE: Thank you. I guess it's-- Mr. President, thank you. I spoke fact. Nebraska law school by U.S. News and World Report is rated 87th. The bachelor's degree college, the regular university is rated 133rd. Facts. I expect better. I'm not a cheerleader. I played. Fact. Not for Nebraska. I went there, I got out in eight semesters, no summer school. I was only one of about 10 percent at that time of incoming freshman that did it. I worked full-time, worked my way through college, went to class about a third of the time. I'm a, I'm a good reader, as you probably know. I got well over a B average and got the heck out of there and headed for my first job. We are fourth or fifth in the nation per capita of tax support for higher education in the state of Nebraska. I expect better. Is that an insult, Senator Kolterman? That is fact. And I'm going to speak fact on this mike. I expect better. There was no insults there. If you followed the entire debate, there was innuendo that somehow some individuals had law degrees and they taught a law class that therefore their opinion on this floor was, was higher. I answered. That is debate. Senator Flood got it. That is debate. Have you ever read, Senator Kolterman, some of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

the early debates in Washington, D.C. from our founding fathers? Everything we do here is mild. Those people took stands and they took strong stands. There was duels. There was fights on the floor. That is passion for freedom, that is passion for democracy, that is passion for the constitution. I stand here with passion for the constitution. This bill muddies the waters of the difference between freedom of speech and freedom of the press. No matter how you look at it, it muddies those two rights. Some of you rural senators, I'm don't think much care about this. Your schools are so small, they don't even have a paper. All the teachers are already coaching something or a class sponsor, being a sponsor for the debate team. They don't have anybody got time to be a sponsor for the newspapers. They don't even have them. So you say, it doesn't bother me. [INAUDIBLE] bother you. Young people are going to be working for the Lee Enterprises company, the only paper in the state, basically, with the small exceptions. And we want them trained correctly, as we do lawyers coming out of the University of Nebraska law school. We want the best. Don't we want the best? We used to want that in football and that's all that cared. I can brag, I went there when they won a national championship. I guess I can hang that on the wall-- in football. This is a bad bill, this is not a necessary bill. This is a feel-good bill that does not help our children. I was going to quote Bobby Knight, and I probably will. But I will be accused of being mean to journalists if I did. But a couple of times I did quote the-- his quote to a couple of journalists when he said to a sports writer, most of us learn how to read and write and at second grade then we go on to other things. Is that an insult? Senator Kolterman, you didn't say one thing about the bill, you just said you agreed with it. But you did attack me, and that's fine.

FOLEY: One minute.

GROENE: I don't take it as an insult. You've done it before. You've done it behind my back, you've done it to my face. So I'm used to it. But let's debate it. Everything I stood up for was debating in context of this bill. And in response to other innuendo of attacks, which I didn't care, I just can give and take, but I'm not high and mighty, I'm not better than the next one. I'm never going to stand up here and lecture any of you that somehow I'm superior and I should talk down to you and tell you how to behave at the country club. This bill should not exist. And if you're proud, Senator Clements, that you went to the University of Nebraska and your family did, fine. A couple of my family members did too. But we look at education as a tool, not a plaque on the wall. We took that education, we went on and created wealth for our families. I could have went anywhere, anywhere with my grades.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FOLEY: That's time, Senator.

GROENE: Thank you.

FOLEY: Thank you, Senator Groene. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor, and good afternoon. So I, I see what Senator Murman is trying to do here, and I'll have some questions for him later. But I was wondering if Senator Hansen, Matt Hansen could yield a question or two?

FOLEY: Senator Matt Hansen, would you yield, please?

M. HANSEN: Yes.

ERDMAN: Senator Hansen, I appreciate your understanding of this. So let me ask you. In your conversation earlier, you said that anyone can sue now. And so I would assume that anyone can sue after this bill is adopted. What protection does this bill give to someone, a school district or a media adviser that they don't have now, or does it do that?

M. HANSEN: I'm sorry, I don't understand the question. I don't--

ERDMAN: OK, let me, let me-- you said anyone can sue now.

M. HANSEN: Yeah.

ERDMAN: OK, so does this bill then provide more protection for a media adviser or a school that would protect them from being sued over what they currently have?

M. HANSEN: You know, I can't answer that question definitively. I don't, I don't believe this bill is changing the liability standards--

ERDMAN: OK.

M. HANSEN: --from what they currently are.

ERDMAN: Yeah, I was, I was just curious, you know.

M. HANSEN: Yeah.

ERDMAN: Because when you, when you brought up they can be sued, and I, I, for one, know exactly what that's about. You can be sued for anything at any time, and that's the case that I've been involved with. So but I was just, I thought maybe that there was a provision in

the bill that you'd seen that would ease up some of that liability for a school or a media adviser. So I understand that. So let me ask you this question then on, on page 5, if you would look at the bill on page 5, line 2 [SIC].

M. HANSEN: OK.

ERDMAN: It talks there about-- Senator, Senator Murman's amendment says, it strikes "So incites students" and to say "Can be reasonably expected to incite students as to create a clear and present danger" (i) the commission of an unlawful act or (ii) a violation of policies for public school, high schools. So I'm making an assumption there that public high schools currently have policies in place about their media. Would you agree that that's true?

M. HANSEN: Yeah, I would agree that's usually true.

ERDMAN: So under-- if this bill is adopted, will they have to have other policies that write into the, into their policy what the bill says they can do and what they can't do?

M. HANSEN: If their policies contradict the bill, they should update them. But if the policies don't contradict the bill, they wouldn't necessarily have to.

ERDMAN: OK, so if they had no policies at all, would they have to write a policy?

M. HANSEN: Not that I'm aware of.

ERDMAN: OK. All right. Yeah, that, that helps me. Thank you. Senator Murman, would you yield to a question?

FOLEY: Senator Murman, would you yield, please?

MURMAN: Yes.

ERDMAN: Senator Murman, your, your amendment says, can be reasonably expected to incite, incite students to create a clear and present danger. So you struck "So incites students", what was your, what's the reason for making that change?

MURMAN: Well, the reason I struck "So incites students" is because to have that be effective, it would have to be after the fact. And, and then when I insert "Can be reasonably expected to incite students" that you can determine that before something happens.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

ERDMAN: OK, so would you say that that's a higher standard?

FOLEY: One minute.

MURMAN: Let's see, I've got to think about that a minute.

ERDMAN: OK. One of the--

MURMAN: Yes, I would say that's a higher standard.

ERDMAN: Yeah, the current, the current says "So incites", that means they've done something. And the other one says it "Can be reasonably expected to incite." So I, I think that is, it is a higher standard. I believe that's a-- I think it's a good amendment, I appreciate you bringing that. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Erdman. Senator Albrecht.

ALBRECHT: Thank you, President Foley. Colleagues, again, I rise when I have an issue with a bill and I'm struggling with it. I do call back home to my district. And on this particular one, I just want to kind of give you a general overview of the discussions. I asked my staff to contact my superintendents, several of them, and I'd just like to let you hear how they're feeling about this. I was perplexed that they weren't calling in in favor or not of this bill, so I called them. So again, I asked my staff to contact my, some of my superintendents in District 17 about LB88 and found it interesting to hear their perspectives. I know these gentlemen. And like I already knew, they reminded me of how much they love kids. But they gave me a perspective about LB88 that I think is important. As school superintendent, whenever there is a sticking point surrounding the school, when an issue comes up that is questionable, it is part of the school superintendent's responsibility to be-- to bring clarity and closure to that issue. From snow removal to food served in the cafeteria to athletic schedules in the midst of COVID, there is not a realm within the school system or the student body that the school leadership is not ultimately responsible for. What happens when we give the authority in one area of our schools or publications to those it exists to teach? The very definition of school is an organization that provides instruction, an institution for teaching of children. Teaching does not imply a grant of ultimate authority. When teaching, there may be decisions that are allocated in order to train how to become ultimately responsible, but the grant of ultimate authority does not come simply because of a student being a student. When speaking to the superintendents, over and over they mentioned the

passion that they have to teach kids. One said, I think that you're not around-- when you're not around numerous kids every day you can begin to see all the kids that you know very well, whether that's a picture of them in a tremendously responsible way, or another extreme, where it appears that they're very rebellious and unmotivated. There's a vast array of level of maturity and discernment and talent among the students in the body. And each and every one of them are here to learn. Any instructor or administrator is going to set a student up to thrive, which absolutely includes granting them responsibility and decision-making, but not the ultimate responsibility and decision-making. Not to grant ultimate authority does not mean to oppress. To not grant ultimate authority does not mean to hold back. It simply means if a situation arises and the dynamics that are controversial, the human beings with the greatest wisdom and discernment ultimately weigh in for the sake of the student and the community. Every student in the school, club, team that represents the entire student body wherever they go, an athlete, a musician, a speech competitor, if you're in the FBLA, a member of the FFA. That is what means to attend school. A school is not a platform. School districts work hard to determine their school's colors, goals, policies, mascots, and anthems. Leaders say it is good for kids to have the right to make important decisions and that we should work with them. But ultimately--

FOLEY: One minute.

ALBRECHT: --the district is, is well and responsible. We work hard to help our kids grow into understanding responsibility and grant it every opportunity that we get. If there's a situation created where students know those who are trying to teach them, the hands are tied and the learning stops. A learning environment, a student does not have more authority than his teacher. Authority plays a significant role in the learning process. And I'll stop here and, and pick up on the rest of this superintendents. Thank you for the time.

FOLEY: Thank you, Senator Albrecht. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I wasn't planning to speak on this bill, but I've been listening very closely to the conversation, and like Senator Flood and many other people who have spoken up, I was, I was moved to stand up too. Colleagues, nothing bad will happen if we pass this bill. Nothing bad will happen if we pass this bill. And I'm proud to be a cosponsor and supporter of this bill. Student journalists in Nebraska are already supervised by faculty advisers, and they all take their writing and the impact of what they

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

say much more seriously than we take it here in the Legislature based on some of the things opponents to this bill have said on the record already. The bulk of this opposition that I'm hearing basically boils down to what if somebody under the age of 18 has an opinion that's a little bit spicy and shares it in the newspaper? What if a student commits a little bit of thoughtcrime? That's how you sound. That's how you sound in opposition to this bill. Nebraska students do not need the Nebraska Legislature to protect them from their thoughts. We need to tell students that we support the exchange of ideas, that we support their education and that we support the educators in Nebraska who are supervising these students already. Senator Lowe says it only takes one mistake to ruin things. We, and we, meaning lawmakers, allow all kinds of people in our society to make mistakes. And then we throw their lives away and we do nothing to help them up and we say, well, they deserved what they got because they made a mistake. So when you're saying something like it only takes one mistake to ruin things in the context of student journalism, in the context of a 16-year-old writing a spicy opinion in their public school newspaper, that's laughable compared to the things that you people throw folks' lives away for all the time through the policies that you pass. People in this body think that a child under 18 who survives incest and becomes pregnant is responsible enough to raise that whole entire child, but they're too irresponsible to write a newspaper column. These people think that children under 18 are responsible enough to go to court without an attorney representing them, but they're too irresponsible to write a newspaper column. Or they think they're responsible enough to be tried as adults and do prison time with adults, but they're too irresponsible to write a newspaper column. Opponents, this is how you sound. And this isn't the issue for you to die over. I would encourage you to turn your lights off and give up this embarrassing fight and let this move on. I'm speaking to you as a state journalism champion from Blair, Nebraska, actually. And my journalism adviser and the professor-- the teacher that we had in, in high school, his name was Bob Bair, and he had a button that he wore. And I remember verbatim exactly what it said. It said: Kudos to journalism educators who teach First Amendment principles in practice rather than as a distant theory. Like it's kind of a mouthful, but I remember this button that he wore every day. Kudos to journalism educators who teach First Amendment principles in practice rather than as a distant theory. What LB88 does is it empowers journalism educators to support their students by teaching those First Amendment principles in practice, not as a theory. And I went on to attend Dana College in Blair, Nebraska, which is no longer around--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FOLEY: One minute.

HUNT: --because the school sold to a private organization and lost its accreditation. And if Groene thinks that people in here went to a crappy college-- Senator Groene thinks people went to a crappy college, it literally doesn't matter. And it's totally in character for him to say something bombastic like that. And I'm not even sure that he really believes that. But there was another remark that he made that I do not want to go unaddressed. For Senator Groene to say that someone is a mongrel because they are of, quote, mixed lineage, unquote, is disgusting. It's racist, it's a mess. And I don't even know what mixed lineage means to him. And it's not my role to take offense on behalf of Senator Flood, who that was directed to. And Senator Flood says that he's not offended. But I want us to be aware of the kind of normalizing of racist comments like that. And, you know, Senator Clements talking about allowing any kind of speech without oversight,--

FOLEY: That's time, Senator.

HUNT: --what I can tell you is that--

FOLEY: That's time.

HUNT: --kids of today are not using racist language like that. And we are.

FOLEY: That's time, Senator.

HUNT: Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hunt. Senator Bostelman. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I appreciate Senator Morfeld's willingness to place the word "limited" in front of the words public forum, as we've been talking about before. However, I remain concerned about his insistence that LB88 does not violate the constitution. While I understand that it does not directly violate the constitution, in my opinion and in the opinion of others, LB88 would violate the holding of the United States Supreme Court when it interpreted the constitution and held that the constitution does not extend the same First Amendment rights to children in school in a school setting as it does to adults in different settings, and that schools need to be able to effectively pursue their mission by managing the educational environment and the publications being produced using its name and resources. In Hazelwood, the Supreme Court held that schools may

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

restrict what is published in student publications if the papers have not been established as public forums. The court also decided that the schools may limit the First Amendment rights of students if the speech-- student speech is inconsistent with the school's basic educational mission. I wonder if Senator Morfeld would yield to a question?

FOLEY: I think Senator Morfeld may have left the floor.

BOSTELMAN: I'll go ahead and read the question, and we spoke off the mike and we'll, we'll speak again if I can come back up.

FOLEY: Senator Morfeld is--

BOSTELMAN: Basically I'm--

FOLEY: Senator Morfeld is back on the floor. Senator Morfeld, would you yield, please?

BOSTELMAN: OK, as he walks in, I'll talk. On page 5, that's what we were talking before, lines 1 through 4 of LB88, states that speech is not protected if it in, quote, incites students to violate the policies of a public high school that could cause material and substantial disruption of the orderly operation of such schools, end quote. In Hazelwood, the United States Supreme Court said a school may limit student speech if it is inconsistent with the school's basic educational mission. That does not seem to be included in LB88. Would Senator Morfeld yield to a question?

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

BOSTELMAN: So we spoke earlier, would LB88 in essence actually override or kill the Hazelwood decision?

MORFELD: I don't want to use the term override or kill. It would provide more protection than the Hazelwood decision. So it would do that. I don't ever want to say something overrides a Supreme Court case, but I will say that it provides more protections of civil rights than that Supreme Court case.

BOSTELMAN: OK, would LB88 protect speech that would violate school policies, but that did not cause material and substantial disruption of schools operations?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

MORFELD: It could, depending on the policy and whether the policy is in line with the statute, like any of our statutes. If there's a school policy that contradicts our statutes, then the school policy, unless there's an exception for it in the statutes, would not overrule state statute, of course.

BOSTELMAN: OK, thank you, Senator Morfeld, I appreciate that. While others talk about the undoing Hazelwood by laws like LB88, the Nebraska Scholastic Press Association characterizes these laws and policies anti-Hazelwood laws and policies. The Student Press Law Center and New Voices, who advocate for laws like LB88, say efforts to pass bills like LB88 are an effort to cure, cure Hazelwood and to stop Hazelwood. So getting back to Hazelwood. The Hazelwood, the United States Supreme Court interpreted the United States Constitution to allow for balancing a student's rights to free press with a school's obligation to protect the educational environment. Writing for the court, Justice Bryan [SIC] R. White noted that First Amendment rights of students in the public schools are automatically coexist-- coextensive with the rights of adults in other settings, end quote. Those constitutional rights--

FOLEY: One minute.

BOSTELMAN: --he argued, must be applied in light of the special characteristics of the school environment and schools do not need to tolerate student speech that is inconsistent with their basic educational mission. In examining whether the publication at issue in Hazelwood was a forum, forum for public expression, Justice White concluded that school facilities were public forums only if administrators had, by policy or practice, opened those facilities for indiscriminate use by the general public. The court showed evidence that the paper had not by policy or practice, been operating as a public forum. In the Hazelwood, the Supreme Court better respect, better respect local control by allowing school districts to make policy regarding school media in accordance with their mission and in light of their familiarity with the community standards. While nothing prevents lawmakers from passing a law or of school board members from enacting a local district policy, that--

FOLEY: That's time, Senator.

BOSTELMAN: Thank you.

FOLEY: That's time. Thank you, Senator Bostelman. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, I can't avoid standing up and raving about our fabulous law school at the University of Nebraska. This-- it's one of the most amazing institutions. I went away to school for undergraduate and came back to Nebraska to go to law school. And I can't tell you how glad that I did-- glad I am that I did. And we also had our children, our oldest, Taylor, has gone to the University of Nebraska. My husband went to the University of Nebraska. Actually, we have about 12 family members who have all graduated from the University of Nebraska. I want, I want to tell about some of the wonderful things. First off, Fiske ranked the University of Nebraska law school as one of the "best buy" law schools in 2018. They only ranked 20 schools and Nebraska was one of them. Kip-- Kiplinger has ranked the University of law school-- of Nebraska law school as the best value of public colleges in 2019. The National Jurist gave Nebraska law school the number one best value law school in the country in both 2015 and 2016. We, we are the sixth ranked law school in graduation employment. In 2018, 94 percent, they, Nebraska law had a 94 percent employment rate. Think of that, 94 percent of the students who graduated from Nebraska law got a job. That's, that puts us among the most highly ranked. UNL law has been working to bring together policymakers, students, farmers, all sorts of, of people to close the digital divide in Nebraska. The space and cyber law communications part of the University of Nebraska is one of the first-- it is the first in the nation to have been created for a doctoral program. And that law touches every satellite, the, the space and cyber law touches every satellite, every phone call, every online transaction. That's what the University of Nebraska law school is doing for us. I have, I have a complete bias towards it. Our son Taylor works in cybersecurity. The University of Nebraska law school created the program to help people at STRATCOM who are already lawyers to be able to get their doctorate in that area. But at that time, they also let the students take the classes in space and cyber law. And as a result of that, our son was able to get an internship at the Thai Embassy, which is the fourth largest embassy in the world, having weekly meetings with the ambassador every week. That's what the University of Nebraska law school can provide. He went on to get a Carnegie fellowship in space and cyber law. Again, people were blown away that this young man from Nebraska had the education and knowledge that he had through that space and cyber law program. Taylor has gone on to working now at Booz Allen in space and cyber law communications. He can't talk to us about half of what he does or he would have to kill us. But I, I am just-- I can't tell you how important this University of Nebraska law school is, how we are soaring above others. I could not be more proud of my degree or all that is going on at the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

University of Nebraska law school. And with that, I'll yield some time to Senator Pahls.

PAHLS: Thank you.

FOLEY: Senator Pahls, 1:00.

PAHLS: Thank you. You know, I've been listening to this great institution of UNL, although I do have a degree from UNL, but I'm, I'm-- I want to say, doggone it, we're not talking about Wayne State. I taught for a couple of years at Wayne State. That's a great school also. And I also taught some night classes at UNO, that's a great school also. What I'm trying to say, we do have a tremendous college-level education here in the state of Nebraska. And I know there's been some back and forth on that today. But I'm smiling here because UNL accepted me, originally from Kansas. They accepted me into their doctoral program. And I can still remember when Dr. Farley put me in my first class in one dealing with statistics, and I said, why did--

FOLEY: That's time, Senator.

PAHLS: --you do that to me?

FOLEY: That's time, sorry.

PAHLS: Thank you.

FOLEY: Senator Pahls. Thank you, Senator Pahls. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. And I, I will share, based on Senator Pahls, my mother is an alumni of Wayne State College. And we're blessed to have so many fine institutions in our state as well. I do want to say, and I have one more thing to respond, and I think we're going to run out of time. I do want to start off by apologizing to the body that so much of the debate this afternoon has been focused or in reaction to this discussion and the go-between between myself and Senator Groene. But there is just some behavior that I think needs to be challenged and this body needs to be clear that we don't stand by and don't accept. And just to walk you through, and this will be, hopefully, my last time, but Senator Groene by name told me I needed to go take a con-- law class on the constitution. I replied that I had at law school and that's why I was passionate about it. And then he told me I didn't go to a real law school. If that's not intended as an insult, I don't know what is. And if Senator Groene wants to continue to insult me and other members of this body, I hope when he's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

challenged on it, he has the courage to either admit it's an insult and stand by his words or to apologize. Moving forward, I just want to rephrase to everybody, because I don't know if I'm going to get a close when we hit the cloture motion, but FA25 strikes the line referencing public forums. And I brought this and I suggested it to Senator Morfeld based on the conversation that we'd heard, including this morning and certainly all day a couple of weeks ago on General File, that this specific language that we didn't trust what the other sections of the bill were doing because the phrase public forum was in there. And if we use the phrase public forum, it's a free-for-all. Taking it out was something that was suggested or requested or however you want to frame it by, or at least alluded to, probably is more, more appropriate, by a number of senators in multiple rounds of the debate. And I approached Senator Morfeld and he agreed that was a concession he was willing to make. It's a friendly amendment and it would hopefully nullify that argument. And if anybody who is going to oppose FA25 who had made those prior arguments, I hope you realize that that is going to share and show your prior arguments about the public forum are hollow because this is a concession we're trying to make. I understand voting down all amendments if you're opposed to a bill. I would encourage you not to do that here, because I do believe, Senator Murman's and Senator Mine's-- Senator Mine's, excuse me, Senator-- my, my amendment, Senator Hansen, M.'s amendment makes the bill better. So I would encourage you to support this. But again, my, my floor amendment simply strikes the language referencing public forum and leaves intact Senator Murman's language that puts in a reasonable person standard. I do think both of these amendments make the bill better. I think they address a lot of the conversation we've had. Hopefully, they put aside some fears about some of the unintended causes of using the language public forum by simply striking that. And with that, Mr. President, I'll yield the balance of my time to Senator Slama.

FOLEY: Thank you, Senator Matt Hansen. Senator Slama, 2:00.

SLAMA: Thank you, Mr. President. And thank you, Senator Hansen. I appreciate him yielding me time and also taking time to defend the University of Nebraska College of Law, where I am a current student. And a little bit of background on that, after my undergrad, I had a lot of options available to me for law school, and I chose the University of Nebraska College of Law to come home, be a Husker and receive a world-class legal education with the intent of practicing law here one day. And my, how it has taken me so far since then, and I'm so blessed to be a college of law student and be a Husker. So I am just very grateful for that opportunity and wanted to take a moment to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

just point out the fact that, yeah, the University of Nebraska College of Law is a way to bring the very breast-- best and brightest students in our state back home--

FOLEY: One minute.

SLAMA: --for graduate education. Thank you, Lieutenant Governor Foley.

FOLEY: Thank you, Senator Slama. Senator Friesen.

FRIESEN: Thank you, Mr. President. So I just want everybody to know that I'm a Southeast Community College graduate, diesel technology, and I still ended up here somehow. I had an interesting conversation with one of my city administrators here a couple of weeks ago. And it was kind of funny because he hasn't sent me an email lately, he hasn't called me lately. And I asked him, I said, how's come you're not talking to me and asking for things or doing things? And he goes, well, Senator, I don't know if I want to say this really, but it doesn't matter what you guys do up there, we try and figure out a way around it. Huh? Well, sometimes we try to fix things that are not broken. Sometimes we make them worse, sometimes we make them better. But most times we do a lot of talking. When we, I guess I, from the start, I've said, you know, K-12, the high schools, they need to be pulled out of this bill. I'm-- when you go to the university and onto that level, I'm willing to give you a little more free rein to do things. I've talked to a couple of my schools. Some of them don't have a newspaper, and others said if there gets to be a problem, they'll just pull the newspaper and there won't be one. So that's not helping matters when we stick our nose in somewheres where maybe we don't belong. I think schools are handling it in different ways. It depends on their administration, it depends on their instructors. They're dealing with it. And if anybody can really name me some place where we truly have a journalist who has free speech and can publish whatever he wants in the newspaper wherever he works or on TV, wherever they broadcast, we could start a, a very small list maybe. But there isn't free speech anymore or free journalism with all the censorship that happens and the cancel culture we have. Our public forums that we did have, Facebook and some of those, they censor you. It doesn't matter maybe sometimes what it is, they-- there's censorship. And they're a public forum, so to speak, although they're privately owned, but they have created themselves as a public forum. I can refer to myself as Chairman Mao for a little bit, but I, I do think we've, we've reached a new level of where we need to look at things and, and how we deal with some of these things. And for students to learn that in, in high school, to learn the limits without causing the harm that sometimes

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

can happen to them later on. And we've all seen it where somebody can say one word wrong, one-- they're, they're taken out of context one time wrong and their career can be over. We're not a very forgiving society anymore. And whenever we try to limit that speech, I think we do more damage than we do good. No matter if you're offended or not, if you just closed the door and don't let someone speak, you'll cause more harm than what I think listening to that speech and actually being able to communicate to each other and working through it. But in today's culture, we can't do that anymore. But when I look at this and I look at these young minds and they're learning, they're trying, and if they have good leadership at their school, if they have an administration that understands that, and if they have good--

FOLEY: One minute.

FRIESEN: --journalist instructors and, and their, their advisers, I think they'll get through this without this bill. I think kids can be very creative, especially that young mind. They can find ways to say things that sometimes just goes over the top of our heads. And most of us read that article and don't catch the funny little stuff they stuck in there because they're really good at what they do already. But I still think they need guidance, I think this bill is not needed and I think sometimes it may do more harm than good. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen Senator Morfeld.

MORFELD: Thank you, Mr. President. And I'm glad that I was able to go after Senator Friesen, because my bill does all the things that he is concerned about and talks about. So first off. It's no surprise that government administrators who currently have all the power are not going to be in support of a bill that limits their power and their authority to unilaterally do something. I don't think that's a surprise at all to anybody here. And it's interesting that some of the senators, not all of them, but some of the senators that are opposed to this bill are not in favor of those same administrators making decisions about their school budget, making decisions about their curriculum. But when it comes to infringing upon constitutional rights of our citizens, they're OK with that. Colleagues, this provides supervision, this requires supervision, and it actually requires that the supervisors that are supervising work in concert with institutions of higher education to ensure that there is curriculum for journalistic ethics and standards that are being taught. That's not a requirement that we currently have in statute. So if you're concerned about the state of journalism, if you're concerned about cancel

culture, if you're concerned about whether or not students have the skills to be able to go out in the world that we live in now, then you would support this bill, because what it does is it requires journalistic training. It requires that there be a student advise-- media adviser that is supervising, and it requires, particularly for high school students, that they follow a one-page code of ethics. And not only that, if an administrator finds that you're violating any of these code of ethics, they have the ability to halt publication. There's probably more guardrails in here, quite frankly, than what most free speech and student free speech advocates would like. All of the things and all the concerns that have been brought up on the floor today, not one of those concerns, quite frankly, colleagues, isn't already addressed in this bill and alleviated by the plain language of this bill. So what we have is we have a bunch of hypotheticals, we have a bunch of concerns. But upon further review, if you actually read the bill, those concerns are directly addressed in my legislation. I have not been able to find one court case where a school district has been sued over something written in the student newspaper. I'm still looking. I've had national advocates, who have much more time than me, look. They have not found it. That is not a concern. It's an interesting hypothetical, but it's not an actual concern. Colleagues, if our students and our young Nebraskans are going to be ready to go into the workforce, ready to go into our society, they must have the skills and the experiences in order to do so successfully. I urge you to consider voting for cloture. I urge you to consider voting yes on the bill. It's a good bill. It's been a bill that has been debated now for five years. It's been a bill that has been narrowed for five years and then also narrowed on this floor. And I think it's made better by the amendment that we passed earlier. And I think it will be made better by the amendments on the board now, including Senator Murman's.

FOLEY: One minute.

MORFELD: And colleagues, if you don't think that this is a problem and Senator Friesen alluded to, well, if it isn't broken, then don't fix it, then why has there been hours of testimony from not only students across the state of both political stripes, but also adults across the state who have seen their students unnecessarily censored? And we're not talking about provocative or in the words of Senator Hunt, even "spicy" articles. If you actually read the articles that were censored, there's the stuff that ran in the Journal Star today, the World-Herald. The World-Herald editorial has been way more spicy than any of the editorials that I've seen that were censored that the students brought to us. This is an important bill. If we are going to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

support young Nebraskans getting the skills necessary to be good citizens, to be good stewards of our democracy, then we will pass this bill. We will show that we, the government, will not--

FOLEY: That's time.

MORFELD: --interfere with student free speech. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Clements.

CLEMENTS: Thank you, Mr. President. I think this is the third time in a row I followed Senator Morfeld. It's a little intimidating, but I'll go after it again anyway. I was-- wanted to refer to page 5, item (4), A student journalist shall not be disciplined for acting in accordance with subsect-- subsection (2). This "shall not be disciplined" is a little too far for me, that regarding school disciplinary action towards students, I think it is too limited, that, that subsection (2) doesn't have enough limits, in my opinion, for objectionable content. I think it's too broad and open to abuse, especially by disgruntled students. I'm concerned about a student who gets disciplined for bad behavior, violating school policy, and he complains in school-sponsored media about it. If the behavior was against school policy, I think the school should be able to censor it. But I'm not sure that this "shall not be disciplined" language would allow that. Then also on page 5, section (8) at the bottom, about the administrators' ability to provide appropriate professional feedback to a student media adviser. Well, it says administrators only have professional feedback to the media adviser. Feedback to the student is not mentioned as being allowed by an administrator, and editorial authority is not included in the term feedback. And so I still am not able to go along with the bill even as amended. And I would like to yield the rest of my time to Senator Bostelman.

FOLEY: Thank you, Senator Clements. Senator Bostelman, 2:45.

BOSTELMAN: Thank you, Senator Clements. So I want to finish what I was reading before. In the Hazelwood, the Supreme Court better respect to local control by allowing school districts to make policy regarding school media in accordance with their mission and in light of their familiarity with the community standards. While nothing prevents lawmakers from passing a law or school board members from enacting a local district policy, that requires schools and government officials to provide student journalists with more free speech protection than journalists, than journalists in the adult world would have, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

question remains whether we should. Is Nebraska willing to do away with established Supreme Court protection of students and the educational environment? If we value the task of public education and journalism classes in particular to prepare our children for the real adult world, how do we not teach the boundaries that apply to every journalist outside of the school walls who writes for a newspaper or magazine or broadcast for a news station? How do we not prohibit language that intimidates, language that bullies, language that is vulgar, profane or obscene? All of these seem protected under LB88. The United States Supreme Court, which is tasked with interpreting the United States Constitution, said schools should be able to ensure local standards through review and, if necessary, restraint of some student works. Under Hazelwood, school districts are free to establish publications as public forums. They can do that already.

FOLEY: One minute.

BOSTELMAN: We heard earlier about the University of Nebraska choosing that approach for The Daily Nebraskan. That is local control, as it should be, and the United States Supreme Court affirmed that in Hazelwood. In addition, since we're running-- I'll get back on the mike again. Do you know that the National Scholastic Press Association has a model code of ethics for high school journalists? There is already a code of ethics for high school journalists that exists with a National Scholastic Press Association. The Supreme Court says there's nothing more we need to do, so I still remain opposed to LB88, and I would ask that you stay opposed to LB88. I would support AM661. But with that--

FOLEY: That's time, Senator.

BOSTELMAN: --remember, the NSPCA--

FOLEY: That's time, Senator. Time. Thank you, Senator Bostelman. Senator Albrecht.

ALBRECHT: Thank you, President Foley. I'd like to, to stand in, again, opposition of F-- actually, I'm going to vote with FA25 and I will vote for the amendment, AM661. I will not vote for cloture and I will not support the overall bill. And again, it-- I mean, I do call back home. I want to hear what they have to say. And if, if everything seems so great that's in the bill, then I don't even know why we really need it if we're already doing a lot of these things. But I just want to continue on with my superintendent. Another one said his

bill-- this bill concerns him. He loves the kids, but I know them and their brains are not fully develop, developed enough to make the best decision in all circumstances. He believes it is not in their best interest to give them the authority that they are not ready to handle. That, in fact, it could end up being detrimental to something that they end up regretting. That this bill puts kids and schools in a very compromising position. One superintendent said that he had just shared this bill in a board meeting this week and that on the district level, their elected leadership is concerned. This bill also makes them wonder what we are saying to our teachers in Nebraska. These are people who love kids, who want to see them grow, who wake up every day to strategize how they can launch a youngster to the next level of achievement. I think about teachers I had who genuinely cared about me and wanted me to thrive. Are we really saying that we do not trust the mature adults who hold teaching administrative positions in our schools enough to have the ultimate authority in what gets published representing our schools? Or are we really saying that kids are being so oppressed in our schools that they need to be granted ultimate authority no matter what? This is ridiculous. Let's trust the leaders that we have in place enough to create an atmosphere of freedom and growth to do their jobs like they know how to do. For the few places in our country that a high schooler might have been disappointed that they could not publish something, how many times were students launched and taught in healthy ways that prepare them for the real world? A school is not a platform. School districts work hard to determine their school colors, goals, policy, mascots, and anthems. This sounds like a nice thing to do. Let's let the kids decide to spread their wings and appreciate their perspectives, I agree. It's a nice thought. But stop and think about the long-term macro impact, impact of letting them decide. We would be removing the ability for any authority to step in. We'd be making it illegal for an adult to intervene. I don't want to be part of the shifting roles with children to such a detrimental degree. Thank you for your time.

FOLEY: Thank you, Senator Albrecht. Mr. Clerk, you have a motion on the desk.

ASSISTANT CLERK: I do, Mr. President, Senator Morfeld would move to invoke cloture on LB88 pursuant to Rule 7, Section 10.

FOLEY: It's the ruling of the chair that there has been a full and fair debate afforded to LB88. Senator Morfeld, for what purpose do you rise?

MORFELD: Call of the House, roll call vote, reverse order, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FOLEY: Thank you, Senator Morfeld. 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.

ASSISTANT CLERK: 20 ayes, 3 nays to place the house under call.

FOLEY: The house is under call. All senators, please return to the Chamber and check in. The house is under call. Senator Groene, check in, please. All senators, please return to the Chamber and check in. The house is under call. Senator Linehan, check in. Senator Murman, check in, please. Senator Murman, check in, please. Senator Groene, if you could check in, please. All unexcused senators are now present, in fact, all senators are present. The immediate question is whether or not to invoke cloture. Senator Morfeld has requested a roll call vote in reverse order. Mr. Clerk.

ASSISTANT CLERK: Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator Vargas voting yes. Senator Stinner voting yes. Senator Slama voting yes. Senator Sanders voting no. Senator Pansing Brooks voting yes. Senator Pahls voting yes. Senator Murman voting no. Senator Moser voting no. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe voting no. Senator Linehan not voting. Senator Lindstrom voting no. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann voting yes. Senator Hilgers voting no. Senator Matt Hansen voting yes. Senator Ben Hansen voting no. Senator Halloran voting no. Senator Groene voting no. Senator Gragert voting yes. Senator Geist. Senator Geist voting yes. Senator Friesen voting no. Senator Flood voting yes. Senator Erdman voting no. Senator Dorn voting yes. Senator DeBoer voting yes. Senator Day voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese not voting. Senator Brewer voting no. Senator Brandt voting yes. Senator Bostelman voting no. Senator Bostar voting yes. Senator Blood voting yes. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting yes. The vote is 30 ayes, 17 nays, Mr. President.

FOLEY: The motion is not successful. I raise the call. Mr. Clerk, do you have items?

ASSISTANT CLERK: I do, Mr. President. Your committee-- your committee on Enrollment and Review reports LB380, LB383, LB384, LB385, LB386, LB386A, and LB666 as correctly engrossed. Those will be placed on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Final Reading. Additionally, Enrollment and Review reports LB271, LB527A and LB664 to Select File. LB271 having E&R amendments. Enrollment and Review also reports LB65, LB105, LB143, LB154, LB180, LB224, LB265, LB312 and LB414. Those are correctly engrossed and will be placed on Final Reading. Amendments to be printed: Senator Briese to LB408; Senator Matt Hansen, Senator Groene, Senator Murman to LB88. Notice of committee hearings from the Health and Human Services Committee. That's all I have this time, Mr. President.

FOLEY: Thank you, Mr. Clerk. We will now proceed to the next item on the agenda, General File 2021 senator priority bill. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB108, introduced by Senator McCollister is a bill for an act relating to public assistance; states its intent to change provisions relating to the federal Supplemental Nutrition Assistance Program benefits; and repeals the original section. Bill was read for January-- was read for the first time on January 7 and referred to the Health and Human Services Committee. There are no committee amendments, Mr. President. I do have other amendments.

FOLEY: Thank you, Mr. Clerk. Senator McCollister, you're recognized to open on LB108.

McCOLLISTER: Thank you, Mr. President, and colleagues. I rise today to introduce to the body my priority bill, LB108. First, I'd like to thank Speaker Hilgers for putting LB108 on the agenda today. LB108 received no opposition testimony in its hearing and was only opposed by letter by the Department of Health and Human Services, citing the department's fiscal note. Not since 1918, has our country endured such a widespread medical emergency as the coronavirus pandemic of 2020. Over 500,000 Americans and over 2,000 Nebraskans have lost their lives. Over 200,000 Cornhuskers have tested positive for the virus, and many face lingering complications. At least three of our fellow senators came down with the virus. Nebraska, among the states with modest employment losses, still encountered over 160,000 unemployment claims during the pandemic. Even as the economy returns to normal, Nebraska remains down about 30,000 jobs from the February 2020 levels. Hardworking Nebraskans who work in service industries, restaurants, retail stores, and travel-related businesses have been particularly impacted by the pandemic. Employment within food services and accommodations is still down almost 13 percent, where 11,000 jobs from prepandemic levels. Jobs within the arts, entertainment, and recreation remain down 16 percent, according to the Omaha World-Herald. Workers in these industries often work for minimum

hourly wages at two or three more jobs to make ends meet. People who receive SNAP benefits are not slackers. Eighty percent of SNAP families have at least one working adult in Nebraska. According to the VA, more than 1.4 million veterans live in poverty. Sadly, one in four veterans that served in Iraq and Afghanistan do not where their next meal is coming from. In addition, half of the children in military schools on bases across the United States are eligible for free and reduced lunches. Nearly half of SNAP families have children. SNAP benefit eligibility is determined using a household gross and net income numbers. First, a gross monthly income is calculated, and then deductions like childcare costs, medical expenses, child support, and excess shelter expenses are used to calculate a household's net income. LB108 would raise the gross income eligibility limit for receiving SNAP benefits to 165 percent of the federal poverty rate after adoption of my amendment, AM975. This bill does not change, nor are states permitted to change the 100 percent net income eligibility. Broad-based category eligibility established in 1996 set gross income eligibility limits at a minimum of 130 percent of the federal poverty limit and gives states the authority to expand this limit to a maximum of 200 percent of the federal poverty level. Now, 25 years later, Nebraska is among 20 states that have retained the original 130 percent of gross income limit. But during this quarter century, 30 states have raised gross income limit, some to 200 percent of the federal poverty level. Of nearby states, Kansas, Missouri, and South Dakota have the same 130 percent income eligibility limit as Nebraska. But Iowa and Nebraska-- and Minnesota have limits of 160 and 165 respectively. Colorado, North Dakota, and Wisconsin have a gross income eligibility limit of 200 percent of the federal poverty level. SNAP benefits are fully funded, fully funded by the federal government and as such, the only cost to the state is a 50-50 match with Uncle Sam for administrative costs. But as a part of the most recent stimulus package, the federal government is providing an additional funding to states designated to cover additional SNAP administrative costs. Nebraska will receive \$30 million-- \$3 million for additional SNAP-- SNAP administrative costs through 2023. Consequently, the legislative Fiscal Office estimates the General Fund impact for LB108 is zero through 2023 with the utilization of these funds. SNAP benefits are not only a win for recipients, but for our communities as well. The USDA projects for every dollar of SNAP benefits received, there is a \$1.70 in additional economic activity generated. Known as the multiplier effect, the fund is also funded for every \$1 billion of retail generated by SNAP, \$340 million in farm production is created and \$100 million-- \$110 million in farm activity is added. SNAP benefits allow families to spend more of their non-SNAP dollars

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

elsewhere, directly injecting more money back into our local economies. The Food Bank for the Heartland described 88-- or distributed 88 percent more meals than the average between March 2020 and February 2021. The Food Bank of Lincoln distributed 45 percent more pounds of food than the previous year. Together Inc. had a 266 percent increase in visits in 2020. And the Center for People in Need served 71 percent more households in 2020, compared with 2019. That hunger and malnutrition should persist in a land such as ours is embarrassing and intolerable, President Nixon said in a May, 1969 message to Congress. Senator Bob Dole, among others, described the food stamp program as the most important social program advance since-- since the creation of Social Security and SNAP, and it's far more effective than any other program in lifting Americans out of deep poverty. That concludes my opening, Mr. President. Should I proceed to the amendment?

FOLEY: If you'd like to proceed directly to the amendment, you may do so.

McCOLLISTER: AM975 lowers the gross income limit set in the bill at 185 to 165 percent of the federal poverty level. This is a concession that I have been willing to make from the onset of this bill because data shows that the bulk of unserved families needing access to SNAP benefits lie between the current 130, and the amendment proposed, 165 percent. It sets the rate in the middle of the band-- in the middle of the band of gross income limits among all states. This will also mean somewhat less administrative work for the department. The amendment also includes a requirement that HHS Department must submit a report to the Chair of the legislative HHS Committee and the Appropriations Committee on or before December 31, 2022 regarding the gross income eligibility limit. The department will make a recommendation to retain, increase or decrease the gross eligibility limit based on increasing or decreasing SNAP applications, the states unemployment rate or any other economic factor the department deems relevant. This speech will act as a safety valve to be certain that the gross income level is appropriate to economic conditions currently found in the state. As you consider the merits of this bill, remember that SNAP recipients are our neighbors. They work at McDonald's, Walmart, mom and pop shop on the corner, and similar places for modest wages. They are hard working-- they're hard working poor in our society and now during this pandemic, they need our help more than ever. Help me help people live better lives. And with that, colleagues, I urge your support of AM975 and LB108, because this bill will decrease food insecurity in Nebraska. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FOLEY: Thank you, Senator McCollister. Debate is now open on LB108 and the pending amendment. Five Senators in the queue. Senator Kolterman.

KOLTERMAN: Thank you, Mr. Vice President. I-- I rise in support of LB108 and AM975. Senator McCollister came to me several weeks ago and he had a handout that he wanted me to read through and I read through it and had a lot of very helpful information for me. And then today we got this passed out. Everybody should have gotten one for their own district. You know, I'm blessed. I come from a very wealthy district. The 24th District has a lot of farmland. The people there are doing very well. But when you see child hunger at a glance, 33.5 percent of the children have participated in free and reduced lunches, 16 percent of the children experience food insecurity. In my district, we have backpack programs that are sponsored by our local Kiwanis, rotaries, churches, Optimist Clubs, a lot of your not for profits. We have FoodNet. Our churches have food pantries and I'm not a Catholic, but I've attended a lot of Catholic services. And when Senator McCollister gave me this information, it reminded me of a song that I've sang a lot of times at the Catholic Church. And it goes something like, whatever you do for the least of my people, that you do unto me. So I got to thinking, what is that all about? What is that all about? It comes from Matthew, Chapter 25, and I'm going to read a little bit of that. I'd like to set the tone for this discussion. When the son of man comes in his glory and all the angels with him, he will sit it on his glorious throne. All the nations will be gathered before him and he will separate the people one from another, as a shepherd separates the sheep from the goats. He'll put the sheep on his right and the goats on his left. Then the king will say to those on his right, Come, you are blessed by my father. Take your inheritance, the Kingdom prepared for you since the creation of the world. For I was hungry and you gave me something to eat. I was thirsty and you gave me something to drink. I was a stranger and you invited me in. I needed clothes and you clothed me. I was sick and you looked after me. I was put in prison and you came to visit me. Then the righteous will answer him, Lord, when did we see you hungry and feed you or thirsty and give you something to drink? When do we see you a stranger and invite you in or needing clothes and clothe you. When did we see you sick or in prison and go to visit you. And this is-- this is what the Lord replied, truly, I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did it for me. I think we owe the people that can't afford food, that aren't as blessed as well as we are the right to have their bellies full at night when they go to bed, especially young children. You can't learn if you are-- if you're hungry all the time, you're malnourished, you're sick. This is a--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

this is a pittance. This costs our state very, very little. So with that, I'd like to thank Senator McCollister for bringing the bill. I hope we can all push our green buttons, get this across the finish line. I think someone will explain the fiscal note to us here in a little bit. But this is good legislation. This is what we're here for, to help the people in need, to help the people that can't take care of themselves. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Arch.

ARCH: Thank you, Mr. President. This bill was heard in the Health and Human Services Committee and we-- we listened intently to the bill. The bill was voted out of committee 4-3. I was one of the no votes on the bill and I-- I want to explain why. And I've had this-- I've had many conversations, Senator McCollister and I over the-- over the last several weeks on this-- on this particular issue in the bill. So my bottom line is this. We are currently in our state at a 3.1 percent unemployment rate. We are third in the nation, actually tied with Vermont for the lowest unemployment rate. What we hear anecdotally and the statistics that we see is that we are desperately in need of workers and not-- and not just-- not just workers, but workers that-- that get into the workforce, train, get a better job, move-- move up in skills. And-- and we have employers that are-- are seeking employees and not getting applicants. And so my question has been over-- over the last several weeks with regards to this is, why would we be doing this at a time of-- of really one of the lowest unemployment rates we've had in the state? We-- we-- we need-- we desperately need people. Now that being said, and I think Senator McCollister has explained it well, simply raising the gross level to 165 percent, according to his amendment, does not automatically mean that those people will qualify. So they still have to spend down to 100 percent net. So there will be people that will, I say-- I say hope that they can qualify, but not-- not meet that qualification of 100 percent net, which is a federal requirement. And getting down to that, then they may not-- they may not qualify, but expenses will be incurred in processing of those applications. It doesn't guaran-- it does not guarantee qualifications. So 26 states, I-- I know Senator McCollister quoted 20 for whatever reason, I've got-- I've got a number of 26, 26 other states have 130 percent. We have not moved this 130 percent. I don't-- we want-- we tried to go back and see if-- if there's ever been a time when we've had higher and we could not find it since 1996 when it was established. And-- and so I think that-- we-- we talked about food banks. I think the food banks are playing an essential role. It's not quite fair, apples to apples to compare because they don't prequalify for people that come in. People are in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

need of food. They come in, they-- they are able to participate in that. The other thing that he and I did have some discussion about is, is the cliff effect and-- and that's a-- that's a real issue. The cliff effect, I think-- I don't think I even need to explain it. I think we all know that in-- in benefits this is real where \$1 more and you stop-- and you stop qualifying. There's really no way to do this in the SNAP program according to federal regulations. And so all that we're doing with this is simply moving the cliff. It really doesn't-- it really doesn't transition people down or anything like that. We-- we move the cliff, so it's not-- it's not addressing that cliff effect. As a state and as private enterprise, we fund scholarships, apprenticeships, mentoring, case management. We help people get on their feet. We-- employers fund it. We have training programs. We-- we-- we really want people to get into the workforce and get those skills and move up. The last numbers that I saw today, as of today, we have and this is-- this is online advertised jobs as-- as of today. We have 61,000 jobs in the state of Nebraska that are being advertised online today.

FOLEY: One minute.

ARCH: And-- and those, the average wage for those jobs, as reported, is \$44,000 a year. We-- we have more programs and we are designing more programs to help people get into that workforce and develop those skills. My concern is that-- that raising this could disincen some. We want them into that workforce. The employers are begging for employees and so I am not in support of raising the gross level. Thank you.

FOLEY: Thank you, Senator Arch. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. To respond quickly to the points that Senator Arch made as Chair of the Health and Human Services Committee, it turns out that in Nebraska a person's need is literally not related to their employment. Just because somebody has a job in our state, just because our unemployment is low, that doesn't mean that Nebraskans have enough to get by. The minimum wage for tipped workers in Nebraska is \$2.13 an hour. And we have low unemployment in the state, but Nebraska is also first or second in the country for the number of people who hold more than one job. So people are working hard and it's not because they want two or three jobs, it's because they're earning poverty wages and they don't have enough to get by even though they're employed. So we know that poverty is high. We know that this bill will help people at no cost to the state. So Senator Arch and other opponents to this bill, particularly Senator

Murman and Senator Hansen in the Health and Human Services Committee, who voted no, I would ask you to consider your own strongly-held Christian values and do the right thing because you believe that at the end of your life, you will be judged and you're going to have to answer for votes like this. And I'm not a person of belief and so I don't have that sense of judgment in my heart. And I will do the right thing anyway and vote for this bill, because I know that it helps people. So check the values that you have and see if that is consistent because it isn't. What I want to talk about, though, is what it's like to experience the cliff effect. Five or six years ago, I was working hard in my job. I got a raise that was about \$70 a month. Super happy to get the raise. I earned it, but because I got that raise, I was no longer eligible for SNAP and I was no longer eligible for Medicaid. So because I made \$70 a month more, I lost my healthcare and I lost food assistance that amounted to, oh, like \$200 or \$300 a month that I used to feed my family. And the value of what I lost was so much greater than what I actually gained in the wage and that is what the cliff effect does. The cliff effect is what actually incentivizes people to keep their wages low and to not take those promotions or those raises, because if they get a raise of \$60 or \$70 or \$100 a month, but they lose their benefits, then they've actually lost so much more than they've gained. Another thing I wanted to talk about that I can't quite articulate, it's still kind of a-- a thought that I'm forming. But for people who are on SNAP, SNAP money is almost more valuable than, quote unquote, real money. Because if I have a \$100 on my SNAP card, I know that that \$100 is for food. That's only for food. I don't have to worry about getting food because I know I have \$100 for food, but if I have \$100 in cash, I have anxiety about that. It's a lot harder because I ask myself, OK, do I use this \$100 for food? Do I save it for rent, do I use it for my credit card debt that I'm running up so I can survive? Do I use it on expenses for my child? Do I save it so I can start building a safety net for my family? It's a little bit harder. So when you're on SNAP and you have \$100 on your EBT card and that money is only for food, it is almost a greater relief than the actual value of the \$100 of the money because it's lifting from you the guilt and anxiety of needing \$100--

FOLEY: One minute.

HUNT: --for food, honestly, because I know that if I have \$100 on my EBT card for food and then I get another \$100, or I earn a \$100 in cash to use on my family, I can cross the worry of the food off and I don't have guilt for using that \$100 to pay for something my daughter needs or pay a medical bill or pay my rent or pay off some debt. And that is how the cliff effect works. It affects people who are working

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

hard, who in more cases than not, already have more than one job. I know that Senator Arch has this obsession with job training and making sure that people can pull themselves up by their bootstraps and that they're trying to work to get ahead and we're not rewarding them for being lazy, but the need for this bill has nothing to do with how hard people work. It has nothing to do with if people have a job or not. It has to do with the high poverty rate that we have here in Nebraska and the need that we know there is for food assistance. Pandemic notwithstanding, we know that child hunger in Nebraska--

FOLEY: That's time, Senator.

HUNT: --is high.

HUNT: Thank you.

FOLEY: Thank you, Senator Hunt. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow Senators, friends all, I'm only going to speak once because I know we need to get to a vote. I stand in full support of AM975 and LB108. And I've been listening to Senator McCollister, Senator Kolterman, and others. Senator Hunt already addressed Senator Arch's comments. So this is what I want to say that I don't think has been said yet on the the mike is that we all know that SNAP benefits help low-income families, not only with their immediate food needs, but it stimulates the economy. Senator McCollister touched down on it briefly, but it's known as a primary countercyclical government assistance program. And why it's called that is because it provides assistance during economic downturn or recessions, but it also provides assistance to fewer households during economic expansion. So it acts like an automatic stabilizer to the economy. A lot of people just hear the word handout when they talk about SNAP, but it really does serve a purpose when it comes to our economy. With that said, it not only supports those households that-- with food purchasing needs, but it benefits-- but its benefits augment incomes of farmers, retailers, food processors and distributors, not to mention their employees because of the ripple effect. Now, you all know what the ripple effect is. You know that-- that fib they keep telling us about trickle down economics, right? That one's not real, but this one's real. So I want to say that every time we've debated this important issue over the years, I think of that old country song. You don't love God if you don't love your neighbor. Some of you may be aware of the game that Senator Day and I've been playing this year, where every day we assign a theme song to the day. You can see it on our social media and we started a Spotify account so you can download

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

all the songs when the session is over. But the reason that today this is my theme song is because we have a long list of Senators who speak on legislation, refer to their faith as a reason to support or oppose a bill. And I can respect that. But let me counter that with a few stanzas from the song, and I don't do this to take up time. I ask you that if you are one of those senators who base your decisions on faith, that you consider what these words mean. There are many people who will say they're Christians and they live like Christians on the Sabbath day, but come Monday morning till the coming Sunday, they will fight their neighbor all along the way. Oh, you don't love God if you don't love your neighbor. If you gossip about them, if you never have mercy, if he gets into trouble and you don't try to help them, then you don't love your neighbor and you don't love God. In the holy Bible, Senator Kolterman, in the book of Matthew, read the 18th chapel-- chapter and the 21st verse. Jesus plainly tells us that we must have mercy. There's a special warning in the 35th verse. Now, I'm not going to read you the rest of the song, but it's a nice little ditty, one of my favorites, kind of an old timey, country song, and it will be on our Spotify list and in our social media today. But the point was not to promote the fun game that we're playing over here. It's to remind you that if you are that person who is constantly standing up and referring to what you believe as a reason to oppose or support a bill, remember the words that were taught, right? You can't love God if you don't love your neighbor and when somebody's in trouble, it is your job to help them. And as policymakers, I think that takes on an either-- even greater responsibility. This is a no-brainer bill. To-- to think that it could incentivize somebody to not work--

FOLEY: One minute.

BLOOD: --is beyond my comprehension. Do you remember the expression, the working poor? How can you work if you or your family are hungry? That doesn't make sense to me. Thank you, Mr. President.

FOLEY: Thanks, Senator Blood. Senator Stinner.

STINNER: Thank you, Mr. President. Members of the Legislature, I apologize. I'm part of the three apostles back here, Matthew, Mark, and I am John, but I can't quote scripture, so I do apologize for that. The first thing that I want to point out is this is American Recovery Act funds and it's all fed funds. Now, there is a little bit of a difference between what Fiscal is saying and what, kind of a dueling fiscal note type of situation. I support what Fiscal has said simply because in the act it says that these administrative costs will

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

be covered with the fed funds. We're not allocating any General Funds to this. So as Senator Blood said, this is a no-brainer, it's fully funded, it helps people, it helps people in a really basic way, providing food. Nothing more basic than that. It extends the program, I get that. And the one thing that I think we all have to understand and we're going to be dealing with the American Recovery Act quite a little bit, there's a definite date here. It goes to September 30, 2023, and a lot of our funding may go and have a date. So when we change the law similar to what we're doing now, we're boosting that limit. We're changing the law. And it will go as a change in law forever and ever, even though after three years we're in this-- in the-- in that fiscal year, it may come to Appropriations and Appropriations as a tradition when a-- when a government federally funded program is cut back, we generally never fill it in with state General Funds. I want you to understand that. So even though this law may carry on, the General Fund might not be there. So which means we have to have some kind of determination of do we want to sunset this and make it happen? Senator McCollister has offered a look-in. But that's what I think the debate should be, is just how we handle the American Recovery Act as we start to change laws, can we change them back? Do we sunset them? Do we have look-ins, those types of things? So keep that in mind as we deal with this. It's had broad based support for this. I know the administration kind of feels like if we start down this road, it's kind of the camel's nose under the tent type of situation. You know, I think that what you have to look at is, this time frame work. Let's make a decision. We're the gatekeepers on this. If the funding is there, if the response is there, we will have information whether we need to do this on a permanent basis or not. Obviously, I won't be here to make that decision, but you will be, a lot of you. And if it's wide usage that happens, even though the unemployment is 3 percent, I think it might be wise to really take a hard look at what we're doing. Other states have. Nebraska's not followed that. We could-- we could pass it so that in September 30 we go right back to the original bill. But that's-- that's where I think the debate has to lie. This needs to get passed. It needs to provide some protection. It bridges a whole lot of people in a very basic way. It's a no-brainer as far as I'm concerned, based on the information I have today. Now, obviously, as we move forward, there seems to be changes in the law as we go, but as it relates to the American Recovery Act, but based on all of our knowledge today, this is going to be fully funded by the federal government's American Recovery Act. Let's take advantage of it. Let's take and help our fellow Nebraskans that fit into this category and then judge how we move ahead. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FOLEY: Thank you, Senator Stinner. Senator Briese.

BRIESE: Thank you, Mr. President, and good afternoon, colleagues. I was curious on the numbers here. Some numbers escaped me, I think, and I was wondering if Senator McCollister could yield to a couple of questions.

FOLEY: Senator McCollister, would you yield, please?

McCOLLISTER: Yes, I will.

BRIESE: Thank you, Senator McCollister. How many additional total dollars of food stamp benefits are we talking about, if this bill gets passed, that would be flowing to Nebraska families annually?

McCOLLISTER: Well, my rough, rough calculations, Senator Briese, are about \$15 million, \$15 million. How do I figure that? I figure every recipient on SNAP receives about \$125. Let's assume a family of four, so you're looking at \$500 per month. Multiply that \$500 times 12, once in a year, that's \$6,000. And the original fiscal note had about 3,900 families would receive these benefits. So if we drop that rate down to 165 percent of the federal poverty rate, I'm assuming that's 2,500 families would be eligible for these additional SNAP benefits. And if you multiply those numbers, you get about \$15 million. And as I said in my opening, you know, you get about one point-- a dollar point seven one per economic activity for every dollar of SNAP benefits that goes into our economy.

BRIESE: OK, thank you very much for that. And those dollars we're talking about, they're going to all be coming from the feds, correct?

McCOLLISTER: Yes, the entire amount is-- Senator Stinner indicated we received \$3 million worth of additional money from the federal government on the American Rescue Plan to cover some of the administrative costs-- cost of this-- of this program.

BRIESE: Sure. And when the Rescue Plan dollars evaporate, which they will here at some point, what will the additional administrative cost to the state be to maintain this additional implementation?

McCOLLISTER: One of the provisions of the amendment, the department will provide us a look back or at least make a recommendation on whether the rate should go back to the 130 percent or be-- continue at 165 percent, or as I indicated in my opening, we could raise it to as much as 200 percent. But all we cover is just the administrative costs. So that's a decision we'll have to make in 2022. Chairman

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Stinner is correct. We'll take a look at that-- that amount of money and look in the context of the bill of overall budget. And as I came into this Legislature, we cut a billion dollars out of the budget, so it's possible to do that. And if that were-- the occasion were to arise, I'm sure that the Appropriations Committee would take the proper action.

BRIESE: But for the time being, feds are going to cover administrative cost increases and they're going to provide us with \$15 million a year roughly.

McCOLLISTER: That's correct.

BRIESE: OK, very good. Thank-- thank you for those answers. I appreciate that. I would yield the rest of my time to Senator Slama.

FOLEY: Thank you, Senator Briese. Senator Slama, 1:40.

SLAMA: Thank you, Mr. President. And thank you, Senator Briese. I appreciate it. I rise today struggling to consider AM975, LB108. I am still listening to debate. I haven't given a final decision as to where I am, but I do have several very strong concerns on this bill that I will mention briefly. But I did just want to address Senators Hunt and Blood bringing the Christian beliefs of other members of this body into debate. It's just as ridiculous as saying that somebody in this body's atheism should dictate how she votes on a bill. As a Christian, we are encouraged to be charitable with what we earn, not charitable with the money of the taxpayers of the state of Nebraska. So I'll leave that there. I think there's a larger discussion to be had there about our leaning towards personal attacks in this body rather than actual substance. Now back to the substance of LB108 and my concerns with it. And this really doesn't eliminate the cliff effects, which I understand is a problem. It's a problem across our country. This really doesn't eliminate that cliff, it simply moves it a bit. I'm also concerned that we don't have a hard sunset of this increase in eligibility. This is being paid for through the American Recovery Act funds on the federal level, which is outstanding, but we don't have a hard sunset once these funds expire in a couple of years. And are we really going to say in this body that we'll have the intestinal-- intestinal fortitude in two years to come back and cut eligibility for SNAP?

FOLEY: That's time, Senator.

SLAMA: I-- I-- thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

FOLEY: Thank you, Senator Slama. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. We, for some reason, have begun to share the scriptures and what we're supposed to do. I shared this with Senator Kolterman. The scripture that he read is personal responsibility, that's your responsibility, it's not what the government should do. It's great to be generous with your money and that's your prerogative, but when you become generous with somebody else's money, that's different. So I haven't decided yet where to come down on this bill, but I just want to let you know that it was never the intention of what they wrote in the Bible that the government should be doing what they're doing because the church was supposed to take care of that. So don't equate what we're doing here with something being biblical. The other issue that I have is at 165 percent of the poverty level for a family of four, that's 43,200 and some dollars a year. That's pretty significant income for my district. There are going to be new people added that's going to take more people than DHHS to process. So I was wondering if Senator McCollister would yield to a question or two.

FOLEY: Senator McCollister, would you yield?

McCOLLISTER: Yes, I will.

ERDMAN: Senator McCollister, how many people do you think will be added if you go down to one-- if you move it down from 180 to 165?

McCOLLISTER: Well, the original fiscal note indicated that about 3,900 families would-- would receive additional SNAP benefits. But given the fact we reduced that down to 165 percent of the gross federal poverty rate, I would estimate something in the order of 2,500 families.

ERDMAN: OK. So then, would it be your opinion that DHHS will have to hire more staff to process those?

McCOLLISTER: Well, the original fiscal note indicated they'd have to hire nine people with two sup-- supervisors. And-- and I don't know what-- what the impact will be, but hopefully we'll find out what the impact will be if we move this bill on to Select File.

ERDMAN: How will we find that out?

McCOLLISTER: The Fiscal Office will make a new estimate on the impact.

ERDMAN: OK. All right. Thank you. Senator McCollister also made a comment about we cut a billion dollars when he was here. Let me remind

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

you how we did that. We didn't make significant cuts. We swept every cash account there was and we did-- did all kinds of creating accounting and we made a few cuts. But it wasn't like we made cuts that were necessary to get a billion dollars. So if this bill doesn't have a sunset, I will tell you right here on the floor today, and guarantee you that this bill will continue to go on with General Funds after this-- these CARES monies runs out. That's what we do here. We put a program in place and then going forward when the funds run out, then it switches over to General Funds. So if I'm going to support this bill and I'm not opposed to using one-time CARES money for doing stuff like this, but going forward, we've got to be careful that we raise the base or we can't afford to pay. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. Once we start a program, it never goes away. No matter if we're short of money, it never goes away. Scriptures were quoted today, and that does not include government giving money. That, what it does is, you give your own personal money. So if you want this to happen, dig into your checkbooks, write out a check and make it happen. Don't ask the people in Nebraska to fund this. They're funding enough already. Our taxes are too high. We hear that every day from our constituents, I'm leaving, my property tax is too high. I'm leaving, my income tax is too high. I'm leaving. And yet we want to create more spending. That's not good for our constituents, our people near our homes. If you want this program to happen, write the check. Volunteer, help these people. I do it all the time back home. We give. We give our time. We give our love. We help people, that's not government's purpose. And to do this shows how much disrespect we have for our churches, for our people, for our constituents. These people do need our help. Let's step up, each and every one of us here, let's help these people, but let's not do it through the government. Thank you, Lieutenant Governor.

FOLEY: Thank you, Senator Lowe. Senator McCollister, you're recognized to close on AM975.

McCOLLISTER: Thank you, Mr. President, and thank you, colleagues, for the discussion. I want to make a few responses to some of the comments I've heard. Senator Arch talked about the-- the fact that we want to encourage people to step up and get-- get the high paying jobs. But I'd contend that there's often a mismatch between some of the folks that work at McDonald's and Walmart and some of these sophisticated office and-- and factory jobs that might be available. We do want to encourage people to improve their capabilities, but long term, we need

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

to support those people that are-- often have trouble finding enough food. And I want to remind you that the benefit for this, particularly during the American Rescue Plan, is fully paid for by the federal government. And we've already received \$3 million to cover the extra administrative costs. And talk about a sunset. In the bill is a soft sunset. And so I think we've-- we've got that covered. I've been in this body at the time when we had to cut the budget and I am absolutely certain that the Appropriations Committee will do the right thing in 2023 when we have a new budget to-- to set up. Finally, I want to thank everybody for their comments, and I would encourage your passage of the AM975.

FOLEY: Thank you, Senator McCollister. Members, you heard the debate on AM975. The question for the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 27 ayes, 5 nays to place the house under call.

FOLEY: The house is under call. All senators please return to the Chamber and check in. The house is under call. Senator McCollister, you had 20 votes on the board, do you want accept call-in votes or did you want to proceed in some other manner? Machine vote. We've done that, Senator, we can go to a roll call if you prefer. OK, when we get the members here, we'll do a roll call. Thank you. All senators, please return to the Chamber and check in. The house is under call. Please check in. Senator McCollister, we're lacking Senator Wayne at this point. We could proceed or wait. We'll wait. Senator Wayne, please return to the Chamber and check in. All unexcused members are now present. The question before the body is the adoption of AM975. A roll call vote in reverse order has been requested. Mr Clerk.

ASSISTANT CLERK: Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator Vargas voting yes. Senator Stinner voting yes. Senator Slama voting no. Senator Sanders voting no. Senator Pansing Brooks voting yes. Senator Pahls. Senator Murman voting no. Senator Moser voting yes. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe voting no. Senator Linehan voting yes. Senator Lindstrom voting yes. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen voting yes. Senator Ben Hansen

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

not voting. Senator Halloran voting no. Senator Groene voting no. Senator Gragert voting yes. Senator Geist voting yes. Senator Friesen voting yes. Senator Flood voting yes. Senator Erdman voting no. Senator Dorn voting yes. Senator DeBoer voting yes. Senator Day voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese voting yes. Senator Brewer voting no. Senator Brandt voting yes. Senator Bostelman voting no. Senator Bostar voting yes. Senator Blood voting yes. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting yes. Vote is 34 ayes, 13 nays on adoption of the amendment.

FOLEY: AM975 is adopted. We are still under call. Actually, I'll raise the call because we do have members in the queue. Further discussion. Senator Groene.

GROENE: I stand in opposition to LB108. I heard some of what Senator Arch said. We need people in the workforce. It shouldn't be-- age shouldn't be a crutch, it should be a minimum of survival. Nothing that should abstain you completely for long-term, jobs should do that. We historically are a very low tax state. I don't resent people quoting the Bible because it needs to be quoted, but nowhere in the Bible does it say do your good works with your neighbor's tax dollars. That might lead to somebody someday saying when you tell them that you-- look what I did in your name and they might tell you they never knew you. You do your good works with your own money. And watch when you quote the Bible, because when we have another issue on the floor, somebody might quote First Romans, so don't. Don't push people on religion, do your good works with your own money if that's what you wish to do and don't brag about what you did, that's another rule. Anyway, no, this is not necessary. I don't care if it's federal money. The federal money is going to dry up. And then once it's there, it's always there. I haven't been able to research or heard, but there's not that many states that have done this. I heard somebody tell me the District of Columbia and California were at 130 percent. It works for them of the poverty level. So we should not incentivize a lifestyle, any lifestyle. We don't even incentivize being rich because we tax the heck out of them for doing that, but all I can say is we have a very low tax rate. The system works. We have a-- do have a Christian and a religious state that not only Christian faiths believe in charity, food pantries are multiple in this. Soup kitchens are multiple in this state. There is nobody lacking unless they want to lack food. It is there. The help is there. This isn't unnecessary. It's actually an insult to the good people of the state of Nebraska who do help others and do it willingly, that somehow we are letting folks down. There is food and it is available. Thank you. So this, I can't support it. It's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

a disincentive to work. It's a-- it's a disincentive to work. Thank you.

FOLEY: Thank you, Senator Groene. I see no other members in the queue. Senator McCollister, you're recognized to close on the advance of the bill.

McCOLLISTER: Thank you, Mr. President. Thanks for the conversation today. In an effort to improve the bill, I'd be happy to take any suggestions from senators as we move this bill from General to Select. Remind the body that 80 percent, 80 percent of SNAP recipients have a working adult in the family. And more than anything, they would love to improve their standard of living. And that's something that I think they would want to do. Mr. President, call of the house and once again, roll call in reverse order.

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

ASSISTANT CLERK: 21 ayes, 6 nays to go under call.

FOLEY: The house is under call. All senators please check in. The house is under call. All senators please return to the Chamber and check in. The house is under call. Senator Clements, Senator Linehan, check in please. Senator Groene, check in please. Senator Moser, check in please. Senator Linehan, check in please. All unexcused members are now present. The question for the body is the advance of LB108 to E&R Initial. A roll call vote in reverse order has been requested. Mr. Clerk.

ASSISTANT CLERK: Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator Vargas voting yes. Senator Stinner voting yes. Senator Slama voting no. Senator Sanders voting no. Senator Pansing Brooks voting yes. Senator Pahls. Senator Murman voting no. Senator Moser voting no. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe voting no. Senator Linehan voting no. Senator Lindstrom voting yes. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann voting yes. Senator Hilgers voting no. Senator Matt Hansen voting yes. Senator Ben Hansen voting no. Senator Halloran voting no. Senator Groene voting no. Senator Gragert not voting. Senator Geist voting no. Senator Friesen voting yes. Senator Flood voting yes. Senator Erdman voting no.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 14, 2021

Senator Dorn voting yes. Senator DeBoer voting yes. Senator Day voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese voting yes. Senator Brewer voting no. Senator Brandt voting yes. Senator Bostelman voting no. Senator Bostar voting yes. Senator Blood voting yes. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting yes. Vote is 29 ayes, 18 nays to advance the bill, Mr. President.

FOLEY: LB108 advances. I raise the call. Next bill, please.

ASSISTANT CLERK: Next bill, Mr. President, LB108-- LB108A, introduced by Senator McCollister, is a bill for an act relating to appropriations; appropriates funds to aid in carrying out the provisions of LB108. It was read for the first time on March 31 [SIC] of this year.

FOLEY: Senator McCollister, you're recognized to open on LB108A.

McCOLLISTER: Thank you, Mr. President. This is the A bill for LB-- this particular bill, LB108. Thank you, colleagues, for your attention this afternoon.

FOLEY: Any discussion on the A bill? I see none. Senator McCollister, you're recognized to close on the A bill. Waives closing. The question for the body is the adoption-- excuse me, the advance of LB108A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 29 ayes, 15 nays on the advancement of the bill.

FOLEY: LB108A advances. Items for the record, please.

ASSISTANT CLERK: LR96 introduced by Senator Cavanaugh. That'll be laid over. Amendments to be printed: Senator Wayne to LB156. Communication from the Governor to the Clerk, engrossed LB252 was received on April 12, 2021. This bill was signed and delivered to the Secretary of State on April 14, 2021. Signed Pete Ricketts, Governor. Name adds: Senator Williams and Senator Lindstrom, Senator Wishart, Senator McCollister to LB147; Senator Friesen to LB236; Brewer to LB454. Finally, Mr. President, priority motion, Senator Lathrop would move to adjourn the body until Thursday, April 15, 2021, at 9:00 a.m.

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