[LB139 LB147 LB181 LB183 LB190 LB197 LB210 LB216 LB254 LB261 LB279 LB325 LB475 LB522 LB550 LB579 LB650 LB709 LB918 LB952 LB982 LB1081 LB1103]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twelfth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Art Grimm from St. John's Lutheran Church, Beatrice, Nebraska, Senator Wallman's district. Please rise.

PASTOR GRIMM: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the twelfth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Record, Mr. Clerk.

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

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

CLERK: I have no corrections.

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

CLERK: Mr. President, I have a Reference report referring LB1034 through LB1109, as well as three constitutional amendments. Notice of hearings for the Transportation Committee and the Banking, Commerce and Insurance Committee, signed by their respective chairs. And a confirmation report from the Revenue Committee, signed by Senator Cornett, Chair of the committee. That's all that I have, Mr. President. (Legislative Journal pages 329-332.)

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Mr. Clerk, we will proceed to the first item under Select File, LB261. [LB261]

CLERK: LB261, Senator Nordquist, I have Enrollment and Review amendments, first of all. (ER8137, Legislative Journal page 205.) [LB261]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB261]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB261. [LB261]

PRESIDENT SHEEHY: You have heard the motion for the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB261]

CLERK: Mr. President, Senator Rogert has AM1594. Senator, I have a note you wish to withdraw AM1594 and offer as a substitute AM1612. [LB261]

SENATOR ROGERT: Yes, sir. [LB261]

PRESIDENT SHEEHY: Without objections, so ordered. [LB261]

CLERK: AM1612. (Legislative Journal pages 332-333.) [LB261]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on AM1612. [LB261]

SENATOR ROGERT: Thank you, Mr. President. Good morning, members. Returning to LB261, I do have an amendment filed to the E&R amendments that addresses many of the concerns that were brought up during the General File debate of this a couple weeks ago. There were some concerns specifically by Senators Lathrop, Council, and Senator Carlson concerning the language in Section (4). And we added a Section (5). Going through it, we clarified further who has access to such information and what they can do with it. At one point...it does now say anybody who trades, sells or shares, so it clarifies that there is absolutely nothing you can do with it outside of the collection point. And it continues to reiterate the Class IV felony provisions. Subsection (3) deals with the compliance and enforcement restrictions that law enforcement may have the ability to get that information. It also talks further in there about the certification process of the software used to control the access. And it creates a felony, saying that the programmer creating the software, if he certifies incorrectly that the software is accessible by others, he is also guilty of the Class IV felony as well. In subsection (4) it goes down to talk about the switch which provides the definition of who can collect two pieces of information or the rest of the information on the card. It mentions the fact only to collect...or only to approve a negotiable instrument are you allowed to collect more than just the age and the ID number. And then it goes on to fully explain how those processes work in terms of a check servicing company keeping that data. It also explains that that data cannot be compiled on site or accessed on site, but it has to be sent in encrypted files to the check servicing company. Section (5) reiterates the fact that those companies cannot use it for marketing and sales purposes. Again, it says you cannot trade, sell, or share that information. And I'd be happy to try and answer any questions if you had some. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the opening of

AM1612 to LB261. Member requesting to speak, Senator Coash, you're recognized. [LB261]

SENATOR COASH: Thank you, Mr. President. Good morning, members. I just had one question for Senator Rogert, if he would yield. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Coash? [LB261]

SENATOR ROGERT: Yes, sir. [LB261]

SENATOR COASH: Thank you, Senator Rogert. Senator Rogert, I've been talking to several groups who are concerned about access to the information that is scanned. And I wanted to ask you, either as amended or in the original bill, if I was uncomfortable with...you know, I go to purchase alcohol, and I didn't...I was uncomfortable with having the checker scan my license, if I can instead say, no, please don't scan me, just verify it on my license. Is that possible under this bill? [LB261]

SENATOR ROGERT: Well, this bill doesn't mandate that you do that. And that becomes the decision point of the retailer that you're purchasing from. And if you want to, I mean, this just allows them to do that. It doesn't mandate that they do that at all. It's... [LB261]

SENATOR COASH: So retailers in and of themselves can make decisions whether or not they want to do that. [LB261]

SENATOR ROGERT: Absolutely. [LB261]

SENATOR COASH: But they could say, just want to be clear, a retailer could say, no, we only verify through scanning and refuse purchase on that basis. Is that possible as well? [LB261]

SENATOR ROGERT: Yeah. Of course, they would also be verifying it on...to making sure that the driver's license, you know, the diligent work of the clerk picking it up and looking at it to make sure that it is the person holding the card on the picture. But they have that right to refuse service to anybody, absolutely. [LB261]

SENATOR COASH: Okay. Thank you, Senator Rogert, that was a question I wanted to ask. And I will yield the rest of my time back to Senator Rogert, if he has anything else to add to these amendments. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Coash. Senator Rogert waives. Senator Haar, followed by Senator Price. Senator Haar, you're recognized. [LB261]

SENATOR HAAR: Mr. President, members of the body, I have some real concerns

about using this driver's license information the way we're doing it. And I would like to start by talking about there's a document from the Homeland Security, this is January 11, 2008. And it has to do, it's called the Privacy Impact Assessment for the Final...REAL ID Final Rule. And REAL ID is the federal government working with states to put together driver's licenses in a format that they could all use. And this document from the Homeland Security brings up some issues, and it really speaks well to my concerns over sort of letting the water over the dam here. And it talks about the proposed best practices for protection to state DMVs on how to implement this...their driver's licenses. And I would like to read you some of these protections that I think really need to be in place if we go ahead with this. And it has to do not only with...I'm still concerned about having a programmer, who could be just about anybody in the world, and you're going to be getting a handout in a minute, you can go on-line and you can buy a scanner that will automatically scan all the information off of any driver's license. And any programmer could then take this and store it, be a very easy process. But going back to the Homeland Security, this is called the "Information Security Best Practices" from the Homeland Security, again dated January 11, 2008. And here are the elements they talk about: In order to develop, implement, and maintain a comprehensive information security program, each state should include in its information security program the following elements. First of all, conduct periodic assessments of risk, including the magnitude of harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of personally identifiable information and information systems that support the operation and assets of the state DMV. And I don't see anything in this bill that talks about assessment of risk or how we're going to control that risk. Second, and this again an element of best practices from the Homeland Security, develop and implement policies and procedures that are based on risk assessment. Another one, develop and implement plans to provide adequate information security for facilities, networks, or groups of information systems. And then this one in particular, develop and implement security programs that address all of the following areas: first of all, system access controls, which only allow only authorized persons. Later on they talk about conducting security and privacy awareness training for these authorized persons. They take this very seriously. Another one is to provide for computer and operations management, which implements practices to protect the personally identifiable information and ensures operational integrity. [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR HAAR: And we have simply given that out to any programmer who says that they certify the software. Third one, system development and maintenance, which develops procedures for protecting information security and privacy in coding, testing, and maintaining information systems. Physical and environmental security, which provides safeguards to protect the locations, buildings, and areas that technology equipment and information resources reside in. And I will take this up some more. But, I

guess, the point I am trying to make here, and I will go through these, because Homeland Security takes this very seriously. And, in fact, they make a recommendation that all states address privacy concerns using, for example, California, Nebraska, New Hampshire, and Texas who currently limit third-party use of the...of driver's license as a model. [LB261]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Haar. (Doctor of the day introduced.) Continuing with floor discussion of AM1612 to LB261, Senator Price, followed by Senator Krist and Senator Haar. Senator Price, you are recognized. [LB261]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Rogert yield to a question, please? [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Price? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR PRICE: Thank you, Senator Rogert. I just want to cover over in discussions we've had between General and Select here with members outside the body, the question I have is, the intent that we're trying to curb here is, one of them at least, is the sale of alcohol to underage members of our community. And I'm wondering when a sale takes place, to your understanding, where does liability end for the store? Because in my mind I see that liability exists at the transaction. But if an uncle or some third party, bad actor, whomever goes in with a valid license, runs through the process, purchases the alcohol and then gets tapped on the shoulder outside of the vendor, is that really the vendor's purview and responsibility? Do you have an opinion on that? [LB261]

SENATOR ROGERT: In my opinion, it would not be. But that's part of the reason why we're allowing the storage of the information, is so that law enforcement can...if there happens to be an issue, the law enforcement can go back and get that information and tie that sale to the person who did it. You know, there is some liability until it can be proved that a person of age purchased it before it goes to the minor. [LB261]

SENATOR PRICE: Well, thank you. And I'm glad that you brought that up, it's a great segue into my point. As I see this and I break it down into component pieces, we have alcoholic beverage going down a conveyor belt, the belt and a reader system identifies, hey, we have alcohol here, stop. At that point, and this happens currently, the sale is stopped and then right now a checker or a cashier will say, let me see your ID. And they may get a fake ID, they may not even choose to look at the ID, just say I saw it and go on. So we have a problem there with the individual in the loop. But with the new solution an ID card would be scanned. If the ID card is a valid card, the scanner won't know the difference. So that's one issue, and I brought that up before on General. But...and if the ID card is good, the sale is good. At the moment of the transaction, you have a legal

transaction, regardless of what happens once that transaction is done out in the parking lot. So the question comes to mind, when we make the appeal, that we're looking for who sold the alcohol, when did it become the grocer's legal responsibility for what happens outside of their business? So that's what concerns me. Because I would envision if an improper ID came up, you'd have a stop happen and a sale wouldn't go forward. And that the law enforcement could go into an establishment and say, the only sales that went forward were sales that were tied to a legal sale. If it wasn't tied to a legal sale, it wouldn't go forward. It's a go/no-go situation. The social issue and the social burden of the people you're tapping on the shoulder outside goes beyond the transaction at the register. And we are wrestling with that social part, I think, more so than anything else. Because if a legal sale happens in the store... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR PRICE: Thank you, Mr. President. If a legal sale happens at the register, I don't see how there could be any liability to the store. And, therefore, I don't see how this assist at that point. For the social issue I understand, but I believe we're going a little farther than warrants under the argument at the point of sale. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Krist, you're recognized. [LB261]

SENATOR KRIST: Thank you, Lieutenant Governor. I have to tell you I'm wrestling with this. And I wanted to make a couple of quick points. I voted for LB261, and I've read the amendments. And I, like many of you, have heard from your constituents. So what I have to say may be slightly off kilter, but if you listen to the content, I think you'll see where the point is. I, too, reviewed TSA's requirements. And in 1979, I gave away all my information. It's on this military ID. On the back of it is a barcode that you can tell everything about me, including whatever diseases I might have had, although I've never had any. The point is that it's encoded. The information is only available to those people who can bring it off. And I trust that this information is secure. I became a part of this Legislature and I have another ID. It tells them when I come in and out of a gate. So I'm being monitored. But I gave away this information, I understand it's being safeguarded, to a certain extent. That's my choice. This one is a contractor ID badge. It tells you everything you need to know about my current status and my flying capability and what I'm cleared to see at present time as far as security clearances go. I also gave this information away and I trust that it is being safeguarded. It also allows me in and out of places in TSA that most of you can't get to. So I have an obligation to also safeguard that information and that card. This one tells me that I can fly an airplane and I can fly you around and I can take money to fly you around, and I have to safeguard it, again, for TSA reasons. But I gave this information away and I know that and I trust that it's being safeguarded. I've talked to a lot of people in the state including Sheriff Tim

Dunning's staff, and I'm not so sure that the information that's on this card is being safeguarded. This is my operator's license in the state of Nebraska, by the way. I'm not so sure that my information that would be obtained through allowing anyone but a law enforcement officer to scan and accept and store this information is going to be safeguarded. I think we have an IT issue before we have a solution to other problems, other issues. Do I think it's a great idea, Senator Rogert? Absolutely. I think LB261 is a great idea. But I think we need to solve the IT issue, the safeguard issue. And to be honest, if I were making this decision for myself, all of those IDs, badges and information that I show you...I have shown you today, all that information has been given away. But I'm also the kind of guy who takes my hotel key card with me because I think they don't need any more information than what they have. For all those reasons and the 200-plus e-mails and phone calls that I have received from my constituents, I can't support the amendment or LB261. It's a matter of issue, of representing and voting the way my constituents are asking me to vote. For all of those personal reasons, as I have said, I could support it because I've already given away all that information, but I'm also secure in the knowledge that the information I've given away is being safeguarded. Thank you for your time. I yield the rest of my time. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Krist. Members requesting to speak on AM1612 to LB261, Senator Haar, followed by Senator Rogert and Senator Stuthman. Senator Haar, you're recognized. [LB261]

SENATOR HAAR: Mr. President, members of the body, thank you very much. I'm going to go back to the Homeland Security document where they suggest best practices for using information on driver's licenses and where they compliment and they urge other states to address the privacy concerns, limiting the use of the motor vehicle licenses, like California, Nebraska, New Hampshire, and Texas, who currently limit third-party use and quote us as a model. And, again, there are suggestions for the best practice, first of all, to...or among other things here is to conduct periodic testing and evaluation of the information. Another one is to provide training. So, Senator Rogert, I wonder if I could ask a couple of questions. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Haar? [LB261]

SENATOR ROGERT: Yes. [LB261]

SENATOR HAAR: Thank you very much. Again, I think the intent is very good because it makes life easier and maybe, in some ways, more secure for some retailers. However, do we require anywhere, following Homeland Security's suggestion, that there be training to inform personnel of the information security risks and the penalties associated with that? [LB261]

SENATOR ROGERT: I can't answer that, Senator Haar. I know that we do offer training

for...we do offer and encourage training for all clerks through the Nebraska Liquor Control Commission. [LB261]

SENATOR HAAR: Okay. So in other words, within the bill, though, or within other statute we don't require training of anyone who would use this? [LB261]

SENATOR ROGERT: Not within this bill, no. I can't speak to this other stuff. [LB261]

SENATOR HAAR: Okay. [LB261]

SENATOR ROGERT: But no, not for this. [LB261]

SENATOR HAAR: And then it also, Homeland Security recommends conducting periodic testing and evaluation of the security of the system and then remedial actions if necessary. Is there anything in the bill that would do that sort of thing, to look at...to require us to evaluate the use of this and make modifications? [LB261]

SENATOR ROGERT: No, not within the bill. [LB261]

SENATOR HAAR: Okay. Again, I would ask you to look for a moment on the printout I gave you from the Web, the one page. And this is a device, and if you go out there's also a little video connected with it, a YouTube thing connected with it that will scan any state's driver's license for $649 and give you all the information. With things like that, the only way we can do...the only security that we can provide to our citizens, I think, in connection to those is to make sure who uses those scanners legally. When I went out and looked at the video connected with this, some guy is making a hype, this can read any driver's license, not just driver's license but a lot of other ID cards, perhaps the one Senator Krist is talking about, I'm not sure. But then he goes on to list all kinds of uses for using a driver's license, because that's the example he uses. He says, for example, for merchandise return. And, in fact, I believe one major retailer at least in Nebraska was doing this until they learned it was illegal, was to scan your driver's license every time you do a return and that way they can collect information to make sure that...to see how much you've returned during the year. Well, currently that's illegal. But this guy on the YouTube is saying it's a great use. [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR HAAR: Car rentals...thank you, car rentals, hotel check-ins, and then he makes a blanket statement, he says, this is a great...the driver's license information is a great opportunity for any CRM applications, that means customer relationship management, which includes things like what do you buy and how often do you buy it and where did you buy it. And, again, this is available on-line. The only way we can prevent that use is to very, very narrowly restrict the use of driver's licenses, as I think

we have in current law. Thank you. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Rogert, you're recognized. [LB261]

SENATOR ROGERT: Thank you, Mr. President. I will speak to a couple of Senator Haar's concerns and then a couple of the others. As far as if you purchase a machine on the Internet today that scans driver's licenses and you do anything with that information, you are breaking the law. There are current retailers in the state now that are national chains that are allowed to do this in other areas, that are doing this illegally today. This makes it an enforcement issue and allows people to do it in a legal and protected way. Also, wherever you're not doing this and you're writing your information down in a book, or they're taking a photocopy of your driver's license or your check, which they can do legally, they can give any of that information away and sell it and trade it and do whatever then they want. This helps create a way where that information will be protected and kept and not sold, traded, or shared. Senator Price, I will address your issue just briefly. I think that...well, I know there's liability of any retailer right now if a minor gets ahold of one of these age-sensitive products and says, I got it out of that store. Well, the police are going to go into that store and start their investigation. With this particular bill and this amendment it will allow them to say, when was it purchased, and they can find the time and the age and the sale and say, we sold it to a person who was old enough. That helps the investigation. You go down and find out who gave it to him. If it was their uncle, that's against the law and that makes it his problem. What it does is it gets it...it helps release or confirm the nonliability of the retailer at that time. I think that's all the major concerns on the mike now, so I'll end there. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Stuthman, you're recognized. [LB261]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Rogert a couple of questions. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Stuthman? [LB261]

SENATOR ROGERT: Certainly. [LB261]

SENATOR STUTHMAN: Senator Rogert, you know, I've been very interested in this bill. But I have a couple questions. A Class IV felony, what does a person have to do to be convicted of that? Would that be to sell, trade, or share the information? [LB261]

SENATOR ROGERT: There's two provisions that will allow you to be convicted of a Class IV felony under this bill. One would be to falsely certify as a programmer to the

user that the information is going to be secure. If you tell them it's (inaudible) and then you...that's untrue, that's a felony. The other way would be is if whoever has control of that data trades, shares, or sells that data to anybody for any purpose other than enforcement or then audit purposes that are required by the government. [LB261]

SENATOR STUTHMAN: Okay, thank you, Senator Rogert. The concern that I have is the fact that if someone sells or trades or shares this information and it isn't discovered for two months that the individual has done this and then it's six months before he's ever convicted of that Class IV felony, this information that could be very detrimental to individuals possibly for a lifetime, that information has probably spread throughout the world during that six-month period of time, in my opinion. Because once it is traded or sold, there's no guarantee that the other individual is going to keep that information. And then he passes it on and someone else uses it, and it continues to mushroom and just explodes as far as that information is concerned before the first individual is convicted of that Class IV felony. That is a concern of mine. You know, I would hope that, you know, that it would be stored and kept. But like we all know, every once in awhile somebody does not abide by the law. And by the time that individual is convicted of his "misdoing," there's a lot of time, time frame there where that information could have been really put out to the general public and could be very detrimental to that individual. So with that, that is one of my concerns. And I just thought I would voice my opinion on that. And thank you, Mr. President. [LB261]

SENATOR SHEEHY: Thank you, Senator Stuthman. Those wishing to speak are Senator Haar and Senator Schilz. Senator Haar, you're recognized. This is your third time. [LB261]

SENATOR HAAR: Thank you, Mr. President, members of the body. I'd like to ask Senator Rogert some questions, if I could. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Haar? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR HAAR: Senator Rogert, do you see any need in here of defining who that programmer is? For example, using one of these scanning machines that I've shown you off the Internet, the programmer could literally be a 12-year-old working for his dad. So what would be the liability? And how do we talk about it in that situation? [LB261]

SENATOR ROGERT: Senator Haar, for the purposes of negotiating it or verifying a negotiable instrument, which would be a check surveying company, that's what this is specifically developed, written towards. The programmers at First Data are not 12-year-olds. They are employees and they will be certifying that their software is secure. So the liability lies within that programmer and also the company using the data,

which would be that check servicing company. [LB261]

SENATOR HAAR: Okay. So this particular amendment just refers to the check cashing. But going to the broader issue of using it in liquor stores and storing only certain elements, could you address my question? [LB261]

SENATOR ROGERT: It's still going to be the same way. Those folks that are using that equipment that is hooked onto their cash register, those aren't something you buy over the Internet. Those things you buy over the Internet are not legal in this state. So they're going to be using the information that they...absolutely has to be those two pieces of information if they're just using it to scan and sell. And those things are...they're not written by 12-year-olds. [LB261]

SENATOR HAAR: Okay. Well, thank you very much. I have less faith that this is going to be carried out just, you know, according to...so that only certain information can be taken off. And, I guess, my concern basically is that there are so many uses of this by merchants that it's going to be very difficult to, in the end, say which is legal and which isn't and what kind of IT is back of it and how is the information stored because none of that is really specified in here. And the other element, right now I'm not sure, and maybe...this is another question I'd like to ask Senator Rogert. What would enforcement of this look like? How would somebody go and enforce that data is being stored only in a certain way and used in a certain way? [LB261]

SENATOR ROGERT: Well, I believe enforcement is going to be done in...there are many ways. I think the Liquor Control Commission can take care of the enforcement of the data at the stores, if they realize...if they think there's a problem. In my opinion, almost all the issues, there is no need for enforcement unless you perceive a problem. If somebody writes a complaint, somebody notices that there's an issue, then it goes to the sheriff, goes to the city police, or goes to some state agency for enforcement. [LB261]

SENATOR HAAR: Okay. Thank you very much. Again, I would really think that enforcement of this, I mean, somebody is going to notice it. How do you notice if your data is being stored in a database that either lives under the counter or lives 100 miles away? I'm also, again, concerned about the programmer in this whole concept, because the programming, and the device I showed you reads all the fields off a driver's license. But then it actually shows you on this little video how you can store, and you just go in there and click and say which parts of it you can store...you want to store. So I do believe this would be legal in Nebraska. And it's how you interface with that data, how you store that data... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR HAAR: ...that really concerns me. Thank you very much. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Sullivan, you're recognized. [LB261]

SENATOR SULLIVAN: Thank you very much, Mr. President and colleagues. I'm listening intently to the debate. I voted for this on General File. But I'm...my level of comfort with the whole situation has dropped a little bit. So I wondered if Senator Rogert would yield for a couple of questions. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Sullivan? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR SULLIVAN: Thank you, Senator. And I apologize if maybe you said these things before, but sometimes we need to hear them more than once. How long is the information proposed to be collected going to be kept and stored? [LB261]

SENATOR ROGERT: In most cases 18 months at a maximum, unless it's required at a longer period of time by the Fair Credit Reporting Act or some type of federal or state audit provision. [LB261]

SENATOR SULLIVAN: So then at the end of 18 months, it will be...well, and where is it kept, where is the information stored? [LB261]

SENATOR ROGERT: Depends on which portion of the documentation you're asking about. On the first three sections where you're only allowed to keep the age and the ID number, most of that will be kept on-site or wherever their computer system is for the retailer. The rest of the...the other information in Section (4) dealing with the negotiable instrument portion, the checks, that's usually sent off and, in fact, it's actually written in here that it has to be sent off. It cannot be compiled in a local site, it has to be sent off to the check servicing company for its storage there and in encrypted form. [LB261]

SENATOR SULLIVAN: And then by law they would have to delete or destroy it in 18 months? [LB261]

SENATOR ROGERT: Yeah, unless it's required for...some of those things that move on, on that last section that go up for the check servicing companies, the Fair Credit Reporting Act requires some of those things to be kept a little longer, but most cases it's going to be dumped after 18 months or sooner. [LB261]

SENATOR SULLIVAN: I struggle with this because I feel a little uneasy anytime that information, personal data is being stored and kept. I know the hoops that we have to

jump through in our own financial institution as far as storage of personal data and how careful we are about it. And I just wonder about that retail establishment. But they are keeping a minimal amount of information, is that correct, in the retail establishment? [LB261]

SENATOR ROGERT: Yeah. And can I preface that by saying today, without this, they can photocopy your driver's license or write down any information off of your checks that you give to them and keep it for an unlimited amount of time. What we're doing is we're strengthening that provision by saying whatever they keep, they can only keep for this amount of time. [LB261]

SENATOR SULLIVAN: Thank you very much. [LB261]

SENATOR ROGERT: Yeah. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Members requesting to speak on AM1612 to LB261, we have Senator Schilz, followed by Senator Council. Senator Schilz, you're recognized. [LB261]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I...when this bill went through the first time, I looked at it and I was...I'm always concerned on issues like this because of information, where that information goes, and what it can be used for. And I think we're on the right track here. I think we understand the issues. I think we're asking the right questions. And, honestly, I'm having a tough time with this right now because I can see both sides of it all the way around. You know, the information is all there already. Of course, you know, yeah, anybody can go in and use that. Now the question is, are we changing this from being voluntary to being compulsory? And do we want to do that going forward that anybody that wants to purchase alcohol or tobacco or things such as that are now going to be required to have a license and have it scanned wherever they're using this at? So that's a question that I have. But it's not...but the big thing is because of the information being available and being out there is, how is it stored, how will it be used, and what's going on. And I think that the amendments have moved a ways, quite a ways to solve those problems. But I'm going to sit and listen a little more, but I'm becoming more comfortable with it all the time. Thank you very much. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Senator Council, you're recognized. [LB261]

SENATOR COUNCIL: Yes, thank you, Mr. President. When LB261 was open for debate, there were a number of questions raised with regard to several of the sections of the bill. There were questions raised about the section of the bill that allows retailers of alcohol, tobacco, or lottery tickets that are conditioned upon the consumer being of a

particular age and the ability to scan the age and license number or state ID number and to store and compile that. The other section has to deal with those individuals who would be allowed to scan, store, and compile more of the data that is encoded on the driver's license or the state ID. And I raised some concerns about restricting that use because it goes beyond simply age and ID number, that it provided a lot more information that if felled into the wrong hands or used for the wrong reasons could cause concerns. I appreciate Senators Haar and Krist and others who have addressed the security issue. But the security issue is being addressed in the context of the technology age that we find ourselves in presently. And in discussing this piece of legislation with Senator Rogert and others, I had to be reminded of the fact that the data on my driver's license, when I go to cash a check, in many instances the clerk writes down my driver's license number, my date of birth, my age, I don't know what else that they do, and they write it on the face of the check itself and they stick it in a drawer and I don't know what they do with it afterwards. So in some places I have actually had the clerk photocopy my driver's license. So in terms of the issue of the data and where the data is going, I'm more concerned about the current system (laugh) when it comes to negotiable instruments than a system that's tied to compliance with federal reporting requirements. And in that regard, I want to thank Senator Rogert because he listened to the concern I expressed about the storage and disposal or use of the broader information that's on the driver's license. And in the amendment, I see where my concerns with regard to that were addressed, perhaps not to the extent that technological best practices may dictate at this particular point in time. But when you consider the alternative of someone being able to obtain that information, write it on a document that there's no question that is probably more often than not unsecured. And for those of you who still bank with banking institutions who return your cancelled check to you in the mail, you know, it's exposed to being obtained during that group... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR COUNCIL: ...that certainly, you know, if there are more advanced ways to secure the data once placed into the system that deals with the Fair Credit Reporting and the negotiability of checks. And, I guess, my final note is that when...I don't know how many of us when we cash a check don't expect to be asked for that information, don't expect for it to be written down on the face of the check, and don't raise a concern about what they do with that (laugh) information after they get it. At least this amendment places some restrictions on their use and outlines penalties for failure to comply with its use. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Rogert, you're recognized to close on AM1612 to LB261. [LB261]

SENATOR ROGERT: Thank you, Mr. President. Thank you, members of the body, for the healthy discussion this morning. I believe AM1612 addresses really most of the

issues that were brought up that could be fixable, you know, in the last...in the General File debate. And I appreciate working with Senator Lathrop, Senator Council, and others in trying to figure out what we needed to do and get it all right. We actually...changes came right up until this morning. So I think we're in good shape. Regardless of whether you support the bill or not, the amendment makes it clear and more clarified and more stringent on the penalties and the provisions involved. So I ask for your yea vote on the adoption of AM1612. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the closing. The question before the body is on the adoption of AM1612 to LB261. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB261]

CLERK: 27 ayes, 6 nays, Mr. President, on the adoption of the amendment. [LB261]

PRESIDENT SHEEHY: AM1612 is adopted. [LB261]

CLERK: Senator Haar would move to amend with AM1601. (Legislative Journal page 319.) [LB261]

PRESIDENT SHEEHY: Senator Haar, you're recognized to open on AM1601. [LB261]

SENATOR HAAR: Mr. President, members of the body, I shared this amendment with Senator Rogert a few days ago, so it's not a surprise to anyone. I guess, my testimony and my amendment and so on basically comes down to this. We know that all kinds of information are available on all of us if you dig hard enough, but I don't want to make it easy. I don't want to make it easy. I was in an airport the other day and they wanted me to fill out something and they wanted my Social Security number. Obviously, I didn't give that out. But, I mean, people are...there's a lot of information out there on us, but we shouldn't make it so easy. My amendment would say that the collection of this information and the storage would have to be done in one place by the Department of Motor Vehicles to be paid for by fees. And it does two things. One, it adds security, and the other thing, we will know who's using the system because they'd have to buy into the system. Right now, for example, it's very straightforward. You can't store information by swiping a driver's license. Now if we open the floodgate, it's going to become very difficult for anybody to...first of all, to audit this process because you'd literally have to go into somebody's computer and see where that program is taking the data and so on and so forth. So I think once we allow for a few uses, we might as well just say anybody can use it for whatever purpose they want because it's going to be impossible to enforce. The argument about using, you know, Xeroxing a paper copy versus electronic, yeah, a paper copy also gives you information, but electronically it can go all over the world in seconds, literally. Electronic information is so easy to store, it's so easy to carry from one place to the next. All you have to do is put your thumb drive in, download the file and you've got the information. So, again, I think if we go ahead with this as it seems

we're going to, I think my amendment makes it more secure and it allows us to tell who is using our database information. It would also make auditing and enforcement much easier because you'd have to have some improved hardware for scanning those driver's licenses, and then you would have to be able to demonstrate that the only place that data is going is to the secure database. So, again, I would ask you, just as Homeland Security using Nebraska as an example, we know the information is available all over the place but don't make it easy to collect. And I think my amendment, AM1601, would give merchants all the access they need. It would cost them a little bit more but it would provide security for my information. Thank you very much. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Haar. (Visitors introduced.) You have heard the opening of AM1601 to LB261. Members requesting to speak are Senator Fischer, followed by Senator Rogert and Senator Howard. Senator Fischer, you're recognized. [LB261]

SENATOR FISCHER: Thank you, Mr. President and members. I stand in strong opposition to this amendment. This amendment would develop a system to establish a database. It would require the Department of Motor Vehicles to do so. It would also require the Department of Motor Vehicles to develop software for the retailers to use for this new system. I believe this is not the mission of the Department of Motor Vehicles. Their mission is to issue licenses, titles, and registration; it is not this. This amendment would cause the bill to have a tremendously high fiscal note. It is estimated that it would probably cost $700,000 to start up such a system, and then you would see approximately $300,000 a year in recurring costs. So I stand in opposition to this amendment and I hope you will vote against it. Thank you. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Rogert, you're recognized. [LB261]

SENATOR ROGERT: Thank you, Mr. President. And I appreciate Senator Haar bringing this to me a few days ago. And I discussed it with the interested parties. And Senator Fischer and I, too, stand in opposition to the amendment almost strictly because of the costs. The provisions within the amendment are...they have a good intention, but I also agree that it's probably not the DMV's mission or need to have to control this data. The initial costs plus the fee charged to folks to use the data would make it financially nonfeasible and would make the bill basically null and void as nobody would use the system if they had to pay that much to do it anyway. So I ask your red vote on AM1601. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Howard, you're recognized. [LB261]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I spoke on

this bill, I spoke against this bill on General File. And a comment that Senator Stuthman made this morning spurred me on to speak again. And I'll have to say, Senator Stuthman, you were very much correct in what you said. There certainly could be cases where your identity could be stolen from the back of this information on your driver's license and you wouldn't know it, and you wouldn't know it for years. Earlier in the summer, I discovered that my identity had been stolen when my younger daughter went to consolidate her law school loans and was using me as a cosigner and found out that my credit rating had dropped. And I was astonished and you can imagine how concerned because there wasn't any reason. I never have a lot of money but I do pay my bills promptly and on time. And I couldn't fathom how...I thought it was an error, frankly. And when we looked into it and discovered that it was a result of a credit card having been taken out in my name that I had no information about and had been used, it was a nightmare to get that cleared up. I can only tell you, you run into dead end after dead end, you run into calling numbers and never speaking to a person. It was a horrible experience that I wouldn't want repeated and I hope you don't have to deal with it. But in my district, we had convenience stores, filling stations known as Infinite Stations. And they were open when the...they were bought from the 7-Eleven's, the convenience shops, and they were purchased on small business administration loans, many, many small business administration loans, by an individual out of Chicago. And when there came to be serious, serious issues concerning liquor sales on those premises and the neighbors and my neighborhoods were really opposed to what was happening at these stations, ultimately, ultimately down the line this individual simply closed down the stations and cleared out, not to be found again. And if someone like that, who operated a convenience store, had access to the information on your driver's license, I would be very, very concerned because obviously he had no regard for all of the money that was lent to him through small business administration that will never be recovered, taking your driver's license information will be small potatoes. So I hope this information is helpful to you. I know for me once bitten, twice shy, as we say. I'm really, really cautious about my information. Thank you. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Haar, you're the only light to request to speak. Would you want to use your time or close? [LB261]

SENATOR HAAR: Well, probably both, I'll use my time and then use my closing time. [LB261]

PRESIDENT SHEEHY: Senator Haar, you're recognized. [LB261]

SENATOR HAAR: Mr. President, members of the body, I'm going to go back to the Homeland Security document and this is a direct quote from them, "In particular, to the extent practical, agencies should seek individual consent for the collection, use, dissemination, and maintenance of PII and should provide mechanisms for appropriate access, correction, and redress regarding its use." Another thing that's not provided by

LB261 that concerns me a great deal is the redress, correction and redress. If somebody makes a mistake and lets a...you know, somebody like myself who's pretty much middle class, usually has money in their checking account, and I write a bad check and it gets on that register, how do I get off that register? Yeah, 18 months is the maximum that it can be stored, but there's no other way that this bill talks about to correct data that's incorrectly used from my driver's license. People who have been on the "no fly" list have reported an absolute nightmare trying to get off of databases once they are tagged. And I feel that, again, in giving out this information, which is so easy to store, that there's got to be a better way then to get off that list, whoever's list it would be. If this is a major retailer who's keeping track of how many returns I do, or it's check cashing, or whatever, there has to be a way to get my name off of that list because I've given that list...I've given that information to the state of Nebraska. And I think we as a state owe the individual that due diligence. Again, on the question of how we enforce this which, again, Homeland Security comes up with again and again, I think we're giving it away too easily. I have not seen the financial cost of my amendment at this point. But, you know, if it's $700,000, I guess I think the privacy of the citizens of the state of Nebraska might be worth an investment which will be paid for by fees from the merchants who use it. So, I guess, with that I will do my closing. Thank you very much. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Haar. Seeing no additional lights on, Senator Haar, did you want to close? [LB261]

SENATOR HAAR: Yes, I'll just... [LB261]

PRESIDENT SHEEHY: Senator Haar waives his closing. The question before the body is on the adoption of AM1601 to LB261. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB261]

CLERK: 4 ayes, 24 nays, Mr. President, on the amendment. [LB261]

PRESIDENT SHEEHY: AM1601 is not adopted. [LB261]

CLERK: I have nothing further on the bill, Mr. President. [LB261]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB261]

SENATOR NORDQUIST: Mr. President, I move LB261 to E&R for engrossing. [LB261]

PRESIDENT SHEEHY: Senator Pankonin, you're recognized. [LB261]

SENATOR PANKONIN: I want to request a machine vote and a record vote, please. Thank you. [LB261]

PRESIDENT SHEEHY: There has been a request for a record...machine vote and a record vote. Mr. Clerk. The motion is on the advancement of LB261. Please record, Mr. Clerk. [LB261]

CLERK: (Record vote read, Legislative Journal page 334.) 31 ayes, 8 nays, Mr. President, on the advancement of LB261. [LB261]

PRESIDENT SHEEHY: LB261 advances. We will now proceed to LB522. [LB261 LB522]

CLERK: LB522, Senator, I have no amendments to the bill. [LB522]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB522]

SENATOR NORDQUIST: Mr. President, I move LB522 to E&R for engrossing. [LB522]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB522 advances. We'll now proceed to LB254. [LB522 LB254]

CLERK: LB254, Senator, does have Enrollment and Review amendments. (ER8139, Legislative Journal page 236.) [LB254]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB254]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB254. [LB254]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB254]

CLERK: I have nothing further on the bill, Senator. [LB254]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB254]

SENATOR NORDQUIST: Mr. President, I move LB254 to E&R for engrossing. [LB254]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB254 advances. We'll proceed to LB325. [LB254 LB325]

CLERK: LB325, first of all, I have E&R amendments, Senator. (ER8138, Legislative Journal page 236.) [LB325]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB325]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB325. [LB325]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. They are adopted. [LB325]

CLERK: Senator Haar would move to amend the bill, AM1592. (Legislative Journal page 321.) [LB325]

PRESIDENT SHEEHY: Senator Haar, you're recognized to open on AM1592 to LB325. [LB325]

SENATOR HAAR: Mr. President, members of the body, AM1592, I don't know, may or may not be appropriate at this point. I'd like to bring it up again some other time. But I think when people come to the polls...well, first of all, there are so many citizens out there, and I'm sure you've talked to them, don't think their vote matters. Obviously, we all disagree with that one. The other thing I think, though, is that those who do vote need to know whether their vote counts or not. And according to AM1592, it would require that those who file provisional ballots, or required to file provisional ballots would then simply get a postcard back telling them whether or not their vote counted and why or why not. Again, I think that's an important part of the process because when people come in and, again, they may not know whether their vote really counts or not, feel whether it counts or not, and then they're given a provisional ballot, I think the indication is some...you know that, well, maybe your ballot won't be counted. And that's obvious from a provisional ballot. So we need to let them know whether or not that ballot got counted and why not. If it's a change of address or whatever it is, perhaps that can be changed so that their vote will count the next election. Thank you very much. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Haar. You've heard the opening of AM1592 to LB325. Members requesting to speak are Senator Avery, followed by Senator Stuthman, Senator Lautenbaugh, and Senator Nelson. Senator Avery, you're recognized. [LB325]

SENATOR AVERY: Thank you, Mr. President, colleagues. I support the intent of this amendment, however, I would point out that it's unnecessary because currently there are two existing ways that voters who vote provisionally can determine whether their votes were counted. One is a toll-free number they can call to find out, another is by accessing a Web site. When a voter votes provisionally they are given this information, they are told how to access both systems so that they can find out whether or not their vote counted. Voters select their own PIN numbers in order to access the system so it's secure. We also know that the number of people who check to determine if their

provisional vote counted is fairly small. Still, however, the cost of sending a postcard to every person who votes provisionally would be approximately $15,000. That's according to the Secretary of State's Office. Somebody has got to pay for this and it would either be the state or the counties. It's important to remember that HAVA, Help America Vote Act, HAVA funds are about to run out. And every county has HAVA-funded voting equipment that will soon need maintenance. And that maintenance is going to be expensive. We estimate that to be about $1.5 million. This expense is going to have to be picked up somewhere. So I think this would be unnecessary and an unreasonable burden on counties. And I doubt that the state would be willing to fund it. We need to focus on what is important and that is to make sure that voters do have access to this information. We already have in place the means to do that, and that is already being funded. So this is unnecessary and too expensive. I'm sorry, Senator Haar, but that is my opinion. Thank you, Mr. President. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Stuthman, you're recognized. [LB325]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I will agree with Senator Avery and his comments there before because I really think that we're going to put an undue burden on the election commissioners in the counties. And as most of you already realize, you know, it's just not the duty of the election commissioner that that one individual has in those county courthouses. There are several duties in those smaller communities. The county clerk, also election commissioner, as we heard the other day in one of the hearings there are some county clerks that have four roles that they play in the county courthouse. But I think this is something that is not needed, in my opinion. And I think the individuals, you know, that move from one area to another area, even in the same precinct or district or from one to another one, I think in my opinion it's partially their responsibility to notify that office prior to the election and make sure that they can vote in the normal manner that the other people do. So I think it's partially up to the responsibility of the individual. And as Senator Avery has stated, you know, there are ways to find out already, you know, whether their ballot has been counted or has been rejected. So I think we're going to put another burden, another mandate on the election office as to something that they need to do and send out a postcard, type on there whether their vote was counted, whether it was rejected. I think that's just something that we're placing on these elected officials that is, in my opinion, unnecessary. So I do not support this amendment. Thank you, Mr. President. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Lautenbaugh, you're recognized. [LB325]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I'm rising in agreement with Senators Avery and Stuthman of what a difference a year

makes. I tend to speak on the election bills all the time. Some of you may not know I used to be an election commissioner, and Senator Fulton was an engineer, and Senator Janssen was a city councilman, and Senator Price was an astronaut or something, I don't recall, but...(laughter). But I believe that when we do things like this, we are in subtle ways but important ways constantly watering down the importance of citizenship, watering down the importance of being an informed voter participating in a democracy. We're cheapening this. We should be able to expect some minimum level of informed participation from the voters, some level of preparation, some level of meeting us half...not meeting us halfway because that doesn't do it. It's their responsibility and I don't have a problem saying they should take responsibility for this. The vast majority of people who get provisional ballots are people who moved and failed to reregister. That's not a harsh word, that's a factual word, failed to reregister, so it's on them to vote provisional. And if they want to know if their ballot counted, as they may, they can call the election commission now and ask. It's just that simple. And this is kind of pushing some buttons with me because it's just another thing, as I said. We may or may not hear another push this year for same-day registration because ordinary people can't be bothered to register by a deadline and we just shouldn't expect them to try because it's just too hard. I think Senator Janssen impolitely pointed out in committee that he was on a ship somewhere and managed to register and vote without fail. But it's just too hard if you're here in Nebraska to meet that deadline and register to vote in the proper way. Voting on election day, if you're here in the state, that's still too much of a burden, so now we allow early voting for any possible reason. And what happens is those dyed-in-the-wool voters that were election-day voters are now voting early. I don't think we've increased turnout one whit because of it, but yet we do it. We talk about races by mail. These are races. The word means something, they have a beginning and an end. You don't run half the Boston Marathon and then declare the winner by voting for the winner. That's not how it works. All other things being equal, the race is run and it ends on election day. And unless you're going to be out of town, I honestly believe you should go to the polls and vote. When I was in the election office and otherwise I still went out to the polling place and voted, even though I was physically there in the election office every day, I could have voted any time, running up to the election. Because it's important to let the race play out and vote at the end. Now, if there's a reason you can't, we accommodate you. We'll send you a ballot through the mail if you just ask. Just send us a note, we'll send you a ballot. And that's fine. I understand sometimes you have to be out of town. You can come in early and vote if you want to if you just can't make it there in the 12 hours that the polls are open on election day, which is the case for some people. But every time we talk about another thing we should do just to help people vote, voting is not hard in Nebraska. I don't know that it's hard anywhere, but I'm familiar with Nebraska, and it's not hard here. If there are deadlines you meet, you should meet them. If you need to file and register by a certain date, you should file. If you can show up on election day and vote, you should show up and vote. And if you have to vote provisional because of some failing on your own part,... [LB325]

PRESIDENT SHEEHY: One minute. [LB325]

SENATOR LAUTENBAUGH: ...you vote provisional. You fill out the forms, and a few weeks after the election you can call the election office and find out what happened. Your registration will be updated for the next time, chances are your ballot will have counted this time, but that's just the way it works. So I do oppose this amendment. And I would urge your support of the underlying bill. Thank you. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Members requesting to speak on AM1592, we have Senator Nelson, followed by Senator Haar and Senator Nordquist. Senator Nelson, you're recognized. [LB325]

SENATOR NELSON: Thank you, Mr. President, members of the body. I, too, rise in opposition to this amendment to my bill, LB325. I think that Senator Haar's amendment is well-intentioned, but I think we've had an exhaustive discussion already as to why it's not needed. Another reason is that this was never...it did not go through the committee hearing process. And had it done so, I think, my understanding is that N-A-C-O, NACO, the Association of County Officials, would oppose it probably for all the reasons that we've heard today. One note is that a lot of this would be alleviated if people would simply reregister when they move. And I don't know how we can put out more information to advise them that they do need to reregister if they move. That would solve some of these problems. But as Senator Lautenbaugh indicated, they often don't do that, so we have these other protective provisions. And I think we have already accounted for those. And, therefore, I would request that you vote against this amendment. Thank you, Mr. President. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Haar, you're recognized. [LB325]

SENATOR HAAR: Mr. President, members of the body, I guess one of the reasons we come to the Legislature is to learn new stuff, like I didn't know Senator Price was an astronaut. (Laughter) And I am impressed, I will get his signature as soon as this is over. But...and Senator Avery said he didn't know this until this morning either. I didn't know you could call in or the other ways of finding out if your ballot...if your provisional ballot was counted. So it is covered. I do disagree with the part of the discussion that said increasing the ease of voting is somehow cheapening or whatever of elections. I think making it...increasing the ease of voting is very American and in no way cheapens elections. I think it adds to the process. With that, I'd like to...that being said, I'd like to withdraw my amendment. [LB325]

PRESIDENT SHEEHY: AM1592 is withdrawn. [LB325]

CLERK: Senator Lathrop would move to amend the bill, AM1610. (Legislative Journal

pages 335-337.) [LB325]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on AM1610 to LB325. [LB325]

SENATOR LATHROP: Thank you, Mr. President. And, colleagues, good morning. You will recall that when LB325 was up on General File, I had some concerns about the fact that we were turning some of our regular voters into provisional voters. And since that time, we have had...since General File, we've had a meeting that included a number of people with an interest in the subject matter, Senator Lautenbaugh was there, Nelson, Avery, and Neal Erickson from the Secretary of State. And we got some information about the problems that LB325 was intended to correct. It sounds to me, although I remain a little nervous about turning regular voters into provisional voters, that the numbers of people that we're talking about are, relatively speaking, quite small. It did give me occasion to talk about a concern I have, which is whether or not all of the provisional voters are being...votes are being counted or are any of them being excluded for a technical reason. I have a little bit of background in this. The provisional votes were very important in my race, they turned it as a matter of fact. I think that was not the case with Senator Haar. It's not a Republican-Democrat thing, it's simply a process thing for me. In my race...and this is a preamble, I'm getting to my amendment, in my race there were a number of people. The process is you fill out an envelope and they stick the ballot in there. They also have you reregister. And a number of people simply put their new address and signed the registration card. They really haven't fully complied with the law, which requires that they reregister. And then to register...reregister, you have to fill out all the blanks. Well, if we followed that to the letter there would be a number of people who would be excluded for a technical reason. So AM1610, which I'm offering this morning with, I believe you'll find, the blessing of Senator Avery and Nelson, is intended to address that and one other situation. First, AM1610 inserts a new section that amends state statute 32-1002, a statute that establishes the method for counting and not counting provisional ballots, including the list of several conditions that must be met in order for the ballot to be counted. One of these conditions is that the voter must have completed a registration application prior to voting. This amendment would provide that if a voter does not accurately fill out the entire application, the ballot may still be counted in some cases. Under current law, the ballot would technically not be counted due to an error in the application or the reregistration process. The new language would allow the ballot to be counted under this circumstance if the errant or omitted information is contained elsewhere on the registration application or certification or the information is not necessary to determine the eligibility of the voter to cast a ballot. In addition, both the registration application and the certification need to be signed by the voter. This is an important, practical, common-sense suggestion from the Secretary of State. The language of this amendment comes from Mr. Erickson in the Secretary of State's Office. And it will allow for provisional ballots to not be excluded because of a technical failure to fill out all the

forms on the application if the information is available otherwise on the certification. The second part of the amendment makes a change to part of LB325 that allows for the election commissioner or the county clerks to establish a policy for poll workers who will receive a provisional ballot. Under LB325, you'll recall that the election commissioner or the county clerk can say in our district we're going to do it the old way or we're going to do it the new way. The second amendment to LB325 that's found in AM1610 basically says that if you're going to make that election, it has to apply across the county so that we are not electing to treat different people or people differently depending upon their precinct or their ward. So the two changes that are found in AM1610 are common sense. They are voter protection measures that will ensure that those who vote or are in substantial compliance with the requirements of voting provisionally have their vote counted and not excluded for a technical reason. I would encourage your support of AM1610 and, assuming that AM1610 is adopted, I would then support LB325. Thank you. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of AM1610 to LB325. Members requesting to speak: Senator Avery, followed by Senator Nelson, Senator Lautenbaugh, and Senator Wallman. Senator Avery, you're recognized. [LB325]

SENATOR AVERY: Thank you, Mr. President. This amendment, as Senator Lathrop indicated, reflects the collective agreement of the parties who raised objections to the original version of LB325. We met last week for just over an hour. We had a thorough discussion and an excellent briefing from the Secretary of State's Office about the way which provisional ballots are currently handled. We discussed ways that perhaps we could improve the handling of those ballots. And what you see before you with AM1610 is language that satisfies the parties that were at the meeting. This has passed muster with the Secretary of State's Office, passed muster with those in the meeting. It's a good amendment. And it is...it reflects the way we ought to do business in this body, and that is bringing parties together to work out differences and rather than having to do all of that on the floor. I urge you to vote to advance or to attach AM1610 to LB325 and to advance the bill to Final Reading. Thank you. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Nelson, you're recognized. [LB325]

SENATOR NELSON: Thank you, Mr. President, members of the body. I really have nothing to add except that I do want to thank Senator Lathrop for bringing his concerns on the first reading here. It was very helpful to all of us, as Senator Avery said, to get together for an hour and have a good discussion, especially get the input of the Secretary of State's Office and Mr. Neal Erickson's expertise. So I think with this amendment, AM1610, that we have refined the bill a little bit to address everyone's concerns. And I would request that the body support this amendment as I do, and then

advance LB325. Thank you. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Lautenbaugh, you're recognized. [LB325]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I'll be brief because I'm echoing a lot of what was just said here. I think this, especially the first provision of this proposed amendment merely reflects the reality that election officials were looking for ways to count conditional ballots, provisional ballots within the ambit of the law. So I think this provides much needed guidance and probably enshrines in the law what was the practice anyway. And it is a good amendment and it doesn't defeat the underlying purpose of the bill. And I would urge your support. I would yield the rest of my time to Senator Lathrop, if he would like it. [LB325]

PRESIDENT SHEEHY: Senator Lathrop, you're yielded 4 minutes 20 seconds. [LB325]

SENATOR LATHROP: Maybe just briefly to add this thought, that when we met, Mr. Erickson provided us with some information about provisional ballots: how many there were in the last election, how many were accepted, how many were rejected by county. And what we saw was in Nebraska, typically, about 80 percent of provisional ballots end up counted. That's probably a good thing. So only 20 percent on whole or on average are ballots that, for one reason or another, the people were excluded from voting provisionally. But what we saw was a disparity among counties in terms of what percent of provisional ballots were actually counted. So in Scotts Bluff County, for example, I think the statistics show that they counted 37 percent of the ballots, where the statewide average was 80 percent. That would suggest that the need for some uniformity in determining what criteria we use to decide what's a valid and a proper provisional ballot. So I think that end will be met with the means provided in AM1610. Thank you. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Wallman, you're recognized. [LB325]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Our district just went through a provisional ballot thing on a bond issue. And it's quite extensive what you have to do. Of course, you have to pay the postage or mail it in or bring it into town. But I would hope maybe it was counted, you know, on a bond issue. It was not a general election. So I don't really like a provisional ballot, but if they're out there, I like this amendment and the bill. Thank you, Mr. President. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Haar, you're recognized. [LB325]

SENATOR HAAR: Mr. President, members of the body, I rise in support of the

amendment and LB325. I do have a question for Senator Lathrop. [LB325]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Haar? [LB325]

SENATOR LATHROP: Yes, I will. [LB325]

SENATOR HAAR: I just did some quick calculations on Lancaster County, almost a third or a little more than a third of the provisional ballots, somebody just is not registered in the correct precinct. Would...under the current system, can they now go to the correct precinct or not? [LB325]

SENATOR LATHROP: We are not changing when you can...with this amendment we're not changing when you can vote provisionally or not vote provisionally. LB325 will add a new class of people that vote provisionally, depending upon whether the election commissioner elects to have those folks vote by a regular ballot or provisionally. Two classes of people under LB325 will now move to the could be provisional ballot class, and that's people that moved within the precinct or people who have some mistake in the book when you arrive. They might transpose the numbers on your address or misspell your name. Right now if you appeal to the vote workers and explain the situation and satisfy them, you get a regular ballot. LB325 would...if the election commissioner elects to do it that way, would turn them into provisional voters. AM1610 doesn't change the class. What it does is set out the criteria. If there's something missing in the provisional voter process but it's there when the election commissioner looks at the whole package, which includes the outside envelope that has information on it and the registration card, the election commissioner and the clerk now look at both of those to see if the two provide all the information they need to confirm the person has a right to vote in that election. [LB325]

SENATOR HAAR: Okay. So, again, to clarify it for me, if somebody shows up and actually votes in the wrong precinct, then their provisional...and they are given a provisional ballot, that ballot is not counted. [LB325]

SENATOR LATHROP: I think that is...I'm not positive about this, but that sounds like it would be existing law. If you're at the wrong place and you're voting, then I suspect that's the case. [LB325]

SENATOR HAAR: So again going back to my original question then, if a precinct...somebody says, well, you're in the wrong precinct to vote, is it your understanding that they could go to their correct, let's say they move to the precinct next door and vote there? [LB325]

SENATOR LATHROP: I think what they try to do...and Senator Lautenbaugh maybe can address this, but I think what they try to do is if I come in to a polling place and am

in the wrong precinct, it's not my polling place, I should be, you know, a mile down the road at a different polling place, I believe those poll workers, if you ask them, they'll say, you know what, Mr. Haar, you are at the wrong place, let me look up in the book and see where you're supposed to be and then you can go down the road and vote provisionally there, assuming that everything else is as it should be. [LB325]

SENATOR HAAR: Okay. Question for Senator Lautenbaugh. [LB325]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Haar? [LB325]

SENATOR LAUTENBAUGH: Yes, I will. [LB325]

SENATOR HAAR: Yes. Would you agree with Senator Lathrop on that, that if somebody has moved to another precinct, they show up at their original precinct to vote, that they can simply be directed to their new precinct and that would...and then they could vote provisionally or... [LB325]

SENATOR LAUTENBAUGH: That's how it's supposed to work. The directing would take place by them not being in the book and having to call in to find out where their proper polling place is based upon their new address. And that's the vast majority of provisional votes arise in that way. [LB325]

SENATOR HAAR: Okay, because again, over... [LB325]

PRESIDENT SHEEHY: One minute. [LB325]

SENATOR HAAR: ...over a third of the voters in Lancaster County are simply voting in the wrong precinct. And, I guess, that could be taken care of then by directing them to their correct precinct. [LB325]

SENATOR LAUTENBAUGH: It may be...I'm not sure how the figures break down. A part of that may be people who aren't actually registered properly to begin with... [LB325]

SENATOR HAAR: Okay. [LB325]

SENATOR LAUTENBAUGH: ...which may or may not be higher in a town with a large university. [LB325]

SENATOR HAAR: Okay. Okay, thank you very much. Again, I support AM1610 and LB325. [LB325]

PRESIDENT SHEEHY: Thank you, Senator Haar. Seeing no additional requests to speak, Senator Lathrop, you're recognized to close on AM1610. Senator Lathrop waives closing. The question before the body is on the adoption of AM1610 to LB325. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB325]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB325]

PRESIDENT SHEEHY: AM1610 is adopted. [LB325]

CLERK: I have nothing further on the bill. [LB325]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB325]

SENATOR NORDQUIST: Mr. President, I move LB325 to E&R for engrossing. [LB325]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB325 advances. We will now proceed to LB183. [LB325 LB183]

CLERK: LB183, Senator, I have no amendments to the bill. [LB183]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB183]

SENATOR NORDQUIST: Mr. President, I move LB183 to E&R for engrossing. [LB183]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB183 advances. We'll now proceed to LB197. [LB183 LB197]

CLERK: LB197, Senator, I have Enrollment and Review amendments first of all. (ER8142, Legislative Journal page 241.) [LB197]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB197]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB197. [LB197]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB197]

CLERK: Senator Gay would move to amend with AM1588. (Legislative Journal page 327.) [LB197]

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on AM1588 to LB197.

[LB197]

SENATOR GAY: Thank you, Mr. President. During the General File discussion, we had talk of an endowment fund. And I had checked into the fund to see what it even was. And we had worked with Senator Fulton on this and the Treasurer's Office, and I've spoken with Senator Adams as well. But the endowment fund was created many years ago when they created this to...people could put money into the endowment fund and then they'd distribute it amongst all the shareholders. Well, over the years there's been 23 cents in the endowment fund. So it's not being used. This just simply strikes that and the 23 cents would be transferred into the new fund that Senator Fulton...that we're creating with the bill. But, like I say, right now I just think it's something simple. It's not being used, we need to clarify that. I'm not so sure that the Treasurer's Office...that there should be an endowment fund. There are so many other things for educational purposes. This is not being used and hasn't been used. But I just think it's something to clarify, take off the books and clean up the act and this was the vehicle to do it. Thank you, Mr. President. [LB197]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of AM1588 to LB197. Member requesting to speak, Senator Fulton, you're recognized. [LB197]

SENATOR FULTON: Thank you, Mr. President, members of the body. I just wanted to stand in support of AM1588. Indeed, we talked about this on the microphone, we got it into the record that there was some concern about this fund. And so Senator Gay and I worked on this. And I'll be supportive of AM1588. I'd ask you to do the same. Thank you, Mr. President. [LB197]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Adams, you're recognized. [LB197]

SENATOR ADAMS: Very simply, I would speak also in favor of the amendment. What we have been trying to do in this entire bill and the committee amendment that became the bill was to clean things up. This just takes it a step further. Thank you, Mr. President. [LB197]

PRESIDENT SHEEHY: Thank you, Senator Adams. Seeing no additional requests to speak, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is on the adoption of AM1588 to LB197. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB197]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Gay's amendment. [LB197]

PRESIDENT SHEEHY: AM1588 is adopted. [LB197]

CLERK: Senator Fulton would move to amend with AM1578. (Legislative Journal page 337.) [LB197]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on AM1578. [LB197]

SENATOR FULTON: Thank you, Mr. President, members of the body. AM1578 actually is something that came through Senator Adams and the Education Committee. And I'll just explain it here in laymen's terms, as I've explained it to a couple of you here on the floor. It clarifies and makes a structural change to how we set up this expense fund. You recall earlier that we created an expense fund to more accurately track and account for the monies that are being paid to the Nebraska Investment Council. What we have done in AM1578, and I agreed to bring this instead of Senator Adams just because I have an understanding of how this works in the Appropriations Committee. We have set this up such that we will now populate the expense fund with funds that are in the administrative fund. And then going forward we also put a date specific to that end. Going forward the Appropriations Committee then would make appropriations from the expense fund back to the administrative fund. Mathematically it's the same thing. Structurally it's a little bit different. It enhances transparency and it allows for the Appropriations Committee, when we make that appropriation from the expense fund to the administrative fund, to more accurately and precisely account for the monies that are used to administer this fund. And so I'll ask you to vote favorably on AM1578. Thank you, Mr. President. [LB197]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You've heard the opening of AM1578 to LB197. Member requesting to speak, Senator Adams, you're recognized. [LB197]

SENATOR ADAMS: Thank you, Mr. President. And, again, I would reiterate what I did on the last amendment, Senator Gay's amendment. Following General File discussion and the move to Select File, my staff, Senator Fulton worked to further clarify and make technical adjustments in this. And, in essence, we're harmonizing language as much as anything else here. So I would encourage your positive vote. Thank you. [LB197]

PRESIDENT SHEEHY: Thank you, Senator Adams. Seeing no additional requests to speak, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the adoption of AM1578 to LB197. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB197]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of Senator Fulton's amendment. [LB197]

PRESIDENT SHEEHY: AM1578 is adopted. [LB197]

CLERK: I have nothing further on the bill. [LB197]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB197]

SENATOR NORDQUIST: Mr. President, I move LB197 to E&R for engrossing. [LB197]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB197 advances. We'll now proceed to LB550. [LB197 LB550]

CLERK: LB550 has E&R amendments, Senator. (ER8141, Legislative Journal page 241.) [LB550]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for motion. [LB550]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB550. [LB550]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. They are adopted. [LB550]

CLERK: I have nothing further on the bill, Senator. [LB550]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB550]

SENATOR NORDQUIST: Mr. President, I move LB550 to E&R for engrossing. [LB550]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB550 advances. We'll now proceed to LB210. [LB550 LB210]

CLERK: LB210, Senator, I have E&R amendments first of all. (ER8143, Legislative Journal page 266.) [LB210]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB210]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB210. [LB210]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB210]

CLERK: Senator Langemeier would move to amend with AM1573. (Legislative Journal page 268. [LB210]

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on AM1573. [LB210]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. AM1573 is adding the emergency clause to LB210 to allow it to take into effect prior to July for next fiscal year. And I'd ask for your adoption of AM1573. [LB210]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening of AM1573 to LB210. Seeing no requests to speak, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the adoption of AM1573. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB210]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Langemeier's amendment. [LB210]

PRESIDENT SHEEHY: AM1573 is adopted. [LB210]

CLERK: I have nothing further on the bill, Senator. [LB210]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB210]

SENATOR NORDQUIST: Mr. President, I move LB210 to E&R for engrossing. [LB210]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB210 advances. We'll now proceed to LB139. [LB210 LB139]

CLERK: LB139, Senator, I have no amendments to the bill. [LB139]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB139]

SENATOR NORDQUIST: Mr. President, I move LB139 to E&R for engrossing. [LB139]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB139 advances. We'll now proceed to LB475. [LB139 LB475]

CLERK: LB475 does have E&R amendments, Senator. (ER8145, Legislative Journal page 267.) [LB475]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB475]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB475.

[LB475]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB475]

CLERK: I have nothing further on that bill, Senator. [LB475]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB475]

SENATOR NORDQUIST: Mr. President, I move LB475 to E&R for engrossing. [LB475]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB475 advances. We'll now proceed to LB279. [LB475 LB279]

CLERK: LB279, Senator, I have no amendments to the bill. [LB279]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB279]

SENATOR NORDQUIST: Mr. President, I move LB279 to E&R for engrossing. [LB279]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB279 advances. Mr. Clerk, do you have items for the record? [LB279]

CLERK: I do, Mr. President. Urban Affairs Committee, Education Committee, and Business and Labor all give notice of hearing, all signed by the respective chairs. Enrollment and Review reports LB216, LB147, LB181, and LB190 to Select File, some of which have Enrollment and Review amendments attached. Senator Cornett would like to print an amendment to LB579; Senator Christensen to LB650. Name adds: Senator Mello to LB709 and LB918; Senator Krist, LB952; Senator Mello, LB982 and LB1081; Senator Pirsch to LB1103. A reminder that Reference Committee will meet upon adjournment in Room 2102. (Legislative Journal pages 338-347.) [LB216 LB147 LB181 LB190 LB579 LB650 LB709 LB918 LB952 LB982 LB1081 LB1103]

And a priority motion: Senator Flood would move to adjourn until Tuesday morning, January 26, at 9:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Tuesday, January 26, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.