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Floor Debate  
April 03, 2013

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[LB41 LB57 LB94 LB97 LB105 LB133 LB158 LB170 LB188 LB262 LB271 LB295 LB316  
LB340 LB388 LB434 LB499 LB507 LB525 LB620 LB625 LB637 LR117 LR118 LR119  
LR120 LR125]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-third day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Christensen. Please rise.

SENATOR CHRISTENSEN: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Christensen. I call to order the fifty-third day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

SENATOR GLOOR: Are there any messages, reports, or announcements?

CLERK: Just one item, Mr. President: The Governor has issued an appointment to the State Racing Commission. That will be referred to Reference for purposes of conducting a confirmation hearing. That's all that I have, Mr. President. (Legislative Journal pages 887-888.)

SENATOR GLOOR: Thank you, Mr. Clerk. We now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, LB57. The Legislature left the issue yesterday afternoon. Offered by Senator Larson, it's a bill for an act relating to the Environmental Trust Act. The committee amendments and amendments to the committee amendments were considered and adopted. When the Legislature left the issue, Senator Chambers had pending a motion to recommit the bill to the Natural Resources Committee. [LB57]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Larson, if you would, take a few minutes, review LB57 with the committee amendment that was adopted, please, to remind the body of its issues before us. [LB57]

SENATOR LARSON: Thank you, Mr. President. I'll be short this morning as I think the

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entire body received a healthy dose of LB57 yesterday. Essentially, the committee amendments, as well as amendments that were offered by me earlier in AM844, took care of the Nebraska Bankers in land and title on some deed issues. And then I...and worked with a number of other groups to ensure that we came to an agreement with Ducks Unlimited to make sure that certain language worked out, and came to that compromise. I think it's very important, as I said yesterday, that we continue to move forward with LB57. It is good public policy. The current Environmental Trust Board are doing these practices, yes, but it is important that we continue to put these in statute because boards change, and to put this in statute will continue to offer the transparency in good government that we need in the state of Nebraska. Thank you, Mr. President. [LB57]

SENATOR GLOOR: And thank you, Senator Larson. And, Senator Chambers, if you would, would you also provide the body a brief summary of the reasons you wish to return the bill to the committee. [LB57]

SENATOR CHAMBERS: Now, Mr. President, is this summary going to count against my three times to speak on my motion? [LB57]

SENATOR GLOOR: It will not, sir. [LB57]

SENATOR CHAMBERS: Oh, thank you. What this motion does is to return this bill to the committee partly because of all the work that have been done even by those who support the bill, the uncertainty about those who support the bill as exactly what is being done. And with that kind of work needed to be done even now on such an important matter, it should go back to the committee. Let them bring all of the interested parties together, and bring the bill to us in a form that is ready, at least to be supported in the form they present it by those who are in favor of it. And that's why I'm offering the motion to return to committee. Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers, and thank you, Senator Larson. Members, we now return to floor debate. Senator Ken Haar, you are recognized. [LB57]

SENATOR HAAR: I'm sorry. [LB57]

SENATOR GLOOR: Senator Haar, you're recognized. [LB57]

SENATOR HAAR: Oh, thank you very much. Mr. President, members of the body, last night we took the bill and cobbled it together and we taped it and we underlined. And there's a lot of problems and I'm going to bring up at least one of those. And, for example, it says in section (8) that it requires at least 30 days in advance of the next scheduled board meeting, but yet in the amendment that was passed, we say that a board meeting could be called at any time to deal with this. Let's see, members may...so

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here we have a timing issue. And again, I think this...so it's required 30 days in advance, but a board meeting can be called by telephone or videoconference or whatever to take a vote. And again, this is an example of trying to cobble together amendments on a bill that's already a bad bill. And now there's all kinds of problems with it. So, I guess we can keep going forward with this sort of thing--I'm not going to vote for it--but there's a lot of inconsistencies. And this is what happens when you come with a, I believe, with a bad bill and then try and cobble it together to make it better. I also want to comment on the letter that we got from one of the board members saying, board policy changes, that individual board members change. And then the rest of the letter says how their current policy is a good policy, but because board policy changes as individual board members change, we ought to put this one in statute. Why do we even have boards and commissions if we're going to look at every board and commission? And later I will read a list of all the boards and commissions that we have. And I guess the implication of this is that Legislature ought to micromanage and look at every policy of every board, and when we see a good one we ought to put that one in statute so the next board or commission won't screw up. I find that very interesting, because what's the purpose of boards and commissions and to what extent does the Legislature want to get involved at this level of management when it comes to boards and commissions? Again, on my next time at the mike, I'm going to read you a list of all the boards and commissions and, of course, ask the question: Do we want to look at all the policies of all those boards and commissions and then put the good policies of those boards and commissions in statute because boards change as time goes on? And I think that's going way beyond what I want to try to accomplish as a state legislator. I do have a question for Senator Schilz, if he would be willing to talk to me. [LB57]

SENATOR GLOOR: Senator Schilz, would you yield? [LB57]

SENATOR SCHILZ: Yes. [LB57]

SENATOR HAAR: Thank you. Thank you. You said that you were going to have some more amendments on Select File. Now, the agreement apparently that was, you know, Ducks Unlimited is okay with this at this point and the city of Lincoln and the lobbyist, but you said you're going to bring some additional amendments. Could you tell me what those amendments are going to be? [LB57]

SENATOR SCHILZ: Sure. Thank you, Senator Haar. [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR SCHILZ: Real quickly. One of the amendments talks about, if you're going to have a plan to take care of the taxes going forward, that the NET money cannot be used for that. It needs to be something else that's used for that. And then the other amendment that I was going to introduce there, and I'm drawing...I've got it written down

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here. I will get that to you, I promise. [LB57]

SENATOR HAAR: Okay. I would appreciate that before we vote on this because apparently a deal was made, and if any of these amendments that you intend to bring forward would be deal breakers or not, I don't know, but I'd like to see those as soon as I can. Thank you very much. [LB57]

SENATOR GLOOR: Thank you, Senator Haar and Senator Schilz. Senator Carlson, you are recognized. [LB57]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I rise in opposition to the motion to recommit to committee. I don't believe that that's necessary. I think that with the amendments that were passed yesterday, if there's massaging that needs to take place by Select File, certainly Senator Larson is open to that and that could happen. It does not need to be recommitted to committee and I would ask you not to support that amendment. We do have some figures from Clay County Board of Supervisors since yesterday that help, I think, explain the need in the bill to make sure that there's a plan for replacement of lost property taxes, because there was a disagreement yesterday on whether a certain amount was a significant amount or whether it wasn't. In the last ten years, Clay County has expected, off of land that eventually ended up with U.S. Fish and Wildlife, revenue of \$150,000 a year. They have received during that period of time, some years \$700. The most they received is \$15,000. So the loss of \$150,000 a year for ten years is a million and a half, significant amount of money. And this bill addresses that situation. And if this is the way it currently is, I don't see it getting any better in the future. It would simply magnify, and the bill addresses that problem. And so, I believe that's a wise thing to do. I think it's appropriate to do it, and I would remind the body that there are people on the Environmental Trust Board who favor LB57. There are those that are opposed to it. So that's not unlike other legislation that we deal with. But I would ask that you not support the motion to recommit to committee. Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Chambers, you're recognized. [LB57]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Carlson a question or two. [LB57]

SENATOR GLOOR: Senator Carlson, would you yield? [LB57]

SENATOR CARLSON: Yes. [LB57]

SENATOR CHAMBERS: Senator Carlson, you told me yesterday, I believe, that Clay County is in your district. Is that correct? [LB57]

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SENATOR CARLSON: Yes, it is. [LB57]

SENATOR CHAMBERS: And you do want, as Senator Conrad was emphasizing yesterday, you want us to change the whole law because of what happened in Clay County, primarily. Isn't that true? [LB57]

SENATOR CARLSON: I guess your word "primarily" is accurate. There are other counties that feel the same way. [LB57]

SENATOR CHAMBERS: But had it not affected Clay County, you would not be taking this much interest in it, would you, because you have been here a good long time and you have not brought such a bill. So if it had not been impacting a county in your district, you would not be doing what you're doing today, would you? [LB57]

SENATOR CARLSON: I have not brought such a bill, but I've had interim studies and I've had hearings to address the problem in Clay County. [LB57]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I now want to ask Senator Larson some questions. Yesterday I was offering procedural motions. I had a chance overnight to read his amendment. And if Senator Larson is somewhere... [LB57]

SENATOR GLOOR: Senator Larson, would you yield? [LB57]

SENATOR CHAMBERS: For it to be his bill, he's away from his desk a great amount of the time. Senator Larson, I'm going to wait for you to come and I'm going to put other amendments on the desk to make sure that the opportunity to question you will be available to me. So, Mr. President, I'm going to...I see him walking in. [LB57]

SENATOR GLOOR: Senator Larson, would you yield? [LB57]

SENATOR LARSON: Yes. [LB57]

SENATOR CHAMBERS: Senator Larson, you went to great lengths yesterday when I was questioning you about the amendment that was adopted. The amendment is AM44...AM844. You recall our discussion, don't you, in general? [LB57]

SENATOR LARSON: On AM844? [LB57]

SENATOR CHAMBERS: Or AM71. [LB57]

SENATOR LARSON: I don't have AM844. [LB57]

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SENATOR CHAMBERS: AM71, AM871. But anyway... [LB57]

SENATOR LARSON: Do you want AM844 or AM871? [LB57]

SENATOR CHAMBERS: Well, let me make it clear for you. The one where you grovelled, capitulated, and pandered to Ducks Unlimited. Do you remember that amendment? [LB57]

SENATOR LARSON: I don't think I grovelled and capitulated to Ducks Unlimited. I think we had... [LB57]

SENATOR CHAMBERS: Do you remember the Ducks Unlimited amendment? [LB57]

SENATOR LARSON: It was my amendment. [LB57]

SENATOR CHAMBERS: Do you remember the portion of your amendment that dealt with Ducks Unlimited? [LB57]

SENATOR LARSON: There was an amendment in which we came to an agreement with Ducks Unlimited that both interested parties were satisfied with. [LB57]

SENATOR CHAMBERS: Would you explain to me the portion of the amendment that relates to Ducks Unlimited? If you will look at it, tell me the page and the lines that deal with Ducks Unlimited. [LB57]

SENATOR LARSON: On AM871, Ducks Unlimited and a number of other...and also working with city of Lincoln, on page 1, line...starts on line 3, we added "from a nonpublic grantee," and then... [LB57]

SENATOR CHAMBERS: I just want the lines that deal with Ducks Unlimited, their issue. Which are the lines that deal with their issue? [LB57]

SENATOR LARSON: Their issue...well, we started on line 9 and we held it to "sell, transfer, or exchange." We took out "lease" and "encumber." And then we added language... [LB57]

SENATOR CHAMBERS: Well, let me go back to what you said, since you're nitpicking. Didn't you say at first that their amendment starts at line 3 on page 1? Isn't that what you said? [LB57]

SENATOR LARSON: Well, those were the changes to the amendment. And I said Ducks Unlimited and the city of Lincoln had wanted to make changes and so that's where we started, with line 3, and we added "from a nonpublic grantee." [LB57]

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SENATOR GLOOR: One minute. [LB57]

SENATOR LARSON: And then you asked to do strictly what Ducks Unlimited, and the city of Lincoln, not to take their issues. So we then moved to where on that question and I said that moves to line 9 and that's...we took out "lease" and "encumber" out of that. Then we moved on...continuing on from line 9 to 10, we add, "unless approved in the original grant." That way, if a grantee in the original grant gets the approval to do this beforehand, inside the grant, they would not have to come back to the committee for...or they would not have to come back to the Environmental Trust and get subsequent approval. And then we... [LB57]

SENATOR GLOOR: Time, Senators. Thank you, Senator Chambers, Senator Larson. The Chair recognizes Senator Campbell. [LB57]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. Yesterday, Senator Carlson and I had an exchange of questions with regard to the section in LB57, the amended, the committee amendment having to do with counties. And I know that we've discussed that as we went along, but I have to say that on my drive home last night there were several questions that went through my mind, having served as a county commissioner. And so I indicated to Senator Carlson that I would like to ask him a couple of questions, if he would yield. [LB57]

SENATOR GLOOR: Senator Carlson, would you yield? [LB57]

SENATOR CARLSON: Yes, I will. [LB57]

SENATOR CAMPBELL: Senator Carlson, in our discussion yesterday we talked about the counties, and in the bill as it has been amended it would require that a plan be put together, either an endowment or some other mechanism, to ensure the payment of the property taxes to the counties. Is that correct? [LB57]

SENATOR CARLSON: That is correct, and I really think that an endowment is the last choice. There are other ways, of course, to do that, but the main thing is it keeps the county whole in terms of expected tax revenue. [LB57]

SENATOR CAMPBELL: And we know that Clay County has been affected, but there have been other counties affected, have there not? [LB57]

SENATOR CARLSON: Yes, there have. [LB57]

SENATOR CAMPBELL: Have any of those counties gone to the NET Board and asked for a mechanism for the county property taxes in previous discussions on other matters

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before the NET Board? [LB57]

SENATOR CARLSON: As to the details of actually requesting that of the NET Board, I don't know that, Senator Campbell. [LB57]

SENATOR CAMPBELL: The NET Board, though, given their current rules and regulations that they work under, they could grant the county that request, could they not? [LB57]

SENATOR CARLSON: I believe that they could put that into the contract so that the entity that's asking for the grant would understand that's part of the entire process. [LB57]

SENATOR CAMPBELL: But to date, there has been no such mechanism set up for any county property tax. Is that correct? [LB57]

SENATOR CARLSON: No, I think that, voluntarily, there are some instances where the grantee has agreed to make the county whole, but I don't believe it's in a contract. [LB57]

SENATOR CAMPBELL: So, to date, the NET Board has not exercised that authority in order to set that up as a part of any contract. [LB57]

SENATOR CARLSON: I would say not as...not as a normal requirement. [LB57]

SENATOR CAMPBELL: And we do not know whether any of the counties have come forward to formally request that of them. [LB57]

SENATOR CARLSON: No, I couldn't answer that. [LB57]

SENATOR CAMPBELL: Okay. Thank you, Senator Carlson. Colleagues, it would seem to me that part of the question here, in terms of that if the NET Board has the power to do that, perhaps the counties need to formally request that. I have some idea that the counties have, perhaps, informally talked about this. But this is a stipulation that is now in LB57 that may strengthen the counties, and you can say, well, I don't have a county that it affects, so it doesn't affect me. But if you were a county, a rural county, \$150,000 a year is a lot of money. [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR CAMPBELL: And so I will do some further checking to see, as this bill proceeds, to see whether those counties have ever formally requested of the board to have such an exclusion set in a contract. Thank you, Mr. President. [LB57]

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SENATOR GLOOR: Thank you, Senator Campbell. Senator Kolowski, you're recognized. [LB57]

SENATOR KOLOWSKI: Thank you, Mr. President and members of the Legislature. I stand in opposition to this bill, and I want to clarify where I'm going from because of the vote I had on the Natural Resources Committee to help bring this out of committee. I stand correcting myself because I probably should have read it a little clearer and a little cleaner in the sense of where we were going with this bill, and trusting my own guts on the aspect of an old axiom, if it's not broken, don't fix it. My past eight years with the Natural Resources District in the Omaha area, the Papio-Missouri River, we've had many different actions with the Environmental Trust. Up in Dakota County, Senator Bloomfield knows this, the Danish Alps park and the Pigeon/Jones project with the Kramper Lake, we had \$2.4 million put into that project from the Environmental Trust, which is moving ahead and very successfully being completed. We are also in the middle of a floodway buyout program in the Omaha area and the Bellevue area for a quarter of a million dollars in that area. And so we've had a great relationship with the Environmental Trust. I really don't think there are the problems that we're hearing with the trust and I would recommend that we stay the course and not cause problems for the future that I think are not really honest problems at this point in time. And I yield my time to Senator Haar, if he's available. [LB57]

SENATOR GLOOR: Senator Ken Haar, I'm assuming, Senator Kolowski? [LB57]

SENATOR KOLOWSKI: Yes. Yes. [LB57]

SENATOR GLOOR: Senator Haar, you have 3 minutes and 5 seconds. [LB57]

SENATOR HAAR: Thank you very much, Senator Kolowski, for the time. And I apologize for all the confusion that the election of Burke Harr has made to this Legislature. (Laughter) Usually, we clarify that. Well, Senator Schilz has shown me the two amendments and he said these came from one of the sportsmen's groups and neither of us can say that name correctly, but could I ask Senator Schilz a question? [LB57]

SENATOR GLOOR: Senator Schilz, would you yield to questions from Senator Ken Haar? [LB57]

SENATOR SCHILZ: Yes. [LB57]

SENATOR HAAR: Okay. Thank you, Senator Schilz. I appreciate the copy of these amendments. Have these been cleared with Ducks Unlimited? [LB57]

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SENATOR SCHILZ: No, not that I know of. I wasn't working on behalf of Ducks Unlimited with that. [LB57]

SENATOR HAAR: Good. Okay. Thank you. (Laugh) [LB57]

SENATOR SCHILZ: Yeah. [LB57]

SENATOR HAAR: So, you know, we'll hear those amendments later, I guess, if the bill gets to Select File. But the question again is, you know, who is the deal maker here with Ducks Unlimited, with city of Lincoln, and so on. They were the people working behind the glass on this one. So, I guess, we'll go back to those lobbyists and ask them if they okay these changes and then we can go ahead. Senator Campbell, of course, brings up another point, something that has to be looked at. And I think it's a really good example of the unintended consequences when we're trying to make good laws, especially when you're trying to take the policy of a commission and put it in statute. So here's another point that apparently hasn't been considered by the authors of the bill, and we're going to have to look at this one and... [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR HAAR: ...then what else is going to come up. So, I'm going to start talking about all the various commissions and seeing whether we feel that we should put their policies, because board members change, folks, board members change. So I think what this sets us on the path is, we'd better look at each of these commissions and we'd better pick out the good stuff and put it in statute because, by gosh, board members change. And they may change their policies and they may become bad. So I'll start talking about commissions on my next time at the mike. Thank you. [LB57]

SENATOR GLOOR: Thank you, Senator Haar. Senator Chambers, you're recognized. [LB57]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Larson a question or two, if he's on the floor and would yield. [LB57]

SENATOR GLOOR: Senator Larson, would you yield? [LB57]

SENATOR LARSON: Yes. [LB57]

SENATOR CHAMBERS: Senator Larson, you are familiar, apparently, with the transactions between Ducks Unlimited and some entity to whom they sold property. Is that true? [LB57]

SENATOR LARSON: And with who they sold property? [LB57]

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SENATOR CHAMBERS: Well, to whom they transferred property. [LB57]

SENATOR LARSON: There are... [LB57]

SENATOR CHAMBERS: Let me ask the question differently. What did Ducks Unlimited do that created the concern with the board that we're discussing now? What was it that Ducks Unlimited had done? [LB57]

SENATOR LARSON: Well, Senator Chambers, it wasn't just Ducks Unlimited. [LB57]

SENATOR CHAMBERS: Well, I want to know what Ducks Unlimited did. [LB57]

SENATOR LARSON: Well, it was a number...it was a few organizations actually that... [LB57]

SENATOR CHAMBERS: What did Ducks Unlimited do? Do you know? If you don't, just tell me. [LB57]

SENATOR LARSON: That they used Environmental Trust dollars, state dollars, to buy land and then subsequently donated it to the federal government. [LB57]

SENATOR CHAMBERS: Now how many transactions of that kind were Ducks Unlimited involved in? [LB57]

SENATOR LARSON: Transactions that have followed suit so far, they have one, and then they have at least one more, and they have another one pending in grant application form, is my understanding. [LB57]

SENATOR CHAMBERS: But there was one transaction of that kind which was completed that you know of. Is that true? [LB57]

SENATOR LARSON: That has been completed and then one more is planned to be transferred. [LB57]

SENATOR CHAMBERS: But one transaction has been completed. Is that correct? [LB57]

SENATOR LARSON: Correct. [LB57]

SENATOR CHAMBERS: Is there...there's no way to know whether what is being planned is going to be ultimately executed, so I want to ask you this question. What type of land was involved in that transaction that was completed? [LB57]

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SENATOR LARSON: It was the Mae Carey estate tract. [LB57]

SENATOR CHAMBERS: Was it wetlands or agricultural type land? [LB57]

SENATOR LARSON: I'm not sure specifically. I do know it was the Mae Carey estate tract adjacent to Hansen WPA. [LB57]

SENATOR CHAMBERS: Well, if you're not sure of the type, I won't pursue you on that. Are you concerned about the fact that Ducks Unlimited transferred this land, or the entity to whom Ducks Unlimited transferred it? [LB57]

SENATOR LARSON: I'm concerned about both. I think the transfer is very important because they used state dollars to purchase that land and we need to continue to follow anytime the state dollars leave, we need to (inaudible), but I'm also concerned about... [LB57]

SENATOR CHAMBERS: Well, let me make it clear what I'm talking about because you obfuscate. You made comments in the paper, if they quoted you correctly, that you're concerned about land that was purchased with this trust fund money winding up in the hands of the federal government. Did you make a statement like that to the media? [LB57]

SENATOR LARSON: If they took my comments from the floor. I am concerned about land using trust dollars being transferred to the federal government, but I'm also very concerned about, you know, just the transferring in general. [LB57]

SENATOR CHAMBERS: Thank you. That's all I have. Members of the Legislature, you've listened to Senator Tyson...to Senator Larson. He stumbles, he bumbles. This is a part of that antifederal government agenda. He is not aware of what this bill does. He cannot explain the amendments. And before we're through...we only have...shortly before 11:00 before they can try to invoke cloture. I'm going to ask him to explain in detail the part that the bankers and the title insurance people were concerned about... [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR CHAMBERS: ...and let him improve my education. He said that he is the one who wrote this amendment that was adopted yesterday. We all know he did not write it, and it's becoming clear that there's an opposition and this bill was brought because of the involvement of the federal government. The lands, from what I read, were wetlands. They were not going to be used for agricultural purposes. Nobody else was trying to obtain that land. Ducks Unlimited is not a subversive agent of the U.S.

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government, but that's the way they're being portrayed and characterized. I think if the Legislature would go forward with this bill, it would become and should become a laughingstock. This is not changing a policy that exists which is detrimental to the state. Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Ken Haar, you're recognized. [LB57]

SENATOR HAAR: Thank you, Mr. President and members of the body. Senator Carlson...my friend, Senator Carlson, said that Clay County lost \$150,000 a year in taxes from the U.S. Fish and Wildlife Service. A majority of these were purchased without trust money. Could I ask Senator Carlson a question? [LB57]

SENATOR GLOOR: Senator Carlson, would you yield? [LB57]

SENATOR CARLSON: Yes, I would. [LB57]

SENATOR HAAR: Thank you, Senator Carlson. And, obviously, we have some disagreements on policy here, but would you say that's correct, that most of the...one of the underlying problems, of course, is that the U.S. Fish and Wildlife Service has land in Clay County. Would you agree with this, that most of it was not purchased with trust money? [LB57]

SENATOR CARLSON: I don't know that, Senator Haar. I know that some of it was and some of it wasn't. And, of course, I know that U.S. Fish and Wildlife then pays in lieu of taxes and that's really where the difficulty is. [LB57]

SENATOR HAAR: Okay. Well, according to my figures here, and I guess we can get some more verification, but it says, in Clay County the trust has only helped purchase 320 acres of land that were sold or gifted to the U.S. Fish and Wildlife Service. So 320 acres, do you think that's a large portion of the \$150,000 a year, or would that be a rather small part? [LB57]

SENATOR CARLSON: The 320 acres? [LB57]

SENATOR HAAR: Yeah. [LB57]

SENATOR CARLSON: Well, that would be a smaller portion of the entire amount that we're talking about. [LB57]

SENATOR HAAR: Okay. And in your opinion, does this bill that we're debating now, LB57, does it take care of the U.S. Fish and Wildlife Service? [LB57]

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SENATOR CARLSON: No, it doesn't. But it's... [LB57]

SENATOR HAAR: Okay. Okay. Go ahead. [LB57]

SENATOR CARLSON: But it sets in place a procedure that would make the first purchaser of that piece of land, before it's transferred, think about the tax impact that it has on the county. And that's not true today. [LB57]

SENATOR HAAR: Okay. Well, thank you very much. So again, the majority...well, let me put it the other way. Only a small part of the problem created in Clay County by the U.S. Fish and Wildlife Service, only a small part of that, 320 acres of that, used trust money. And so this bill, although it may send a message, it's not going to deal with the problem between Clay County and the U.S. Fish and Wildlife Service, which I think underlies the bill itself. And that's why I think, again, I would just repeat, that this bill tries to solve problems, send messages. And the precedent, of course, is that were...the U.S. Fish and Wildlife Service will continue to purchase land in spite of this legislation. The rift will continue to grow between Clay County and the U.S. Fish and Wildlife Service and this bill will do very little to help solve that underlying problem. And then, I'd like to start talking about what we're doing with this bill. We've heard...first a question, though. Senator Larson, if I could ask you a question. [LB57]

SENATOR GLOOR: Senator Larson, would you yield? [LB57]

SENATOR LARSON: Yes. [LB57]

SENATOR HAAR: Thank you very much. Earlier yesterday, I had asked how many of the board members of the trust you had talked to that really want this legislation. Could you give me that number again? [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR LARSON: You know, I'm in close contact with two specific ones. I don't know how many... [LB57]

SENATOR HAAR: Okay. Fine. Thank you. Now, my understanding is that they're having a board meeting this Thursday, so if the majority of the board should come out and say, we don't need this, you're interfering with our board...with our board and what we're trying to do, would that change your mind on this bill if the majority of the trust, since that was part of your argument? [LB57]

SENATOR LARSON: I don't think I ever said the majority of the trust. I said I've always worked with a few board members closely. [LB57]

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SENATOR HAAR: But my question...yes. [LB57]

SENATOR LARSON: But I don't think, Senator Haar, I don't think that would change because I do think this is good public policy and I think it would illustrate my point if the board...that boards change. [LB57]

SENATOR HAAR: Okay. Well, thank you. You're on my time now, so... [LB57]

SENATOR GLOOR: Time, Senators. [LB57]

SENATOR HAAR: Okay. I'll ask...we'll... [LB57]

SENATOR GLOOR: Thank you, Senator Haar and Senator Larson. Senator Schumacher, you're recognized. [LB57]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. I'm just trying to clarify some of the issues here. I don't think it's necessary to recommit this to committee, but I do think it's necessary for some redrafting to be done. Somewhere along the line, the amendments were clearly patched together during the debate, and at the very least they do not read as nicely as they probably should if they're going to go in the big red books. First of all on the property tax issue, the committee amendment says that...talks about providing for the replacement of property taxes to the effective county in the grant contract. Would Senator Carlson yield to a question? [LB57]

SENATOR GLOOR: Senator Carlson, would you yield? [LB57]

SENATOR CARLSON: Yes, I would. [LB57]

SENATOR SCHUMACHER: Thank you, Senator Carlson. My question deals with the provision in the committee amendment to provide for the replacement of property taxes. We have a time which the dollar may continue to devalue, property taxes or property continue to go higher and higher in value. Does the language in the committee amendment contemplate that the property taxes that will be replaced be just at the present level, or that they be adjusted periodically for increases in valuation, or to remain so that replacement is effective throughout time? [LB57]

SENATOR CARLSON: Well, Senator Schumacher, the amendment says: a permanent fund for use by the affected county to offset the reduction in property taxes to the affected county. So there's not anything specific that says it needs to be reevaluated every few years, or it goes up by the inflation factor. So, I think the direct answer to your question is that it's not really addressed. [LB57]

SENATOR SCHUMACHER: So, if this had been done 30 years ago when land was

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selling for a hundred dollars an acre, and now it's selling for a thousand dollar an acre, and neighboring farmers were having their valuations based on the thousand dollar an acre figure, this particular land would get a 90 percent discount, if it's interpreted to be that it's just whatever its value today. Is that correct? [LB57]

SENATOR CARLSON: Well, I think it's a matter of how it is interpreted and I think this could be interpreted either way. [LB57]

SENATOR SCHUMACHER: Well, thank you, Senator Carlson. I think it's our job to save a little legal expenses for somebody, and also the court some time, and tell them how this is to be interpreted, and I would think that this was one of the things we want to clear up in the process here. Second item I'd like to raise, in AM871, line 18, it talks in terms, if the board does not provide written approval of the sale or exchange, the grantee may buy his way out of it by just repaying the debt. Then we passed AM876, in line 1 says, if the board does not approve it within 45 days, it's deemed approved. Why would anyone ever want to repay the grant? Senator Larson, would you yield to a question? [LB57]

SENATOR GLOOR: Senator Larson, would you yield? [LB57]

SENATOR LARSON: Yes. [LB57]

SENATOR SCHUMACHER: Senator Larson, if I were a grantee and I had my two choices in the event there was no approval, one to repay the grant, and one to wait 45 days and walk away from the thing, why would I ever repay the grant? [LB57]

SENATOR GLOOR: One minute, Senators. [LB57]

SENATOR LARSON: Well, it was my understanding from Senator Haar's amendment that if the board didn't take up the grant, then it would go on, not that they could just wait 45 and not repay the grant. And if...as I think a number of people have said, and I'm willing to work, and I've said that on the floor, between now and Select to tie a few of those things up and make sure that this is as clean as possible, and I think we'll get there. [LB57]

SENATOR SCHUMACHER: Thank you, Senator Larson. That's one of the things that needs to be cleaned up, and the difference between approval or denial, whether they've got to meet. There's a lot of ambiguity in here and I wanted to point that out in the record that that's one of the things that needs to be cleared up in it. Finally, Senator Larson, one more question, if I've got time yet. Senator Larson, can any grantee just say, I don't want to put up with this whole procedure? I can pay off... [LB57]

SENATOR GLOOR: Time, Senators. [LB57]

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SENATOR SCHUMACHER: Thank you. [LB57]

SENATOR GLOOR: Thank you, Senator Schumacher, Senator Larson. The Chair recognizes Senator Conrad. [LB57]

SENATOR CONRAD: Thank you, Mr. President. I'd be happy to yield my time to Senator Ken Haar. [LB57]

SENATOR GLOOR: Senator Haar, 4 minutes 55 seconds. [LB57]

SENATOR HAAR: Thank you very much. Thank you, Senator Conrad for that time. Once again, we're...this is a confusing bill. It's poorly written, especially with the amendments in it. For example, I'll get to the commissions and boards. In section (8) it states unless, quote, unless approved in the original grant. To me, this seems like it allows an applicant to state who they will sell, transfer, exchange in their grant, and then the trust does not have to sign off. Senator Larson, could I ask you a question? [LB57]

SENATOR GLOOR: Senator Larson, would you yield? [LB57]

SENATOR LARSON: Yes. [LB57]

SENATOR HAAR: So, according to this language in section (8), quote, unless approved in the original grant. So, if it's not stated in the original grant, then the NET is off the hook. Is that correct? [LB57]

SENATOR LARSON: Well, if it is stated in the original grant, then...if it's stated in the original grant, then obviously the Nebraska Environmental Trust has already approved it once. If a grantee says that they will buy the land and donate it to the Fish and Wildlife Service and the Environmental Trust approves that, I think the logic behind that was, well, the Nebraska Environmental Trust has already approved it once, why should the Nebraska Environmental Trust have to approve it again. And I understood that logic, and it makes...I mean, as long as the board is doing it, and the board is, it made good logic, or it was good logic to me. [LB57]

SENATOR HAAR: Okay. And then I want to go back to this other thing as we cut and pasted all of this together this morning. In section (8) it says there has to be at least a 30-day in advance approval of the next scheduled board meeting. But then one of the amendments worked out with the lobbyists, the people behind the glass, says basically that the board can call a meeting at any time on this, and it can be over a telephone or it can be by videoconference. So which is...if they... [LB57]

SENATOR LARSON: Well, yeah, well... [LB57]

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SENATOR HAAR: Wait, wait, let me finish my question. If they can call a meeting pretty much when they have to so they can get their business done, but then it has to be 30 days in advance, how do you rectify those two dates? [LB57]

SENATOR LARSON: Well, Senator Haar, first of all, the amendment that you're referring to in terms of the teleconference was your amendment and, hopefully, as I said, I'm willing to work with any senator between now and Select File and I hope that you'll be part of that working group as we move forward. But at the same time with the teleconference amendment, if you want to try to say that, they could schedule a teleconference meeting, and then the grantee would just have to give 30-days' notice before that meeting, essentially. So I can understand what you're saying but, obviously, even with the language as is, there's ways to work around it. And as I said, as we move forward, I'd be more than happy to continue to work with you to...and I get that we disagree on the public policy nature of this. But at the same time, I'd hope that we could sit down together and make sure the language is worded correctly. [LB57]

SENATOR HAAR: Well, we keep hearing, willing to work. This is a bill that was poorly written, poorly amended... [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR HAAR: ...and it's going to take a lot of work in between. And then we're going to have to go through this same process of debate that we're having right now, I think. There are so many ambiguities in this bill, and it's not necessary folks. I'm going to talk a little bit now about the noncode agencies because the Environmental Trust. What we're doing here is we're saying, hey, there's a good policy right now, let's put it in statute. Well, I want to tell you about some of the other noncode agencies. And then I wonder if we're going to tolerate, or if we're going to make this set, this is a precedent that we go through, hearing from certain board members that they're the best board ever and they have the best policies that shouldn't be changed, whether we're going to make that same offer to these other code agencies. And then we will take the time and the effort, and the committee time and all that goes into that... [LB57]

SENATOR GLOOR: Time, Senator. [LB57]

SENATOR HAAR: ...to make these into statute. Thank you. [LB57]

SENATOR GLOOR: Thank you, Senator Haar. Members in the queue: Chambers, Ken Haar, Bloomfield, Wallman. Senator Chambers, this would be your third time, Senator Chambers. [LB57]

SENATOR CHAMBERS: Thank you. Mr. President, rather than waste my time on

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questions to Senator Larson, I'm going to make some comments. But I will point out that every time an issue is raised, he never gives an answer. He says, I'm willing to work with anybody between now and Select File. That's not an answer. You're being asked to overlook these serious issues that are being raised until sometime between now and Select File. You don't know with whom you're going to work. He doesn't know the answer. Senator Carlson didn't know the answer to a question put by Senator Schumacher, a very essential question relative to taxes. And Senator Carlson said it could be interpreted either way. That is the definition of ambiguity. It can be A or B. Nobody knows. But in this amendment that was adopted yesterday, AM871, there's language about a deed. And maybe this is what was put in by the people that went upstairs or wherever Senator Larson's meeting occurred. "The deed or other instrument conveying title to real property acquired by such grantee in whole or in part by trust funds shall contain express provisions stating that the grantee may not sell, transfer, or exchange any portion or all of such real property without the prior written approval of the board." This following sentence makes no sense. "Failure of such deed or other instrument to contain the required statement shall allow such grantee to sell, transfer, or exchange any portion or all of the real property without having to obtain prior written approval." If this language must be in the deed, it must be in the deed. How can you have a deed where the language is not there if a precondition is that the language be in the deed? But the following sentence says, if that required statement is not in the deed. If it's required, it has to be there. I won't ask Senator Larson the question because he'll say, well, I'm willing to work with anybody to make sense out of this nonsense. Then if you go up above that to talk about financial institutions, such grantee must provide the board, in advance of the distribution of trust funds. The grantee has made the request. Before the funds are distributed, the grantee must provide that board with written confirmation on behalf of any financial institution. What does "on behalf of" mean? Do they mean that the assurance must be given by that financial institution? Is it placing a burden on them? I don't know. I won't ask Senator Larson. I don't want to work it out between now and Select. But this...I'll just read it: with written confirmation on behalf of any financial institution that is to provide such grantee with a portion of the funds for purchase of real property to be acquired by such grantee in part by trust funds, this confirmation must acknowledge that such grantee may not sell, transfer, or exchange any portion or all of the real property without the written approval of the board. Who is going to give this confirmation? The financial institution? Is the financial institution going to be a third party to the contract? Those who know about contracts know that anybody involved must be shown to have privity. You must be involved. [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR CHAMBERS: Must the financial institution be a part of the negotiating process? The answer to that is, no, because apparently the grant has already been approved by the board. But before the funds can be distributed to a grantee who has obtained permission from the board, this confirmation on behalf of a financial institution

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must be provided to the board. It doesn't say that the financial institution can require of the grantee, before being given a loan or backing, that the grantee will not sell, transfer, or exchange any portion or all of the real property without the written permission of the board. This is gobbledegook. When they try to get cloture, if you vote cloture, then you don't have a chance to deal with these issues, a vote is taken on the bill. If you advance it... [LB57]

SENATOR GLOOR: Time, Senator. [LB57]

SENATOR CHAMBERS: Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Ken Haar, you're recognized. This is your third time, Senator. [LB57]

SENATOR HAAR: Third time, thank you. Mr. President, members of the body,... [LB57]

SENATOR GLOOR: Senator Haar, a moment, please. [LB57]

CLERK: Senator, excuse me. I just have an announcement to make. [LB57]

SENATOR GLOOR: Mr. Clerk. [LB57]

CLERK: Judiciary Committee will have an Exec Session at 10:00 in 2022; Judiciary at 10:00 in 2022. [LB57]

SENATOR GLOOR: Thank you, Mr. Clerk. Sorry, Senator Haar. You're recognized, full 5 minutes. [LB57]

SENATOR HAAR: Thank you very much, Mr. President. Interrupt me anytime. (Laugh) Hopefully, that didn't count against my time. There's a word called "obfuscation," and I couldn't spell it. I looked it up on Google. It's o-b-f-u-s-c-a-t-i-o-n and, of course, it means to confuse. It's something we all use on the floor. We don't have to use obfuscation on this bill. The bill is very confusing. It has so much work to be done. The purpose is to not allow the natural...the national Fish and Wildlife Service, if I got that right, U.S. Fish and Wildlife Service, to buy land. We found out that only a portion, small portion, of the land in Clay County, where this has bubbled up with trust money. So we're not going to solve the problem of the U.S. government taking land for conservation purposes. This bill doesn't do that anyway. So here we have a very confusing bill, a very confusing bill that maybe we're willing to put into law because we've traded votes with somebody else. And, you know, if it isn't too bad a bill anymore, why not just put it into the statutes? Well, if that's what we're here for, then we've wasted a lot of time campaigning, a lot of time and effort in sleepless nights campaigning. I think we're here to make good laws. This is not a good law. Willing to

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work, we'll see it on Select File. And between now and then, I guess there are going to be a lot of meetings. If you vote, you know, if you vote to continue this until Select File, there's going to have to be a lot of discussion in this to take all the confusion out of the bill. And then, what if things change in the future, and now the policy that we thought was so good because no other board could be as good as this board, so we got to put it in statute, and now, times change. So what happens? Then, it's going to come back to us and what should be a policy change, or a policy improvement, will have to be somebody's priority bill, committee hearings, and all that. The reason we don't put all the policy of all the commissions that we have into statute is because our statute book would be ten feet tall. That's not what commissions and boards are for. They're appointed by the Governor, approved by committees, but hopefully those are good appointments. Hopefully, those are good appointments, and they are. We've gone through a lot of them in the committees I've served on, and most of them are really good appointments. So now we're saying, hey, but this is the best board ever, so we've got to put this one in statute. I think it's a big mistake. And how are we going to take all of the ambiguities out of this bill to give the flexibility to the Nebraska Environmental Trust to go forward with the work that the people of this state voted on when the Nebraska Environmental Trust was created? If we're going to micromanage here, we have a lot of other agencies that we need to micromanage, and I don't think we want to get into that. How much time do I have left? [LB57]

SENATOR GLOOR: One minute thirteen seconds. [LB57]

SENATOR HAAR: Okay. So, noncode agencies, there are code agencies and noncode. Noncode agencies are state government agencies not subject to the Governor's direct control. All are full-fledged agencies, meaning that they have their own staff, are affiliated with no other agency, and appear as a distinct item in the state budget. All statutory references in this section indicate where each agency was created in the Nebraska Constitution, revised statutes of Nebraska, or both. And unless otherwise noted, appointments to boards, commissions, councils, committees, and/or other state governmental bodies serve until they resign or are replaced after their terms expire. So here are all the agencies that are similar to the Environmental Trust. In other words, they're noncode agencies. And the big question that I'm trying to raise here is, do we want to look for the best...the best in all those agencies and then put it into law because, you know what, we want to have those things forever? And if those things need changing,... [LB57]

SENATOR GLOOR: Time, Senator. [LB57]

SENATOR HAAR: ...they're going to have to come back to us. Thank you. [LB57]

SENATOR GLOOR: Thank you, Senator Haar. (Visitors introduced.) Returning to floor debate, members in the speaking queue: Bloomfield, Wallman, Conrad, and Howard.

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Senator Bloomfield, you're recognized. [LB57]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I rise to oppose the motion to recommit to committee. This bill has some language problems. I believe it can be worked out between now and Select. I find it interesting that, to me, the amendment that causes the most confusion was introduced by Senator Haar and he is now rapidly complaining about the confusion in the bill. So that seems just a hair bit disingenuous. But the part of his amendment which we hurriedly passed yesterday says, on page 2, after "transaction" insert, "If the board does not approve or deny such request for approval within 45 days after the request, such request shall be deemed approved." So the board does nothing, zero, nada, they sit on their hands for 45 days, and, voila, we've just approved something. Senator Schumacher has expressed an interest in working on the language in this bill. I believe there is much work to be done, but I do believe it can be done between now and Select. And I will yield the rest of my time to Senator Schumacher in hopes that he will elaborate a little bit more. Thank you. [LB57]

SENATOR GLOOR: Senator Schumacher, 3 minutes 33 seconds. [LB57]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Thank you, Senator Bloomfield. Continuing to just get into the record here some thoughts and perhaps some answers to some questions so that we know what we're dealing with, I think that all the problems that we've seen, probably in a hour at a word processor could be cleaned up. But, nevertheless, they should be cleaned up before we do a Final Reading on this thing, certainly. One thing that is not clear, is there any time limit on the requirement to get these particular restrictions from the board? Fifty, seventy-five, one hundred years from now, does whoever holds title still have to come back to a board? We may not even have an Environmental Trust in that length of time. Who knows? I doubt if anyone has an answer to that. That hasn't been discussed, but I think it should be there or at least made clear that we intend this to go on forever and ever. One thing that is concerning is, we've got to reconcile the language in the...Senator Larson's amendment, AM871, where it says that this deed that's on file in the courthouse, that title insurance companies and everybody will look at, and future buyers of the property will look at, has to say that nothing can be transferred without approval of this board. And that appears at page 2 of AM871 starting at about line 12. This says you can't do it, may not sell, transfer, exchange without approval. But we know that's not true because we know that, without approval, as long as they buy their way out, they can go ahead and do anything they want. We know that in other parts of this bill it says, if the board sits on its hands for 45 days, they can do anything they want. We know that they can do anything they want unless it's...if it's okayed in the original grant. Well, this is going to create title problems, I think, unless that is reconciled with the other language changes that have been made in the particular bill. [LB57]

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SENATOR GLOOR: One minute. [LB57]

SENATOR SCHUMACHER: It talks in terms of, you can't sell or transfer any portion of the real property. Is that restricted to the boundary limits in a transfer of the fee of the property? Because land in real estate, you can transfer a future interest. Does that apply to a future interest in the property? Does it apply to the right to pick beans off the property or what they call profits a prendre? Does it...that particular restriction, when you say "any portion," are you just talking there about title to the property, a chunk of the property, or a level of the property from 10 feet down to 20 feet down? I think some of that may need to be clarified in order to keep this simple, because right now the efforts that tried to patch this together has made it nonsimple and nonclear. And by the time we're through with this process, I want to make the record reflect that we need to do our job and make it clear. Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Bloomfield. (Visitors introduced.) Returning to debate, Senator Wallman, you're recognized. [LB57]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Schumacher be open to a question? [LB57]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB57]

SENATOR SCHUMACHER: Yes. [LB57]

SENATOR WALLMAN: Thank you, Senator. Where is all this money coming from to buy this stuff? [LB57]

SENATOR SCHUMACHER: Senator, this is one of the evils of gambling. [LB57]

SENATOR WALLMAN: Thank you, Senator. Evils of gambling. I tried to pass a conservation easement and bill in here and it didn't fly, and I think it would have been a good bill. Original people would have...thank you, Senator Schumacher. And it would have kept track of the land and original owners or relatives or down the line. And so, when we have this property given to Environmental Trust people, it's environment. Does that mean property, or does that mean cleaning up our rivers and streams and protect our soil we have? So that's an interesting thing to look at. And so if you want to give your land, Senator Schumacher, to Environmental Trust, I guess that's your prerogative. But is it the wise thing to do? Let's think about this. It might not be the wisest thing to do. And if you have some kind of an easement, you still have control of your property. And so we're going here, is this a good bill? It probably needs some work in committee, but we've done that before and we can do it again. And does it have some fault? I'm not an attorney, so I don't know language like some of this...like Senator Chambers and Senator Schumacher. But I think the reason for this bill, there definitely was a reason for

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the bill. And so I'd yield the rest of my time to Senator Schumacher, if he wish. [LB57]

SENATOR GLOOR: Senator Schumacher, 3 minutes 12 seconds. [LB57]

SENATOR SCHUMACHER: Gee, I don't know if I've got 3 minutes 12 seconds in me. Basically, I think what needs to be done is that, assuming we advance this bill to Select File, that we need to sit down, clear up some of the legal things, get the parties to make sure that they are in agreement after the language changes. There's some pretty ambiguous issues here: the one on property tax, the one on the deed restrictions that really aren't restrictions if you read it closer. There's another issue. If you are not approved and you can buy your way out, can 40 years from now, when the buyout price might be very cheap compared to what the value of the land is, if an organization doesn't want to put up with going back to this board and asking for permission, can it just send them a check for whatever it got initially in depreciated dollars and be done with this thing? All those are issues that probably need to be addressed. They're fairly nitpicky issues, but they are things that are going to cause people to scratch their heads. And with a few strokes of a keypad, we probably can fix them right now and make this a decent bill and result in the transparency that Senator Larson started out wanting to accomplish. Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Wallman and Senator Schumacher. Senator Conrad, you are recognized. [LB57]

SENATOR CONRAD: Thank you, Mr. President. I'd yield the balance of my time to Senator Chambers, if he so desires. [LB57]

SENATOR GLOOR: Senator Chambers, 4 minutes 52 seconds. [LB57]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Conrad. Senator Schumacher says this can easily be worked out. I'd like to ask Senator Schumacher a question. [LB57]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB57]

SENATOR SCHUMACHER: I will. [LB57]

SENATOR CHAMBERS: Senator Schumacher, you support this bill, don't you? [LB57]

SENATOR SCHUMACHER: I support the bill. [LB57]

SENATOR CHAMBERS: Okay. Thank you. That's why he says that. But he brought up a very crucial issue. What does real estate mean? What does real property mean? I want to read a definition into the record and you see if any of this was considered by the

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Natural Resources Committee, by Senator Carlson, by Senator Larson. Real property means lands, lands under water, structures, and any and all easements, air rights, franchises, and incorporeal hereditaments--and I'd like them to say what hereditament is--and every estate and right therein, legal and equitable, including terms for years, and liens by way of judgment, mortgage or otherwise, and any and all fixtures and improvements located thereon. Maybe they want to say in their agreements that these are the things we mean by real property, not what the real definition of real property is. None of that is touched because this bill is aimed against the federal government. Just like they shouldn't be able to enforce their laws, federal laws that gun owners don't believe in, the Legislature was asked to pass a bill saying those laws cannot be enforced by the federal government in Nebraska. This is just a tail on that dog. But here's something that I think the senators ought to be paying attention to. Not one of you, not anybody on this floor--that includes me--understands everything in this bill. Nobody knows what's in the bill. Nobody can explain the issues raised. Senator Carlson admitted he couldn't. Senator Schumacher is talking about things that need to be clarified. He cannot tell you how to clarify, even though he said, a few strokes on the keypad. He knows better than that. You'll pass a bill that you don't understand. The public will go to the law that you passed and you don't understand it, you can't explain it, how is the public supposed to know and understand? Then if there is litigation, you say the lawyers want to make money. You are not doing the job of a Legislature. There's an obligation when we pass a law, when we vote for it, to at least understand what we're voting for. You've heard the way those who support this bill stumble and fumble and cannot or will not answer questions. Everything is between now and Select File. You don't know if all the people who have a concern about this bill are going to agree. So on Select File, we have the same issues, nobody understands, nobody knows. You ask questions. Your time is eaten up by all of this shilly-shallying, stumbling, fumbling inability. Senator Larson doesn't understand this bill. He doesn't know what's in it. He did not write the amendment that he said was his. He does not understand, and if he does, he should have explained it, the deal worked out with the bankers and the title insurance people. If this that we have in the bill now is what the title insurance people brought and agreed to, something is wrong with them. [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR CHAMBERS: And this idea of a financial institution having to give some kind of confirmation to this board of things that they cannot require the board to agree to, and that the board cannot agree to anyway based on other provisions in the law, what kind of sense does that make? And you're going to be asked to vote for it. If you vote for cloture, then you want to continue with what we're doing now. And I don't mind doing it because it fits into my grand scheme of eating up time on the clock, eating time off the clock. So we can end it when they make their cloture motion, or we can continue on Select File--it's all the same to me--then on Final Reading. The more of these kind of bills you give to me, the more I control the agenda and the movement of the Legislature,

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and there's nothing you can do about it because the rules are on my side. Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Howard, you are recognized. [LB57]

SENATOR HOWARD: Thank you, Mr. President. I rise with a concern that, on LB57, that in my four years working with funders, I've never had them retain an interest in any real property or capital investments beyond the grant contract term. And so, it dovetails nicely with Senator Schumacher's concerns about property...property law, but it also brings up a concern about contract law as well. And I would yield the rest of my time to Senator Chambers. [LB57]

SENATOR GLOOR: Senator Chambers, 4 minutes 30 seconds. [LB57]

SENATOR CHAMBERS: Thank you, Senator Howard. Thank you, Mr. President. You know why I'm doing what I'm doing? I'm doing what I criticize the legislators for doing, working against your own interest. My interest is to control the movement of the Legislature. But this bill is so bad, I will be condemned for not having found a way to stop it. But then, if people read the transcript and if they're listening now, they'll say Jesus himself couldn't have stopped that one. Moses, who could divide the Red Sea, couldn't bring together all these disparate problems and make sense out of nonsense. This bill is nonsensical. And you know what nonsensical means? It is not written in a way that conforms to the principles of right reasoning. Nobody knows what's in it. I'm not talking about understanding. With the amendments that have been adopted, nobody can tell what the status of this bill is. Now because you all have forced me to read some of it in order to talk about it, I might could come closer to saying what's in it than anybody else, but I'm not interested in doing that. I'm interested in stopping it. I'm interested in saving the Legislature from itself. Senator Bloomfield, he doesn't understand what's in the bill. Everybody who says push it to Select File admits that they don't know what's in the bill. And what they do know that's in the bill doesn't make sense. Have you ever heard those kind of arguments being given as a way to persuade the Legislature to move a piece of legislation? I almost said something. It would be different if those who support this bill, especially the introducer, should say, okay, I'm going to clarify; these are the things that the bill will do: one, two, three, four, five, and however many. And this is what each one of them means. This is how one and three interconnect and blend and complement each other instead of contradicting each other. There are contradictory things in this bill. Not just conflicting, not just ambiguous where it could mean one thing or another, but where contradictory provisions are in the bill. And you're going to vote to advance it? Why, what kind of Legislature is this? The courts have said that when elected officials take an oath, that oath includes a duty to serve the public as a trustee. And a trustee is to do what's in the best interest of the beneficiary. And in our case, the beneficiary is the public. We are to bring our best knowledge, our

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best abilities to bear on seeing after what is in the best interest of the trustee's beneficiary, the public. We don't know what the bill means and the public cannot know. When there is something so irrational... [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR CHAMBERS: ...that it cannot be known, the philosophers call that something which is unintelligible. This bill is unintelligible. And I don't know how many times that has to be repeated. But what I'm saying is not going to change anybody's mind. I don't know whether Senator Tyson has 33 people who are going to say, as bad as this bill is, that the ones who supported it have admitted, it's bad. The ones who support it, at least one of them, Senator Schumacher, who does understand the area of the bill he has an interest in, namely, the taxing portions. It doesn't make sense. Senator Carlson had to look at that provision and say, well, it can go either way. And that's what you're going to vote in favor of? We got people trying to get the public to put them in higher office. [LB57]

SENATOR GLOOR: Time, Senator. [LB57]

SENATOR CHAMBERS: Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schilz, you're recognized. [LB57]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I sense that we're, hopefully, coming towards the end of this robust debate. I'd just like to sum up how I see things here. I think, in my opinion, and I think in most folks' opinions, there is an issue here and an issue that needs to be addressed. We hear about how...and I don't necessarily disagree that we need to be careful on what we put out here and how we work through things, but I would remind everyone on the floor that we have a process here that allows us the opportunity to amend and fix and talk about things at multiple different stages and different levels as we go through this. That's why we get to hear it on the floor three separate times, to make sure that it comes out the way it needs to be in the best fashion possible. But once again, are we perfect? Not necessarily. Do we do our best to address the situation at hand and in the best fashion that can be passed on the floor? That's what we try and do here. Hopefully, this process allows us that opportunity to improve not just this bill but all sorts of bills. So we know we have a need. We know we have a process that can take care of this. The question is, when should it be done? In my amendment that I put up there on LB57, which, yes, I still plan to withdraw that, I wanted to wait and talk about it in between so that we didn't have all this confusion and all this conflicting information that some would say is in the bill. I thought that was the way to do it: bring people together, get them in a room, discuss the best way to move forward. Because as we can see, and this is true and Senator Bloomfield

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brought it up, the amendments that we have voted into place are now what some of the opponents are arguing is part of the problem with the bill. So I just want to make sure that as we move legislation out of here, that we put it in its best form ever that we can and then we see where the votes fall. And I appreciate everybody's position on this. I don't disagree that the NET has a important job in the state of Nebraska. I want to make sure that the NET is protected as much as possible. I want to make sure that they have the money to do what they need to do going forward. And I want to make sure that counties, where possible, are protected from state interests pulling their tax dollars away from them, possibly. I don't think that's ever a good idea, especially with counties where they don't have the other tools that other political subdivisions do to have options to pay for things. I appreciate everybody's input. I've...I guess we've all made it through to this point, so I'm going to stop talking now. I'd appreciate not voting to recommit this to committee and then passing the bill so that we can get together with all those, and I've started with a list... [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR SCHILZ: ...of who those people are that need to be involved in the meeting. And I hope...and I hope that we can get to that point. Thank you very much, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Carlson, you are recognized. [LB57]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. In tying together some thoughts in listening to the testimony that's taken place, first of all, I want to say that if there's blame to be placed about the condition that this bill is in, don't blame the members of the Natural Resources Committee. If you want to blame somebody, blame me because I can take it. Secondly, I'm going to indicate what I think three things the bill attempts to do. And first of all, it provides a plan for replacement of lost property taxes; secondly, it requires that a nonpublic grantee obtain written Trust Board approval before selling or transferring the property; and number three, it notifies a financial institution in the original acquisition of the property, if they were involved in providing dollars to allow this transaction to take place. And I think that's a fair request. They need to know that these requirements are a part of this particular property. Again, would ask that this not be recommitted to committee. If the idea is to destroy the bill, it doesn't need to be recommitted to committee. If the idea is to take the discussion that's taken place in terms of what could be done to iron out the problems with it, that can be done without a recommitment to committee. And those that indicate this should be done have an opportunity to be a part of that process; otherwise, stand back and debate it again on Select File. But I would ask that you not support the recommit to committee. Thank you. [LB57]

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SENATOR GLOOR: Thank you, Senator Carlson. Are there other senators wishing to be recognized? Seeing none and given the fact Senator Chambers has used his three opportunities to speak...Senator Chambers, you've used your three opportunities to speak already; recognized to close. [LB57]

SENATOR CHAMBERS: Yes, to close, thank you. Mr. President, members of the Legislature, people always, after I create an opportunity for debate, become concerned about what I've done. Had I not put this motion up there, there was nothing pending, a vote would have been taken and this thing would have moved. Senator Schumacher, thanks to the opportunity I created--yeah, I, I, me, me--was able to point out additional problems when it comes to the tax aspect of it; pointed out that Senator Carlson doesn't know what that language means and the best he can say is it will go either way. You would have voted to move this bill, wouldn't you have, without even knowing that there are additional problems in this bill? And there are problems we haven't even discussed at length. Now if they mean what they say...or I shouldn't say "they." If Senator Schilz means what he says and Senator Schumacher thinks that the problems can be resolved with a few pecks on the iPad board, why are they going to vote for cloture? We're debating it now and the debate has been focused on problems with the bill. The discussion was extended because those who support the bill, and especially the introducer, either refuses or cannot answer and rambles on and on until time is exhausted. He ought to just admit he doesn't know the answer; then comments can be made. I know what it takes to force debate on issues in this Legislature. Are there 33 of you who are going to vote to let this thing go? If you vote for cloture, then that means 33 of you should vote to support the bill. But if you vote for cloture and don't support the bill, you have behaved in an irrational manner. I am curious to see who those 33 people will be. And I say this for the record: Not one of them understands the bill. Senator Carlson tried to give an itemization but he failed to point out that the language adopted by these amendments, which are supposed to execute those points, the language doesn't make sense and it doesn't do what he said the purpose of the bill is. I was the one who voted against these amendments; others voted for them. Nobody knows what's in the bill. Nobody can explain or resolve the issues that were raised. If a motion for cloture is offered and voted on, then the vote will be to advance the bill in its present, mangled, bunglesome, contradictory, conflicting form. That's what is before us. And if a little bit of time means so much to you that you are willing to impugn the integrity of the Legislature by passing... [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR CHAMBERS: ...a piece of claptrap, which is what we have before us, then you are hurting the Legislature as an institution. What did the Governor do when there was just opposition expressed to his tax bills? He said, rather than go through all that, pull them. But what are you going to do? Well, you've made commitments to vote for cloture. And you have heard those who support the bill acknowledge all of the defects

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and all of the flaws, and I'm going even beyond that. I believe this bill is aimed against the Environmental Trust. That's the underlying issue. One county is concerned about some taxes on 320 acres. That's not what led to this bill. We don't really know, based on... [LB57]

SENATOR GLOOR: Time, Senator. [LB57]

SENATOR CHAMBERS: Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. [LB57]

SENATOR CHAMBERS: I'll...(microphone malfunction)...of the house. (Laughter) [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. 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; those opposed vote nay. Record, Mr. Clerk. [LB57]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB57]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Unexcused Senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Ashford, Nelson, Larson, please return to the Chamber and record your presence. Senator Chambers, how do you wish to proceed? [LB57]

SENATOR CHAMBERS: I will take a machine vote, but I also want it to be a record vote. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. Members, the question is, shall LB57 be recommitted to committee? All those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB57]

CLERK: (Record vote read, Legislative Journal page 888.) 7 ayes, 33 nays, Mr. President, on the motion to recommit. [LB57]

SENATOR GLOOR: The motion fails. Raise the call. [LB57]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB57]

SENATOR GLOOR: We return to discussion on the advancement of LB57. Senator Chambers, you are recognized. [LB57]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm going to speak again on the process. If you vote for cloture and we're close to the point where that can be invoked, terminating the debate, then the motion will be made at some point to advance the bill. And since nothing else is pending, I presume the vote to advance the bill will be immediately taken up if 33 votes are given for cloture. The 33 people who may vote for cloture...I'll just leave that sentence hanging. Senator Schilz mentioned how we discuss bills out here, which we do, try to improve them, which we do. This bill has not been improved. Senator Schilz knows there's additional work needed. Senator Schumacher, Senator Bloomfield, Senator Carlson, they're the ones who support the bill. With all of the debate that we have had, with all of the time that was consumed, why didn't they do as I often do when debate is going forth--draft amendments to address the issues that are being raised and debated? Do they have to get permission from the lobbyists? Do they have to get the language that the lobbyists want? The amendment adopted yesterday was produced by the lobbyists. John F. Kennedy's famous statement, when they were going to try to invade Cuba or Cuba (phonetically), as he would say, was to trust the experts. The experts have been working on this bill to protect their individual parochial areas of interest and concern. So what do we get? A hodgepodge. Too many cooks have spoiled this broth. And now the Legislature, as during the past four years has come to be viewed, is expected to swallow it, to pass it on and say at a future date it will be taken care of. There are some issues that become the subject of laws that are enacted by the Legislature with that philosophy: Future Legislatures will look after it. Why should somebody down the line always be dumped on by the Legislature? Whose responsibility is it to put this bill in proper form if it's going to be enacted into law? I've told you I don't like the bill. I think the motivation behind it is wrong. What the bill is attempting to do is wrong and totally unnecessary in order for the Environmental Trust to carry out its responsibilities, as it has been doing down through the years while the trust has been in existence. When has there ever been an assault upon the trust? When has anybody suggested that somehow the way they behave is so out of line that you have to pass legislation to correct it? And then, at the time this correction, so-called, is being made, we're told that this will put into law what is currently being done by the board. If the board is doing what needs to be done, this legislation, being as kind as I can be, is superfluous. It is unnecessary. So if it is... [LB57]

SENATOR GLOOR: One minute. [LB57]

SENATOR CHAMBERS: ...unnecessary, what is the purpose of it? We have had different comments, especially from me, as to what I think the purpose is. But the purpose of those who vote cloture and may vote to advance it if cloture is successful should have more in mind than simply advancing a bad piece of legislation. Mr. President, I believe we're all here but could I have us check in and then I will take...oh, see, that made people look up. But there were some who were prepared to let me take total control and bring everything to an end and say that I want us to check in and I want

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a roll call vote. On what? It's not my bill. I'm not closing on the bill. But some of you were caught off guard, huh? Thank you, Mr. President. [LB57]

SENATOR GLOOR: Thank you, Senator Chambers. Mr. Clerk for an amendment. [LB57]

CLERK: Mr. President, Senator Haar would move to amend the bill by striking the enacting clause. (FA46, Legislative Journal page 888.) [LB57]

SENATOR GLOOR: Senator Haar, you're recognized to open on your amendment. [LB57]

SENATOR HAAR: Thank you very much. Mr. President, members of the body, we will soon be approaching that magic hour so I just wanted to get a little bit more time on the mike. You'll probably recognize who I'm talking about. At this point, Alice had just eaten a cake labeled "eat me" that had made her telescope up to nine feet tall, and of course, as a proper Victorian English girl, she said, "Curiouser and curiouser," not what I would have said but, "Curiouser and...", and this is from the book itself, "Curiouser and curiouser," cried Alice. She was so much surprised that for the moment she quite forgot how to speak good English. "Now I'm opening out like the largest telescope that ever was. Good-bye, feet," for when she looked down at her feet, they seemed to be almost out of sight. They were getting so far off. This is from Chapter 2 in, of course, Alice in Wonderland. This bill is really an example of "curiouser and curiouser." I certainly believe in compromise, and those of you who I've served with for two or four years know that there have been some compromise, a lot of compromise on my point when it came to the Environmental Trust last year, when it came to net metering, all those kinds of things. There's been a lot of compromise. And I believe in compromise when you're making something better. But in this case, we are...we've heard so many times, here's a problem with it, here's a problem. We're rewriting this bill, we're rewriting a bad bill and I...it perhaps, perhaps has become a little bit better because we don't see the lobbyists back there behind the glass on this bill anymore. So from their special interest, they're satisfied. But it's a bad bill. And I agree with Senator Chambers, it's an embarrassment to put this kind of stuff in the statutes--I used the word "stuff," good Victorian English--this kind of stuff into our code books because we feel such a great compulsion to compromise or trade votes or something like that. This is a bad bill. It should not go into the books. It sets a bad precedent of taking Nebraska regulation and policy from boards and commissions and putting the good stuff into statute, at least that's what some current board members are saying. We have to put the good stuff in statute so when bad board members come along they're not going to mess up. So I think, one way or the other, my bill does...my amendment does exactly what I hope will happen in a few minutes. And thank you very much. [LB57]

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SPEAKER ADAMS: Thank you, Senator Haar. Senator Haar, you're next in the queue. [LB57]

SENATOR HAAR: I'm next in the queue? Okay. Going back to the bill itself, it started out with a lot of ambiguities and, yes, those ambiguities have grown and grown. But I promised to get back to this and I'd like to talk more about all these agencies, because here we're talking about taking rules and regulations that are good and they're already in place and putting them in statute, because they're so good. And this board doesn't want to see them. At least just a couple members of the board, as we've been told, would like to see these put in statute so that no other board can change those rules and regulations if time and situations change. So the noncode agencies: Abstractors Board of Examiners, Nebraska Accountability and Disclosure. All of these, by the way, are boards and commissions that create and promulgate rules and regulations, and that's another whole interesting process that I could hope to talk about. The Nebraska State Board of Public Accountancy, wow, are there things in their rules and regulations that are so good we better put them in statute? The Commission on Public Advocacy, the Nebraska Arts Council, the Board of Barber Examiners, I think some committee, I'm not sure which one, should look at their rules and regulations and take the good ones and put them in statute, because we might have a new board in the future and they might change those rules and regulations. The Commission for the Blind and Visually Impaired; the Nebraska Brand Committee; the Board of Trustees of the Nebraska State College System; Corn Development, Utilization, and Marketing Board, I think they're doing a great job, but maybe we need to find out where those good policies are and put them into statute so that bad board members in the future aren't going to change. Nebraska Dairy Industry Development Board, Commission for the Deaf and Hard of Hearing, "The Dry Bean Commission was established to encourage dry bean growers and processors to develop and work in research, education and promotion of dry bean and bean producer programs. The commission also provides a way for Nebraska dry bean growers and processors to finance programs to achieve the purposes of the Dry Bean Resources Act." So I'm not familiar with their rules and regs, but they probably have some that should be put in statute because future boards will change them. The State Board of Education/State Board of Vocational Education, and we have other boards. It goes on and on. And State Department of Education, wow, they have tons and tons of rules and regulations. I wonder which are the good and bad ones, because we better put the good ones in statute so that they can never be changed. And we continue on. Within the State Department of Education, by the way, we have a lot of different "subboards," I guess you'd call them: Statewide Assessment; Curriculum/Instruction, Innovation; School Improvement Accreditation, and so on, a lot of things within the State Board of Education. The Board of Educational Lands and Funds, this actually came before our committee earlier in the session, they have lots of rules and regulations, and the money from... [LB57]

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SPEAKER ADAMS: One minute, Senator. [LB57]

SENATOR HAAR: Thank you very much...the money from this, as you know probably, there are some million acres or so, I think it's 1.3 million acres of public lands and that are rented out and all the income from that is divided up among the schools. Great board, but I think we really should look at their rules and regulations as well, find the good ones. The Board of Appraisers for Educational Lands, another board. Nebraska Educational Telecommunications Commission, they've done a great job, a great job and established...well, this was in 19...adopted in 1963, and they've been operating...they must have a lot of rules and regulations; we should probably look at them. State Electrical Division; the Board of Engineers and Architects, I worked with them for a while. [LB57]

SPEAKER ADAMS: Time, Senator. [LB57]

SENATOR HAAR: Thank you. [LB57]

SPEAKER ADAMS: Senator Lautenbaugh, you're recognized. [LB57]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Actually, I just turned my light on to call the question, to see if the filibusterers were actually attending to their work diligently or not, and apparently they were, as we have an amendment before us now. I do know Christmas is coming and I plan on buying Senator Haar a second quotable book, so we can deviate from Alice in Wonderland to maybe another book at another time. Please vote for cloture. This is a good bill. Thank you, Mr. President. [LB57]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Mr. Clerk, do you have a motion on the desk? [LB57]

CLERK: I do, Mr. President. Senator Larson would move to invoke cloture, pursuant to Rule 7, Section 10. [LB57]

SPEAKER ADAMS: It's the ruling of the Chair that there has been full and fair debate afforded to LB57. Senator Larson, for what purpose do you rise? [LB57]

SENATOR LARSON: (Microphone malfunction) Call of the house, roll call vote, reverse order. [LB57]

SPEAKER ADAMS: There has 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. Record, Mr. Clerk. [LB57]

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CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB57]

SPEAKER ADAMS: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Members, you should be in your seats. There has been a request for a roll call vote in reverse order, members. Mr. Clerk. [LB57]

CLERK: (Roll call vote taken, Legislative Journal page 889.) 34 ayes, 9 nays, Mr. President, on the motion to invoke cloture. [LB57]

SPEAKER ADAMS: Motion to invoke cloture is adopted. Members, the next vote is on the adoption of FA46 to LB57. All those in favor vote aye; all those opposed vote nay. [LB57]

SENATOR CHAMBERS: (Microphone malfunction) Roll call vote. [LB57]

SPEAKER ADAMS: Been a request for a roll call vote. In regular order, Senator? Mr. Clerk. [LB57]

CLERK: (Roll call vote taken, Legislative Journal pages 889-890.) 8 ayes, 30 nays, Mr. President, on the amendment. [LB57]

SPEAKER ADAMS: The amendment fails. Members, we'll now vote on the advancement of LB57 to E&R Initial. [LB57]

SENATOR LARSON: (Microphone malfunction) Roll call, reverse order. [LB57]

SPEAKER ADAMS: There has been a request for a roll call vote in reverse order. Mr. Clerk. [LB57]

CLERK: (Roll call vote taken, Legislative Journal page 890.) 27 ayes, 17 nays, Mr. President, on the advancement of LB57. [LB57]

SPEAKER ADAMS: LB57 advances. We raise the call. Mr. Clerk, do you have any announcements? While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR117, LR118, LR119, LR120. Mr. Clerk, we'll proceed to General File, LB158. [LB57 LR117 LR118 LR119 LR120 LB158]

CLERK: Mr. President, LB158, a bill by Senator Seiler. (Read title.) Bill was introduced on January 14 of this year, referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM470, Legislative Journal page 613.) [LB158]

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Seiler, you're recognized to open on LB158. [LB158]

SENATOR SEILER: Mr. President, members of the Unicameral, I bring LB158 on behalf of the Department of Roads. And to give you a little history, on January 10 of 2013, the National Highway Traffic Safety Administration notified the Department of Roads that they were not in compliance with the ignition interlock law, of the federal law, and therefore, were putting \$6.2 million of money that was due us in reserve until we correct this law. The correction is fairly simple. At the present time, LB...or, excuse me, Section 60-6,197.01 and .03 provide that the 45 days of hard license suspension would run consistent...concurrently with the one-year suspension and interlock order. The federal government has changed that so that the full year of ignition interlock follows the 45 days' license suspensions, and that's what the LB158 changes. This is some serious money. It's not...if you look in the fiscal note, it doesn't quite say how much, but it's \$6.2 million coming in to our coffers for the Department of Roads, so...and we are on temporary approval until this Legislature has approved this law, and then we'll be in full compliance and they will pay us the funds. With that, I'd take any questions. [LB158]

SENATOR GLOOR: Thank you, Senator Seiler. As the Clerk stated, there are amendments from the Transportation and Telecommunications Committee. Senator Dubas, as Chairman of that committee, you're recognized to open on the committee amendments. [LB158]

SENATOR DUBAS: Thank you very much, Mr. President. Good morning, colleagues. Senator Seiler did a good job of outlining the purpose of this bill and basically it's to get us back in compliance with federal regulations so that we may access that \$6.2 million. AM470 replaces the original bill. DMV had issues with their ability to administer LB158 as it was originally drafted. There was an inconsistency between the time a judge ordered a license revoked. The 45-day wait period and the one-year ignition interlock period created problems for DMV. An offender could technically be eligible to have their license reinstated while still under court order for ignition interlock, which requires a special permit instead of a driver's license. This created auditing problems for the DMV, which could have led Nebraska to be out of...continue out of compliance with federal law. The amendment increases the license revocation time to 18 months in order to ensure drivers have time to get the ignition interlock installed. Language in the amendment further clarifies the DMV's authority to maintain license revocation until after the court-appointed time for use of ignition interlock has ended. The National Safety...Highway Traffic Safety Administration has reviewed AM470 and agrees that it puts us back in compliance with federal law, and I do have correspondence with them that says to that effect, that after reviewing the amendment to LB158, without change,

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the state would meet all of the requirements of Section 154...164, excuse me. That would end my closing...or my opening. Thank you. [LB158]

SENATOR GLOOR: Thank you, Senator Dubas. Mr. Clerk, there is an amendment to the committee amendments? [LB158]

CLERK: Mr. President, Senator Seiler would move to amend the committee amendments with AM827. (Legislative Journal page 884.) [LB158]

SENATOR GLOOR: Senator Seiler, you're recognized to open on your amendment to the committee amendments. [LB158]

SENATOR SEILER: Thank you, Mr. President, members of the Unicameral. Subsequent to our first go-round, the feds came in and amended their bill one more time. In our current law, 60-4,118.06, there is a restriction on driving if you have an interlock facility. You are only allowed to go to and from your residence for the purposes of employment, school, substance abuse programs, parole or probation officer, or to your continuing health. The federal government did away with any purpose. They said you can drive anywhere if you have the interlock provision. My amendment strikes those restrictions on the driver's area and makes it back in compliance with federal law. [LB158]

SENATOR GLOOR: Thank you, Senator Seiler. Members, you're heard the opening on LB158, the committee amendment, and the amendment to the committee amendment. We now move to floor debate. Senator Chambers, you are recognized. [LB158]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I would like to ask Senator Seiler a question or two. [LB158]

SENATOR GLOOR: Senator Seiler, would you yield? [LB158]

SENATOR SEILER: I will. [LB158]

SENATOR CHAMBERS: Senator Seiler, did I understand you to say that this bill is being brought in order to make Nebraska's law comply with federal requirements? [LB158]

SENATOR SEILER: Exactly right. [LB158]

SENATOR CHAMBERS: And if Nebraska does not enact this law, what happens? [LB158]

SENATOR SEILER: We lose \$6.2 million of federal money. [LB158]

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SENATOR CHAMBERS: Now is the provision of federal law we're talking about in the nature of a regulation imposed by the federal government under the threat of losing money if you don't go along with it? [LB158]

SENATOR SEILER: Yes. [LB158]

SENATOR CHAMBERS: Thank you. I would like to ask Senator Kintner a question or two. [LB158]

SENATOR GLOOR: Senator Kintner, would you yield? [LB158]

SENATOR KINTNER: Certainly. [LB158]

SENATOR CHAMBERS: Senator Kintner, do you agree with this bill? [LB158]

SENATOR KINTNER: I understand it. I cannot stand federal blackmail like that. I think it's disgusting, but I understand why it's being introduced. [LB158]

SENATOR CHAMBERS: Are you going to support the bill? [LB158]

SENATOR KINTNER: Probably. [LB158]

SENATOR CHAMBERS: Do you believe the federal government should be dictating to the states how they are to behave and what kind of laws they ought to enact within their borders? [LB158]

SENATOR KINTNER: Absolutely not. [LB158]

SENATOR CHAMBERS: But this is a dictate from the federal government, isn't it? [LB158]

SENATOR KINTNER: Yes, it is. [LB158]

SENATOR CHAMBERS: So your "absolutely not" is not really absolute, is it? [LB158]

SENATOR KINTNER: No, I think it's terrible. I think the federal government should butt out and let us handle our own state. [LB158]

SENATOR CHAMBERS: So why are you going to vote for this bill? Is it a principle with you that the federal government should not be allowed to dictate to the states? Is that a principle that you hold? [LB158]

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SENATOR KINTNER: Yes, that is. [LB158]

SENATOR CHAMBERS: So does this bill give us an idea of the cost of your principles, how much it takes to get you to sell out your principles? Is that what we're seeing in this bill, that if the price is right...? [LB158]

SENATOR KINTNER: You know, I think there are other ways to make a statement against the federal government. I think quite a few of the bills you killed in your committee were trying to do that. [LB158]

SENATOR CHAMBERS: But if there's money involved, you're willing to sacrifice your principles to get the money, aren't you? [LB158]

SENATOR KINTNER: Yes. [LB158]

SENATOR CHAMBERS: Thank you. That was very direct. I would like to ask Senator...the rest of them (laugh) seem to have flown the coop. But you know what this shows? All this yackety-yak by senators, which has misled people in this state to think that a state statute is able to repeal a federal law, that yackety-yak should not have occurred. There are people who call my office and they get very abusive, and I just hang up because they tell me I don't know what I'm talking about, that Nebraska's laws are superior to federal law because the senators have said so. And then when they go off into their abuse, I just hang up. That's how misinformation is put out there and it shows how little conviction these senators have when they're going to sell their principles for money. They don't care about the federal government dictating. They're bowing and scraping to gun holders, gun toters. So they come here talking about this is a principle; I believe this. But when money is involved, all that antigovernment talk goes out the window. [LB158]

SENATOR GLOOR: One minute. [LB158]

SENATOR CHAMBERS: Fortunately, the Judiciary Committee is holding a lot of that stuff from coming to the floor, which prevents the Legislature as a whole from making a spectacle of itself by pretending to take seriously the notes presented, the statements made, the bills introduced that have no sense and no validity whatsoever. And I think those things are a disservice to the public. Thank you, Mr. President. [LB158]

SENATOR GLOOR: Thank you, Senator Chambers. (Visitors introduced.) Continuing with floor debate, Senator Chambers, you are next in the queue. [LB158]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, as a realist, as a person who learned in grade school that federal law is superior to state law, as a person who learned further along the educational trail, I know that the supreme law

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of the land is determined and enumerated, in terms of its components, by the United States Constitution, not an amendment to the Constitution but a part of the original Constitution. The Constitution, federal law, treaties entered into by this country constitute the supreme law of the land, anything to the contrary in any state law or constitution notwithstanding. Which means any state law, anything in the state constitution that conflicts with the supreme law of the land is nothing. And you've got senators running around here, telling these people with a poor, inferior education who will trust these people, that Nebraska's statutes are superior to the federal law. We had sheriffs come before the Judiciary Committee and tell that committee--in response to my questions that if there were federal agents from the FBI; the Federal Bureau of Firearms, Tobacco, Explosives; Secret Service; Marshals enforcing a federal law against illegal guns, what would they do--well, their job is to arrest them. Now you've got all these federal agents breaking up the illegal possession or sale of guns. And a sheriff, one of them, had a part-time deputy who comes in once a month, going to come to these agents and say, who's the man in charge here? And because they see him with all this regalia that these local sheriffs have on, these big guns, they're going to go along with the program. So the person in charge says, I am. He says, well, if you don't stop what you're doing, you and these men are under arrest. And my view is that that head federal agent will look at him and say, do you see what we got here? Do you see this fool? Take him out of my sight. Find out where his jail is and lock him up for interfering with a federal operation. And those are the kind of people that these senators encourage to come before the legislative committee and make fools of themselves, telling them that the federal law cannot be enforced within the boundaries of this state. I've never been exposed to such asininity in my life, and that's not an overstatement. In all the years that I was in the Legislature, none of that crazy stuff came, and it is crazy. It comes from ALEC. It comes from the Koch brothers. It comes from the Heritage Foundation. It comes from some local or state organization protecting gun rights. And it is a disservice to the citizens to have these senators, who know...I hope they know better. No, I hope they don't know better,... [LB158]

SENATOR GLOOR: One minute. [LB158]

SENATOR CHAMBERS: ...because then they're being deliberately disingenuous and misleading, and we certainly don't want to believe that any of our colleagues would do that. We even had a person from this body who is running for Governor bring one of those kind of bills. If they bring it, they don't want to be criticized about it, then don't bring it. And if they don't know better, go to one of their high school teachers, or if they've got a child in school, talk to that child and learn something. This Legislature should not make itself subject to that kind of silliness, and the senators should know the kind of reception they're going to receive, at least from me. And then I will give them that reception because that's what they want. If everybody else will swallow spit and play like this craziness makes sense, I will not. Tell people that the federal government is going to take their land without due process of law,... [LB158]

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SENATOR GLOOR: Time, Senator. [LB158]

SENATOR CHAMBERS: ...the government is going to take over the rearing of their children because of the.. [LB158]

SENATOR GLOOR: Time, Senator. [LB158]

SENATOR CHAMBERS: ...United Nations. Thank you, Mr. President. [LB158]

SENATOR GLOOR: You are next in the queue, Senator Chambers. This is your third time. [LB158]

SENATOR CHAMBERS: Thank you. I might offer some amendments to Senator Seiler's bill. He's not troubled because he knows that I'm not going to do that. Being a realist, I know that the federal government comprises people who are more intelligent than people in state governments. Federal laws make more sense than the claptrap that comes out of this place. You saw what they just voted on, and there are people who voted for cloture who then voted against the bill. And if they had voted against cloture, the bill would have been dead. Who are those people? Ashford, Bolz, Coash, Cook, Sullivan voted for cloture and then they voted against the bill. Who simply did not vote but had voted for cloture? The Speaker, Senator Campbell, Senator Howard. I'm going to count: one, two, three, four, five, six, seven, eight. The cloture vote got 34 votes; 8 from 34 is 26--not enough for cloture. If those who did not support the bill had not voted for cloture, the thing would be dead, winning it both ways. I pay attention to what happens on the floor of this Legislature, because I meant what I said when I told the people in my district, you send me down there and I'm going to try to help restore some integrity to the Legislature. The Legislature is not holding up to, it is forsaking, its responsibilities and duties. And I'm going to do what I can to restore it to the place that it's entitled to, as one of the three branches of government. But when you have senators carrying on like that, and they're free to do it, I'm going to call attention to it. And you can call attention to what I do, and it makes me no difference because I do what I believe in and I demonstrate it by the way I vote. I know others don't. Senator Kintner probably is the most honest person on this floor besides myself. He admitted he will sell his principles, but it goes for a high price. I'd like to ask Senator Seiler a question. [LB158]

SENATOR GLOOR: Senator Seiler, would you yield? [LB158]

SENATOR SEILER: I will yield. [LB158]

SENATOR CHAMBERS: Senator Seiler, how much money did you say is at stake here if the Legislature does... [LB158]

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SENATOR SEILER: \$6.2 million. [LB158]

SENATOR CHAMBERS: How much? [LB158]

SENATOR SEILER: \$6.2 million. [LB158]

SENATOR CHAMBERS: Thank you. I'll never be able to get Senator Seiler to sell his...I meant Senator Kintner to sell out to me because I don't have \$6.2 million. But I'm going to check some of the other mandates by the federal government because maybe the price is less. But we know that today \$6.2 million, when you're offered that, the price is right. And you know why I do this? Because they talk about their principles and what they believe. And that's why I say this talk of principle means nothing. When there is no price to pay and you want to trick and deceive some naive boobs in the hinterlands, then you talk this stuff. The federal government can't do that, it ought to butt out; but if they give me \$6.2 million, I'm willing to change my whole conversation. And I just want to call attention to that. Thank you, Mr. President. [LB158]

SENATOR GLOOR: Thank you, Senator Chambers. Chair recognizes Senator Smith. [LB158]

SENATOR SMITH: Thank you, Mr. President. And I just stand in support of LB158 and the amendments, and I'm just going to be very brief on that. But I want to take everyone down back into history a little bit, back with Saturday Night Live, back in the '70s. And there was a little skit that Laraine Newman and Gilda Radner and Dan Aykroyd would perform in, and there would be a knock at the door and the knock at the door would say...they'd say, who is it, and they'd say, it's a "candygram." No, I don't...you're not the "candygram" man. A telegram, plumber guy, they'd go on and on and on. And then finally they would open up the door and it would be land shark. You probably remember some of that. Well, what I want to talk about is something that reminds me of that--land bank. So knock, knock, land bank. Well, today's World-Herald was excellent. They had an excellent opinion in there about the land bank and the work that Senator Mello has done on that bill, and I just couldn't have said it better myself what they said in there. You know, there's three...I guess there's probably three reasons to go on and on and on and debate about a bill. I think Senator Chambers made mention earlier to one of them--to control the movement of the Legislature. Another one is to destroy a bill. And another one is to make the bill better. And last week we had some amendments to Senator Mello's bill, LB97, and the amendments were to make government more responsible. It was not to kill the bill. And I know that there's been quite a bit of discussion about the intentions last week that those amendments that I brought forward were to kill that bill. They were not to kill the bill. They were to make the bill better. We know what killing a bill looks like on this floor. And whenever I stand at the microphone and I say that I'm in support of a bill but I want to make it better, that's my word. That's

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what I mean. The World-Herald today said, and I'm going to quote, "During recent floor debate, several state senators asked useful, appropriate questions about details of the land bank's powers even as they stressed their general support for the bill. Such questions are important because they help lawmakers understand key details and find agreement on what the sensible parameters should be for the land bank's authority." Goes on to say: Lawmakers are right to scrutinize and hone Senator Mello's bill, but no one should doubt the importance of this legislation to addressing the needs in Omaha. I know Senator Mello is working to accommodate Senator Chambers' concerns on that bill, as well as mine. But I want to make it very clear, and there has been quite a bit of discussion about my intentions, that I'm working with a certain group of lobbyists to kill the bill, and there's nothing farther from the truth on this. And I am going to be behind this bill in the end. However, I do believe that we owe it to the folks that vote for us and send us here to have good debate on this floor. And sometimes we think, before a bill comes to the floor, that we understand it, and as further discussion goes on we learn that maybe there are things that need to be added to that. That's why we have amendments. And so, colleagues, I just want to set the record straight and I appreciate your time. Thank you, Mr. President. [LB158 LB97]

SENATOR GLOOR: Thank you, Senator Smith. There are no senators remaining in the queue. Senator Seiler, you're recognized to close on your amendment to the committee amendment. [LB158]

SENATOR SEILER: Thank you, Mr. President. Senator Chambers, that bill that I...or that law that I couldn't find was 23 U.S.C. Section 164. I ask that you hit a green button for the passage of my amendment. Thank you. [LB158]

SENATOR GLOOR: Thank you, Senator Seiler. Members, the question is, shall the amendment to the committee amendment to LB158 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB158]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB158]

SENATOR GLOOR: The amendment is adopted. We now move to discussion on the committee amendment. Are there senators wishing to be recognized? Senator Chambers, you're recognized. [LB158]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, you all told me by that cloture vote that you want me to go ahead and take time, so I'm going to do it. But I strongly support what Senator Seiler is trying to do because I think it's very essential that the federal government take a club to the head of some of the mule-like people in state legislatures to make them do what they ought to do but they don't have

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sense enough to do on their own. So they say, if you don't do it, you don't get this money. And you can do all that yackety-yakking about you don't like the federal government, but a little peanut-head state like Nebraska gets far more money back from the federal government than this state sends to the Treasury in Washington. This is one of the moocher states, one of the gimme states, couldn't make it without the federal largess. Then they've got the nerve to talk to these ordinary people and deceive them into thinking that the federal government is the enemy of the people. They wouldn't have roads that they could drive down if it wasn't for the money from the federal government. They would not have public schools operating if it wasn't for the federal government, on and on. They wouldn't have Social Security, and everybody has told you that Social Security recipients receive far more in benefits than they pay in. So that's the federal government. That's somebody else paying to subsidize you. And then you're going to criticize President Obama as a socialist and say he wants to redistribute the wealth. Everybody who receives Social Security benefits is a party to redistribution of wealth because you're getting money that somebody else made available. It's not your money. The wealth is being redistributed. And the ones who talk that the loudest don't want to do away with Social Security or the benefits that they get. It's too bad that there isn't a higher level of education, not only in Nebraska but throughout this country, so that the public really knows and understands what the dynamics are in a system of federalism. The federal government is supreme in this country, whether people like it or not. The U.S. Supreme Court is supreme when it comes to articulating what the law is no matter what any state court may say. When it comes to regulating interstate commerce and the U.S. Supreme Court has allowed that to become a very expanded concept, what the federal government says goes. You cannot mint money. You cannot establish legal currency that can be accepted for payments of all debts, public and private. But if you look at one of these dollar bills, you see language to that effect. That's legal tender. This state, in its silliness, could stamp on bottle caps this is the coin of the realm of the state of Nebraska, and it means nothing. So I am strongly in favor of the federal government compelling these states to do what ought to be done to benefit their citizens, because those the citizens elect don't have sense enough to do it. And the citizens, in their naivete, feel they're electing people who know more than they, the citizens, know; who will get information that they, the citizens, do not have. And once their judgment, the elected official's judgment, has been informed, those officials will place actions that are in the best interest of the citizens who naively sent them to the Legislature. But what would be their shock and amazement if they found out that the lobbyists are listened to... [LB158]

SENATOR GLOOR: One minute. [LB158]

SENATOR CHAMBERS: ...more than the citizens? And what would be their disappointment and chagrin to find out that in fact, despite what state senators have told them, Nebraska law does not trump federal law? Maybe it would have been good to let some of that trash come out here and we just go through it all in front of not just the

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Legislature but let our proceedings be streamed around the world to show how silly some of the people are in the Legislature and the stuff they bring here. You don't think it's silly? Well, if you think it's silly, why shouldn't I call it by the proper name? I've told you over and over whoever provides the name controls. And that's what I'm doing. I'm putting the proper label on it. And as long as that stuff comes here and I got to sit through these long hearings then, yeah, I'm going to gripe about it. I even have a letter where one guy mentioned... [LB158]

SENATOR GLOOR: Time, Senator. Senator Chambers, you're recognized, and this is your third time, Senator Chambers. [LB158]

SENATOR CHAMBERS: Thank you. I'm in the queue. And now that we're on the amendment, I'll have a chance to talk some more when we get to the bill itself. And Senator Seiler knows I support his bill. And I will not take us beyond noon. If we could just reach the point where the things that we want children to know and understand would apply to our conduct, the Legislature would be lifted immeasurably in terms of its competency. But that's not going to happen and I know it. So I talk for the record. And if people around the world could see what it is that I contend with, they'll wonder how I maintain my sanity and do what I do for \$12,000 a year. But when people tell me what a good job I'm doing, I tell them I get paid to do it. And when they say, \$12,000 a year? I said it's not adequate compensation but I do get paid for it; I don't get paid well, but I get paid. And having agreed to work for the wage that's provided, I still believe I'm supposed to do it the best that I can. Now other people feel they're doing the best they can by sitting like bumps on logs. Everybody knows what he or she is capable of doing. If sitting like a bump on a log is all you can do, be the best sitting like a bump on a log, sitting like a bump on a log person you can be, and then nobody can ask for anything more. Nobody can ask water, without some artificial means making it happen, to flow uphill. Nobody can suspend the earth from a rope of sand. Some things are deemed impossible, and I say deemed because we don't know ultimately what might happen. But when it comes to the federal government, courts had to be put in place, because it was known that these parochial and, where black people are concerned and other nonwhite groups, racism will prevent you obtaining justice in a state court, so on some matters you can take it into federal court. If your rights are violated by the sheriff or by police officers, like those who beat Rodney King to a pulp, and the white jury in Simi Valley, where Reagan spent time, would acquit them, the federal government can retry them. And it's not double jeopardy because they're tried for violating federal law, the federal law that protects the civil rights of citizens. And when they are violated by a state government or its agents, then the federal government can disregard what the state courts did and try them again. And they were convicted after having been acquitted by state courts. People on these legislative floors need to know something about history that they don't know, so they go along blithely doing what they do and think somebody like me must be out of my mind because America doesn't operate like that, they think. And they think that because they don't think. They don't read and they don't know. And

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it's my job, when I get the time and the opportunity, to bring that information, and I'm going to do it. And there are other bills coming up and I'm going to use those bills as an opportunity. In fact, my friend, Senator Lautenbaugh, has a bill coming up that's going to give me a chance to talk about all the wrong things done by the Douglas County Election Commissioner, and I'm going to do it. He brought the bill and it gives me that opportunity. I have documents I'm going to read. You'll notice when I speak on a bill, I don't have a prepared statement,... [LB158]

SENATOR GLOOR: One minute. [LB158]

SENATOR CHAMBERS: ...prepared by me or a staff member. I come ready to speak from what I know. But people do what they have to do. But when Senator Lautenbaugh's bill comes up, I'm going to read. I'm going to read every word of a letter I wrote to the Douglas County Election Commissioner condemning his arbitrary closing of voting places in districts primarily where black people, Latinos, and poor white people live; a letter that I wrote to the Governor. And although it was discussed in the newspaper, the Governor did not want to comment on the letter. But I'm going to read that into the record. My opportunity will be presented. And for this reason the people in my district sent me down here. They said there are things that need to be said that are not being said. [LB158]

SENATOR GLOOR: Time, Senator. [LB158]

SENATOR CHAMBERS: Thank you, Mr. President. [LB158]

SENATOR GLOOR: Senator Chambers, you do have another opportunity to speak. Senator Conrad, you are recognized. [LB158]

SENATOR CONRAD: Thank you. I'd be happy to yield my time to Senator Chambers, if he so desires. [LB158]

SENATOR GLOOR: Senator Chambers, 4 minutes 55 seconds. [LB158]

SENATOR CHAMBERS: Thank you, Mr. President. And, Senator Conrad, you are a mind reader. This bill gives the perfect opportunity for me to say what I'm saying because it talks about the interplay between the state and the federal government. You all got some of that simpleminded stuff in one of these bills talking about the Tenth Amendment, which the ones who wrote the letter don't understand. They think that there are provisions in the Constitution itself that erase what the Constitution itself says; that although the Constitution itself says that federal law is the supreme law of the land, they say the Tenth Amendment says that's not true, that the Tenth Amendment says that that part of the Constitution is a lie and the Constitution doesn't have to be followed. And then what do they say? I got the right to keep and bear arms because of the Second

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Amendment to the Constitution. Well, either the Constitution means something or it doesn't. And the Constitution is not like the "Bible" and the dogmas of these churches where you treat it like a supermarket and you pick broccoli but you don't take the celery, you pick tomatoes but you don't take the onions. You pick and choose. So that's the way you do with the Constitution, like you do in church and the "Bible." And here's where you're lucky. Now I don't know whether there was really a person named Jesus, but the one portrayed by those words was, to use the language of this day, he was a cat that I could have hung out with because he stuck by his word. And he didn't dress like the elitists. And people who told him, you're going to be around here talking to people, then you ought to wear a fine robe, you ought to wear the colors of royalty. And that person said, the ones who wear that kind of finery you'll find in palaces and that's not what I'm about. So to those people who think I ought to put on coats like the other men in this place, need to understand that I didn't come down here to become like anybody. I came down here to be me. Why? (Singing) I've got to be me. And I'm going to be me. And I'm going to quote from the most famous philosopher in America who doesn't get his credit--Popeye the Sailor Man: I yam what I yam and that's all that I yam. And I will be me and I will do what I do my way. I wasn't sent here to be like somebody else. And what good is a coat? What does a coat say about a person? If the statement is right that you can't tell a book by its cover, maybe you can't judge correctly a person by the clothes he or she wears, and in some places by the clothing he or she may not wear. Now what are the accoutrements of "state sovereignty," which is a term some people use? There is no such thing as state sovereignty. There cannot be two sovereigns. If you've read any history, anybody who equates himself or herself with a sovereign is treading on dangerous ground. [LB158]

SENATOR GLOOR: One minute. [LB158]

SENATOR CHAMBERS: And people's heads were separated from their bodies because they thought they had as much power as the sovereign and attempted to operate on it. And you try to exercise the powers of a sovereign in this state and you'll wind up in a place where somebody else pays your rent, somebody else buys your clothing, somebody else buys your food, and they also tell you what to do. And you'll stay there until they say you've been here long enough to learn your lesson. Then they'll unlock the door and take you from behind the bars and let you run out there. And if you're too loose upstairs, they got another place they'll put you, trying to put some sense in your addle brain. So I've got...is this my third time, Mr. President, on this one? [LB158]

SENATOR GLOOR: This was yielded time. You will be next in the queue and you are now on your last time, Senator. [LB158]

SENATOR CHAMBERS: Thank you, Mr. President. The federal government is supreme. Like it or not, that is a fact of life. What enables a ruling authority to enact laws

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that can really be called laws is that the authority, it doesn't have to be fair, it doesn't have to be just. It can be as arbitrary as it chooses, but it has to have the power to issue that edict and the means to carry it out and the means to punish those who don't go along with the program. So whether the regime is in the United States, in Nazi Germany, in ancient Rome or Greece or France or Spain or Guatemala, if there is an entity with the power to say what is allowed and if you go contrary to that you will be punished, and the power to set the punishment and carry it out, that entity is the lawmaker, whether you like it or not. That entity is the lawgiver, whether you like it or not. And what that entity says is the law, is the law. It's the law because you can be punished if you don't obey. And today, right now, the law of the federal government is supreme and the law of the federal government is going to be bowed to. Homage is going to be paid. Nebraskans, who will talk to these poor, misguided boobs out in the hinterlands and in some of the cities that the state is sovereign, are going to get down on their knees and bow to the federal government and acknowledge, yes, federal government, you are supreme, you are the boss, you are the giver of good things and the withholder of good things. But because our principles are fluid and flexible, in order to get the good things that you will give us and not lose the good things that you will withhold if we don't bow, we will bow. And so you do. When I was a little person, younger, I used to read the "Bible" and I used to read some of the most fantastic yarns imaginable. There was a king called Nebuchadnezzar and he ruled all of Babylon. And he had an idol built, that's what they called it, and said everybody got to bow down to it. And some people said, we're not going to bow down. Then you're going to be thrown in the furnace. Most of the people, when they saw the furnace, they changed their mind. But according to the yarn, there were three Hebrew boys--Shadrach, Meshach, and Abednego--and they said, we won't bow down to the idol. So Nebuchadnezzar said, then into the furnace you go. And the "Bible" uses peculiar language. He had the people, Nebuchadnezzar did, to heat the furnace seven times hotter than it ought to be, whatever that means. I don't know how they did it but they did it. And it was so hot that if you approached too close to it you would die. But somehow they got these three guys and they threw them in the furnace, and then they looked in the furnace. Somebody wrote this, so somebody either heard the tale or saying he or she saw it and looked in there. And even the king looked in. He said, how many people did we throw in the furnace? They said, three. He said, then either you were taught math by the Omaha Public School system or you just don't know how to count,... [LB158]

SENATOR GLOOR: One minute. [LB158]

SENATOR CHAMBERS: ...because I see four in there. And there was Shadrach, Meshach, Abednego, the three, and then somebody, making it a fairy tale, said, and the fourth one looks like an otherworldly individual. So they were allowed to be taken out of the furnace and not so much as the smell of smoke was on their garments. You believe that? Well, here were three guys who said our principles are not for sale, you cannot make us bow down, even with the threat of taking our life in a most horrendous fashion.

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But that's not the case now. Just tell people we're not going to give you some money and all the principles, like a covey of frightened quail, will head for the hills or head for the skies. Thank you, Mr. President. [LB158]

SENATOR GLOOR: Thank you, Senator Chambers. (Visitors introduced.) Returning to floor debate, Senator Conrad, you are recognized. [LB158]

SENATOR CONRAD: Thank you, Mr. President. I'd be happy to yield my time to Senator Chambers, if he so desires. [LB158]

SENATOR GLOOR: Four minutes fifty seconds, Senator Chambers. [LB158]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Conrad. And what you're demonstrating is that happiness multiplies happiness. She's happy to give it, I'm happy to get it, so there's twice as much happiness on the floor this morning as there was before. But I'm sure not everybody participates in that feeling of happiness. But here's where you ought to appreciate me. I deliver on what I say. If I say I'm going to do something, you can take it to the bank. But sometimes I might be prevailed on to back off. I said I was going to take time and you want me to take time. You proved it by the way you voted this morning. I remember things. I'm old but I can at least remember things for an hour or less. So I'm going to continue here this morning. Senator Seiler is bringing us a bill and Senator Seiler is not bringing the bill, in my opinion, because he's afraid of the federal government. Senator Seiler is a rational, pragmatic, realistic lawmaker. And he knows that the state needs money to carry out its functions. He knows that a state like Nebraska is not, on its own, going to produce the amount of revenue necessary to carry out its functions. He knows there are certain departments and agencies of government who are given responsibilities by the state, and some are added to by the way the courts will interpret those duties. But without some money, they cannot do what they're required to do. So the federal government has said, I'll cut a deal with you. If you will put in place a program that is going to contribute to the health, the well-being, and safety of your citizens, we'll pay you for doing it; we'll pay you to help your citizens. And Senator Seiler had to pinch himself to see if he was awake, and he was. Then he had to do some checking to see if this deal, which seemed to be too good to be true, could be true. Now Senator Seiler was trained in the law. Senator Seiler is a very judicious person and he's a sound thinker and analyst when it comes to issues. And when he satisfied himself that this was indeed true that the federal government will pay the state of Nebraska to do something to benefit its citizens, he said that's too good a deal to pass up. So we have before us LB158, brought to us by Senator Seiler, and I applaud him for aiding and assisting not just the state as an entity but the citizens of this state. I'm going to support this bill. I will support other bills that bring money to this state from the federal government, provided the federal government is requiring something to be done that my principles militate against. Now I didn't believe that the federal government should set a maximum speed limit on the interstate, so what did I do? I

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persuaded the Legislature to pass a bill that went along with what the federal government said, a 55-mile-an-hour speed limit. I didn't change that. But I said if somebody is ten miles or less over that limit, then the only punishment can be a fine of \$10, no points off your license. And people told me I was violating the federal law. I said, take it to court, so the Governor took it to court. And you know what the court said? Well, Senator Chambers is right and the federal government did not say they would take funds from Nebraska because Nebraska's speed limit is 55 miles an hour and it's up to the state to establish the punishment for violation of a law within... [LB158]

SENATOR GLOOR: One minute. [LB158]

SENATOR CHAMBERS: ...its borders. So I was right. And my enactment facilitated the movement of people and commerce across the state of Nebraska. And guess what happened. Other states said it worked. Somebody else was the point man; we're going to do the same thing. And that's what began to happen. And you have the speed limit you have now because I brought the legislation. You didn't know that, did you? You didn't know that I was very involved in the nuts-and-bolts legislation that allows this state and commerce to move and took a position that others wouldn't. I didn't say that the 55-mile-an-hour speed limit could not be enforced through the granting or withholding of federal money. And then I made another move, but I think my time is up right now. Thank you, Mr. President. [LB158]

SENATOR GLOOR: Thank you, Senator Chambers. Chair recognizes Senator Karpisek. [LB158]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I know it's getting close to lunch but all this talk about the federal government just had to get me out of my chair. We don't have Senator Fulton here this year talking about the Tenth Amendment all the time because that would always pull me out of my chair. None of us really like what the federal government tells us we have to do. I don't like it. But what really gets under my skin is what do we do here every day? We tell the counties and cities what they have to do. And Senator Fulton would always say, well, they're not...they can't do that; we can. I'm trying to get a voice like Senator Chambers does. But he'd always say that. Well, and that's true. They're not sovereign and that is true. But in my small mind, I see it much the same. They tell us what to do; we tell them what to do. It all rolls downhill. So I just always...you have to swallow what they're pushing. You have to swallow it if you want to get better, so we do. But to stand up and complain about what they push on us every day but then turn around and push down what we do every day and not see any similarity, to me, is ridiculous. There's things that one reason I came here, as being a mayor and getting tired of seeing what the state was pushing down was one reason I came. I'm still very frustrated about what we do. We took away their state aid, cities and counties, but then we still give them more to do. And then when they can't balance their budget, then we tell them that they should just figure it

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out; we did. We balanced our budget on their backs. But now they should do something. Who can they take it away from? Services, that's about it. Anyway, it just gets me a little bit riled up to not see the similarity on what we do and what they do. Not saying that I like what the feds push down on us, but we do have to do what we have to do. And I will not yield Senator Chambers the rest of my time because it's getting too close to lunch. Thank you, Mr. President. (Laughter) [LB158]

SENATOR GLOOR: Thank you, Senator Karpisek. Seeing no additional lights on, Senator Dubas, you're recognized to close on the committee amendment. Senator Dubas waives. Members, the question is, shall the committee amendments to LB158 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB158]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB158]

SENATOR GLOOR: The committee amendment is adopted. Discussion continues on the advancement of LB158 to E&R Initial. Seeing no senators wishing to speak, Senator Seiler. Senator Seiler waives. Members, the question is the advancement of LB158 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB158]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB158. [LB158]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB158]

CLERK: Mr. President, I have no items. I have a priority motion. Senator Campbell would move to recess the body until 1:30 p.m.

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30. Those in favor say aye. Those opposed, nay. We stand recessed.

RECESS

SENATOR COASH PRESIDING

SENATOR COASH: 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. Mr. Clerk, please record.

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

SENATOR COASH: Thank you, Mr. Clerk. Any corrections for the Journal? Excuse me,

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any announcements?

CLERK: I have no announcements, Mr. President.

SENATOR COASH: Thank you, Mr. Clerk. We will now proceed to the first item on the 1:30 agenda, LB388. [LB388]

CLERK: LB388, by Senator Carlson and the Natural Resources Committee. (Read title.) The bill was introduced on January 18, referred to Natural Resources, advanced to General File. There are committee amendments pending, Mr. President. (AM454, Legislative Journal page 678.) [LB388]

SENATOR COASH: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open on LB388. [LB388]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. In introducing LB388, I'm also going to introduce AM454 in my opening. We are a public power state. And I think most of us would agree that public power has served Nebraska very well. Our electric rates are competitive, and we want them to remain that way. LB388 is a bill to encourage us to keep and, hopefully, improve our competitive position in electrical rates. LB388 would preserve state authority over the construction of electric transmission lines in Nebraska. This bill is in response to the Federal Energy Regulatory Commission, or FERC, Order 1000, which changes the way that regional transmission organizations, or RTOs, select electric transmission project builders. In 2009, Nebraska public power entities became members of the regional transmission organization, the Southwest Power Pool. Regional transmission organizations, or RTOs, are regional networks of interconnected transmission facilities that move power across the states. And the Southwest Power Pool administers transmission services and planning in its service area, which includes at least a portion of nine states. Under the FERC Order 1000, RTOs are required to open access to building transmission to any qualifying entity rather than simply deferring to incumbent utilities. In other words, the order requires that mandated new transmission facilities can be bid on by any entity wanting to own and operate the new facility. FERC has, however, recognized that if a state law provides for a right of first refusal for incumbent utilities, the RTO must adhere to that state law. All transmission in Nebraska is publicly owned and operated. The public power industry believes that the first right to expand RTO-ordered transmission in Nebraska should be held by known entities with a track record in Nebraska and which are subject to known regulatory process. The committee amendment simplifies the bill significantly by eliminating language that attempted to standardize the definition in several sections of the public power statutes. AM454 to LB388 becomes the bill. It consists of two subsections of new language that contains only the right of first refusal portion of the original bill. The amendment states that the incumbent owner of electric transmission facilities already existing in Nebraska has 90 days to decide whether it intends to

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construct, own, or maintain the approved transmission line if the line will connect with the existing one. Notice has to be provided to the Nebraska Power Review Board of the incumbent owner's decision within 90 days of the new transmission line's approval by a regional transmission organization. If no notice is provided, the first right is surrendered and any other incumbent transmission owner can file for the right within 24 months after the first right notice is provided. Again, the purpose of this bill is to preserve state authority over transmission lines in light of FERC Order 1000. All transmission in the state is publicly owned and operated. The state's transmission of electricity should continue to be publicly owned and operated. And I would ask that you vote to clarify existing law to make this policy clear. Please vote for AM454 and LB388. And I would try to answer any questions you may have on the bill and the amendment. Thank you, Mr. President. [LB388]

SENATOR COASH: Thank you, Senator Carlson. (Visitors introduced.) Members, you've heard the opening to LB388 and the committee amendment, AM454. The floor is now open for debate. Senator Hansen, you're recognized. [LB388]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I've got a couple questions I'd like to ask Senator Carlson, if he'd yield. [LB388]

SENATOR COASH: Senator Carlson, will you yield? [LB388]

SENATOR CARLSON: Yes, I will. [LB388]

SENATOR HANSEN: Senator Carlson, just for the record, you did explain what the RTOs were, and you did say that that was the Southwest Power Pool. Regional transmission organization, Southwest Power Pool, we've been a member of that for just a few years, I believe. Can you tell us what and who the incumbent electric transmission owners are. [LB388]

SENATOR CARLSON: Well, those are the public power companies in the state of Nebraska. [LB388]

SENATOR HANSEN: And they are who? [LB388]

SENATOR CARLSON: NPPD and OPPD and LES. [LB388]

SENATOR HANSEN: Okay. Thank you. And then who are the members of the Nebraska Power Review Board? [LB388]

SENATOR CARLSON: Well, that's... [LB388]

SENATOR HANSEN: That's listed on line 7. [LB388]

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SENATOR CARLSON: That is a board that has jurisdiction over power operations in the state of Nebraska. And when there's new construction, or an order for new construction, it goes through the Power Review Board for approval. And... [LB388]

SENATOR HANSEN: And who are their members? How do we figure out who their members are? [LB388]

SENATOR CARLSON: Well, the members are the resident public power companies in Nebraska. [LB388]

SENATOR HANSEN: The Omaha Public Power...OPPD and LES... [LB388]

SENATOR CARLSON: Um-hum. [LB388]

SENATOR HANSEN: ...is that correct? Okay. Thank you. One other question I have, in subsection (2) of Section 1...and it's, the electric transmission facilities are "transmitting electric energy at a voltage of 100 kilovolts or greater." Is that a lot of electricity? And where would that come from? And who produces that much electricity? [LB388]

SENATOR CARLSON: It's a lot of electricity. And there would be several companies that could produce that kind of electricity, and it takes a special transmission line to be able to carry it. Now exactly who, I can't really answer that as you're asking me right now. [LB388]

SENATOR HANSEN: Okay. That was the main question I had. And we have heard from NPPD especially that there's going to be a new line built in my district, starting at Sutherland, going north to the southeast corner of Cherry County and then straight east in a pretty wide corridor right now. And I don't think that's been established where that line will go exactly. But there are some people up there, you know, they're looking at the...they look at transmission lines every day when they go home, but they're not used to looking at these 100 kilowatt (sic) lines, I'm sure. There was one neighbor of mine said that he would rather have a pipeline through there, because when the pipeline was done, it'd be out of sight and out of mind and covered up with grass and...but these power lines will be there forever. So there is some interest in these power lines. And this is going to be a big power line that's going to go up through that area, so... [LB388]

SENATOR CARLSON: It is. Could I respond to... [LB388]

SENATOR HANSEN: Yes, you may. [LB388]

SENATOR CARLSON: ...the statement you just made that... [LB388]

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SENATOR HANSEN: Certainly. [LB388]

SENATOR CARLSON: ...if it were possible, it would be nice if these could be buried, but that...the expense is so extreme that...really not a possibility. [LB388]

SENATOR HANSEN: Oh, they have to be on a big line. Thank you, Senator Carlson. Thank you, Mr. President. [LB388]

SENATOR COASH: Thank you, Senator Hansen and Senator Carlson. Members still wishing to speak: Senators Chambers, Ken Haar, and others. Senator Chambers, you are recognized. [LB388]

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator Carlson a question or two. [LB388]

SENATOR COASH: Senator Carlson, will you yield? [LB388]

SENATOR CARLSON: Yes, I would. [LB388]

SENATOR CHAMBERS: Senator Carlson, if you can turn to the amendment that we're talking about, I'd like to walk through it briefly so I can get an understanding. Now we start in line 3 with the transmission line having been approved for construction. Who gives that approval? [LB388]

SENATOR CARLSON: That would be Southwest Power Pool and perhaps the regional transmission organization. [LB388]

SENATOR CHAMBERS: So that organization actually gives the permission. In other words, nothing in the way of a state regulatory agency, such as the Power Review Board, would be the one to grant this permission or approve the construction? These companies...these members among themselves would say that this transmission line is going to be constructed, is that the approval that's being discussed here in line 4? [LB388]

SENATOR CARLSON: Uh... [LB388]

SENATOR CHAMBERS: The plan...the organization gives the plan for the construction; then there is approval of that plan given. Who gives that approval? [LB388]

SENATOR CARLSON: Well, the Power Review Board is involved in that... [LB388]

SENATOR CHAMBERS: Okay. And we'll go a step further. When it says, "the incumbent electric transmission owner" of the existing transmission facility "shall give

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notice" to the Power Review Board of its intent to do whatever is going to be done with reference to this action...here's what I'm getting to. If the Power Review Board is the one that gave approval, then it still is necessary for the incumbent transmission owner to tell the Power Review Board that it intends to actually carry through with the plan. Is that what happens? [LB388]

SENATOR CARLSON: No, the actual approval for construction comes from the Southwest Power Pool and the regional transmission organization. [LB388]

SENATOR CHAMBERS: Okay. And then they notify the Power Review Board of their plan to do this. [LB388]

SENATOR CARLSON: Correct. [LB388]

SENATOR CHAMBERS: And any member of that organization could be considered the incumbent transmission owner. Is that correct? [LB388]

SENATOR CARLSON: The incumbent transmission owner would be the Nebraska public power companies. [LB388]

SENATOR CHAMBERS: And any one of them acting alone could be considered a transmission owner. Is that correct? Here, let me ask...here's what I'm getting to. If the notice is not given within the period of time, then any other incumbent transmission owner shall be able to file an application to do this. Is that correct? [LB388]

SENATOR CARLSON: That's correct. [LB388]

SENATOR CHAMBERS: Well, now, if the incumbent transmission owner is this transmission organization, and that organization does not give the notice to the Power Review Board that they want to exercise this right, against whom are they exercising the right of refusal? Some other transmission company that would like to use this transmission facility? Is that the one who would then be allowed to make use of the transmission facility? [LB388]

SENATOR CARLSON: The Nebraska public power companies have the first opportunity. And... [LB388]

SENATOR CHAMBERS: Right. [LB388]

SENATOR CARLSON: ...if they don't take it, then it could be another company that could ask for the privilege,... [LB388]

SENATOR COASH: One minute. [LB388]

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SENATOR CARLSON: ...I guess, of building this transmission line. [LB388]

SENATOR CHAMBERS: And where would that company reside? [LB388]

SENATOR CARLSON: It would be...it could be...would be probably out of state. I don't think it would be anybody in-state. [LB388]

SENATOR CHAMBERS: Okay. [LB388]

SENATOR CARLSON: It's probably somebody that services this entire Southwest Power Pool, but it's not a Nebraska company. [LB388]

SENATOR CHAMBERS: Okay, with that being clarified for me, that will end what I have to say. But I'm going to listen, and if I have additional questions, I will ask you. Thank you. [LB388]

SENATOR COASH: Thank you, Senator Chambers. (Visitors introduced.) Senator Ken Haar, you are recognized. [LB388]

SENATOR HAAR: Mr. President, members of the body, I believe this is a good bill. Nebraska public power...or public power as it exists in Nebraska, they do good work, there's no question about that. When it comes to infrastructure, they know how to construct it. They're good on quality control and those kinds of things. And this bill simply says that public power in Nebraska has, if there's transmission to be built, that public power has the first option. Now, if it's in an area where NPPD, for example, where the transmission line was, and they didn't want to do it, OPPD could pick it up or whatever, so...but the right of first refusal really goes to Nebraska public power. Now, there are other states, like Kansas, where they have private transmission companies that are building lines. And the only way that could happen in Nebraska is if the public power groups--LES, OPPD, NPPD, and so on--said they didn't want to do it; then that would open the door to a private transmission developer. But that's not likely. The other thing I wanted to say about it, I wanted to thank Senator Smith for his input on this bill. It started out as a more complex bill, with some what we finally figured out probably belonged in a separate bill at another time. And so Senator Smith helped us sort that out, and I want to thank him for that. [LB388]

SENATOR COASH: Thank you, Senator Haar. Senator Lathrop, you are recognized. [LB388]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I would like to ask Senator Carlson a couple questions, if I might. [LB388]

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SENATOR COASH: Senator Carlson, will you yield? [LB388]

SENATOR CARLSON: Yes. [LB388]

SENATOR LATHROP: Senator Carlson, I'd like to tell you what my understanding of this bill is, and then I've got a question for you. It looks to me like what we're saying is that if we're going to build transmission lines and there is one of our power providers--that are public power--that are going to be attached to that line, they essentially are given the first opportunity to construct the line. Is that about it? [LB388]

SENATOR CARLSON: That's it. Could I comment a little further? [LB388]

SENATOR LATHROP: Let me just ask:... [LB388]

SENATOR CARLSON: Okay. [LB388]

SENATOR LATHROP: ...If we don't pass this, do they compete with a private contractor to build that line, or are they out of the loop? [LB388]

SENATOR CARLSON: No, they would compete. They wouldn't have the first right. [LB388]

SENATOR LATHROP: Okay. Then built into this is an assumption, is it not, that the public power is going to be able to do it cheaper? In other words...and here's ultimately my question. If we don't do anything, public power--OPPD, NPPD, the rural guys--they have to compete or bid on a job. Why are we giving public power the right of first refusal without going through a competitive process? [LB388]

SENATOR CARLSON: Well, this is an opportunity, if you'll allow me to explain this a little bit further. LES has an area, OPPD has an area, NPPD has an area. If a new line is going to go into any one of those areas, whoever's area it is gets the first right of refusal; the other two are going to be interested people in that project as well. So there is competition; there can be competition. Whoever gets it is going to put it out for bids; it's going to be competition anyway. But we keep our public power in charge of the entire situation, and I think there's an advantage to that. [LB388]

SENATOR LATHROP: Okay. I'm following you. Is this going to be the cheapest thing for ratepayers in the state, if we have public power building these? Or if we said we need 40 miles of transmission line and then put it out for bid across the country? [LB388]

SENATOR CARLSON: Well, I'm hoping that this, done by public power within the state of Nebraska, would be the most efficient and economical way. And certainly they want it that way, because they want to maintain a good position in the area around us on

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electrical rates to their customers. [LB388]

SENATOR LATHROP: I appreciate their commitment, and I accept the benefits of public power. But my question is, what if there's some contractor from Chicago, for example, or Kansas City or somewhere who can build it for \$100,000-a-mile less? [LB388]

SENATOR CARLSON: Well, there needs to be a...they could bid on it; they could bid on it. Even if one of the Nebraska entities has a project, they could bid on it. Then it's... [LB388]

SENATOR LATHROP: Why don't you take the rest of my time and explain why that's the case, because, to me, it sounds like we're saying, public power, you get to do it; you send your utility crew out there. It may cost more than if we had a private contractor come in and do it after getting the lowest bid. [LB388]

SENATOR CARLSON: Well, I think I would refer to the Nebraska entity as a general contractor, and they're going to get bids on who can do that project and do it well. And, of course, you and I both know it's not only price, it's quality. So they want the best quote for that job, and it's not necessarily the cheapest one. But most of the time, I would guess, it would be. [LB388]

SENATOR LATHROP: So is this about controlling the project, or is this about actually constructing it? So your...as I understand your explanation: NPPD, it's in their territory, we need some transmission line; NPPD would be given the first right of refusal; so they say, I want to do it. And then your thought is, they put it out to bid... [LB388]

SENATOR CARLSON: Yes. [LB388]

SENATOR LATHROP: ...and become the general contractor. [LB388]

SENATOR CARLSON: Yes. [LB388]

SENATOR LATHROP: What's the advantage to ratepayers in Nebraska? [LB388]

SENATOR COASH: One minute. [LB388]

SENATOR CARLSON: Well, I think it gives us a better overall system, because we've got one general contractor in charge of it and they have a track record. And if that track record isn't good, then eventually the citizens of Nebraska, and perhaps the Power Review Board, will ask some tough questions. But I think the concept is the right one, unless they prove to us that it's not working. [LB388]

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SENATOR LATHROP: Okay, if NPPD doesn't have the preference, what's going to happen? Are we going to...whoever is paying for this transmission line, are they going to be paying a private contractor who has the lowest, best bid? [LB388]

SENATOR CARLSON: Probably. And if it's in NPPD territory, they're kind of out of the loop in terms of how it's done. And it's to fit into their system; maybe it fits, maybe it doesn't. But it makes sense to me that they would be given first right of refusal. And they'd better stay competitive or the whole system isn't going to work. [LB388]

SENATOR COASH: Time, Senators. [LB388]

SENATOR LATHROP: But how can they be competitive if they have a monopoly? [LB388]

SENATOR COASH: Time, Senators. Thank you, Senator Lathrop. Senator Krist, you're recognized. [LB388]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. I wondered if Senator Carlson would yield for a couple of questions. [LB388]

SENATOR COASH: Senator Carlson, will you yield? [LB388]

SENATOR CARLSON: Yes. [LB388]

SENATOR KRIST: Senator, I have a bill coming up, will discuss putting potential obstacles around airports. And in discussing this for the last five years and working on this piece of legislation, I learned a lot about how you can and cannot build an obstacle and those kinds of things. So if you could help me through this. From the beginning of this, a federal organization or a regional organization would now coordinate, based upon this bill, with our public utilities, who would have first shot at potentially running power lines or building power lines across the state. [LB388]

SENATOR CARLSON: Correct. [LB388]

SENATOR KRIST: Okay. And when they actually would place these power lines, then, as I understand it, based upon my research, now you would go into the local building authority within the county, or if there's an airport authority or a joint airport authority or some kind of obstacle hazard that's identified within a...that would come back to the local planning folks in order to site those towers. Is that correct? [LB388]

SENATOR CARLSON: I believe, certainly, they would have input and...yes. [LB388]

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SENATOR KRIST: So I guess what I'm leading at here is, the first thing we find out is that we have a need to run a power pole, a power line, a power delivery system, and those are the experts, and FERC now is part of that process. Our own local...or our public utilities then step in and say "yea" or "nay." At the point where they would say "nay," then we would allow outside interests or contractors to come in and potentially build that line? [LB388]

SENATOR CARLSON: If...let's use the example it's in NPPD's territory. [LB388]

SENATOR KRIST: Right. [LB388]

SENATOR CARLSON: They decide, no, they don't want to do it. OPPD and LES would have an opportunity to bid. If they didn't bid, then, yes, it would be opened to the outside. I think your concern is addressed much more appropriately that we're going to do the right thing in the right place if we have a company that knows the state and knows where things work and where they don't work. [LB388]

SENATOR KRIST: Well, Senator Carlson, you've jumped right to the chase. And that is, with the structure you're proposing, what I would see would be the strength, again, is they would understand...our local public power utilities would understand the state implications and the state requirements of where to put those obstacles and are better at "deconflicting," if you will, with that. So thank you for answering the questions, Senator. I've read through AM454 and the underlying bill, which actually AM454 becomes LB388. I see no downside in terms of allowing our own public utilities to have the first shot at doing this if there is a need to come across the state with a power line. I understand Senator Hansen's concern and his constituents' concern about an ugly power pole, but that's a reality, I guess, that has to be dealt with if you want to turn a microwave on, at the end of the day. But more importantly, I would say this. Look around, folks, at the utility costs in other states and other parts of the country. We are truly blessed in Nebraska to have public utility here; they have held down the costs...the kilowatt cost and the hours that we're paying for power. That's not an accident. That's public power that's doing that. And we want to make sure that our public power continues to do the good job that they're doing within the state. I support AM454 and the underlying LB388. Thank you. [LB388]

SENATOR COASH: Thank you, Senator Krist. Senator Smith, you are recognized. [LB388]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, I stand in support of LB388 and as amended with AM454. I think Senator Carlson has done a fantastic job of explaining what the purpose of this right of first refusal is. And, you know, one of my original concerns...and I do also appreciate Senator Haar's comments, working with me on the committee, as well. One of the important things about this--and Senator Lathrop

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brought up this issue--is, do we lose our competitiveness with having this right of first refusal? And I do not believe so. There are certain design standards and construction standards that are present in Nebraska and in the Midwest that may not be present in other areas of the country. So if this were to go out to a very broad audience for bid, certainly there may be some lower-priced bids that would be returned, but they would not necessarily meet the design standards that we require in our region because of the snow and the ice on the lines. I do believe that this is in line with FERC Order 1000 and with the Southwest Power Pool and what they are seeking to do with the regional transmission providers. Other states are going the same route in having right of first refusal. This enables the local utilities or regional utilities to have ownership and maintenance responsibilities for the lines. I do believe that keeping that with our local providers is the best route to go. And I fully support, again, LB388 as amended with AM454. And thank you, Mr. President. [LB388]

SENATOR COASH: Thank you, Senator Smith. Senator Ken Haar, you're recognized. [LB388]

SENATOR HAAR: Oh, I'm on? Okay. [LB388]

SENATOR COASH: Senator Ken Haar, you're recognized. [LB388]

SENATOR HAAR: Yes, thank you very much, Mr. President, members of the body. My understanding, and we're checking this out to be sure, but the Power Review Board would oversee...or would have to give approval, anyway, to any transmission project built by public power. We've interviewed some of those people for appointments and reappointments to the Power Review Board. They are engineers and experts in their field. And I am convinced that the Power Review Board would be looking at cost and, because of the people on that board, that they would be able to sort out very quickly if public power was not giving us a good deal on the transmission they're building. So the other point I wanted to make on this is, although I may be arguing with public power about how they generate their electricity, the way it gets from where it's generated to our homes has to be done very well because electricity can create fires. And we know that public power in this state does a superb job of delivering that electricity in a safe and affordable manner. So thank you very much. [LB388]

SENATOR COASH: Thank you, Senator Ken Haar. (Visitors introduced.) Senator Nelson, you are recognized. [LB388]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'm a little dizzy from turning to the right and the left with all of our visitors here. I just want to stand in support of AM454 and, as well, of LB388 here. Just to address a little bit some of the questions that Senator Lathrop had about competitiveness, first of all, it's important that we have the right of first refusal here in Nebraska so that our three major electrical

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facilities--NPPD, OPPD, and LES--can work with known utilities with a track record in Nebraska under the regulatory process. And with regard to competitiveness, public power districts under our statute here must obtain competitive bids for projects over \$500,000. And in determining whether a bidder is responsible--in other words, getting the best bid--there are a number of things they have to consider: financial responsibility, skill, experience, record of integrity, ability to furnish repairs and maintenance, relative quality of supplies, preservation of uniformity, and other things here, to name a few. And we also have the following advantage here because they are public power: there's no profit motive. In other words, the public power charges only what it would cost to build this line, whereas, if they don't exercise that right of first refusal and give it to somebody else, then it's a private entity and there's a profit measure that's involved. So we get the advantage here of having the right of first refusal and taking competitive bids that are going to work to our advantage in the long run. And with that, again, I just think that this is a good bill; the amendment makes it better. And I would encourage everyone to vote green for the bill. Thank you, Mr. President. [LB388]

SENATOR COASH: Thank you, Senator Nelson. Senator Harms, you are recognized. [LB388]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM454, which then becomes the bill for LB388. I believe it's a move in the right direction, and I think Senator Carlson has done an excellent job on bringing this together. Senator Carlson, would you yield just for one or two questions? [LB388]

SENATOR COASH: Senator Carlson, will you yield? [LB388]

SENATOR CARLSON: Yes. [LB388]

SENATOR HARMS: Thank you, Senator Carlson. I agree with what you're doing here, and I think it's a good bill. When I look at the transmission lines and the timing of all this, I happen to wonder whether or not we're beginning to look at our transmission lines, of expanding those. And what brings this to the forefront for me is the movement in wind energy and being able to transmit...I mean to carry this outside of the state of Nebraska. Is this kind of behind some of this as they start to look at what we have, before we actually start our expansion? [LB388]

SENATOR CARLSON: Senator Harms, I think there's a couple of things that enter here. And one of them certainly is to put us in a better position to be able to export power at a profit, and then that helps our rates. The other thing is we need the proper transmission as we develop more and more renewable resources, such as wind. [LB388]

SENATOR HARMS: Yes, thank you. I appreciate that and thank you for your comments. I would urge you to support this, colleagues. It's a move in the right

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direction. And I don't think it's going to cause any problems in regard to being competitive. When you've got within our own state other public power districts that can actually pursue contracts, it keeps it pretty competitive. And I think it's a good bill; it's a good way to go; and I think it helps us for the future. I'd urge you to support this. Thank you, Mr. President. [LB388]

SENATOR COASH: Thank you, Senator Harms. Senator Ken Haar, you are recognized. [LB388]

SENATOR HAAR: Mr. President, members of the body, I just checked, and the way it works is what I said, that the Southwest Power Pool can order transmission construction, and we're part of making that order. And then the Power Review Board, which has five members...the executive director is Tim Texel; these are experts. And the Power Review Board approves transmission no matter whether it's public power transmission or whether it would be private transmission, and one of the things they do look at is cost. So I feel comfortable with that. [LB388]

SENATOR COASH: Thank you, Senator Haar. Seeing no other lights, Senator Carlson, you're recognized to close on the committee amendment. [LB388]

SENATOR CARLSON: Thank you, Mr. President. And, members, thank you for your questions and for your comments on this bill. And as was indicated, AM454 becomes the bill. I think it's the right thing to do, and I would ask for your support on AM454 and then LB388. Thank you. [LB388]

SENATOR COASH: Thank you, Senator Carlson. Members, you've heard the closing to the committee amendment, AM454. The question before the body is, shall AM454 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB388]

CLERK: 28 ayes, 0 nays to adopt committee amendments. [LB388]

SENATOR COASH: The committee amendments are adopted. We return to discussion on LB388. Seeing no members wishing to speak, Senator Carlson, you're recognized to close on the advancement of LB388. [LB388]

SENATOR CARLSON: Thank you, Mr. President. And as you have approved AM454, it now is the bill, LB388, and I ask for your green vote on it. Thank you. [LB388]

SENATOR COASH: Thank you, Senator Carlson. Members, the question before the body is, shall LB388 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB388]

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CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB388. [LB388]

SENATOR COASH: LB388 does advance. Do you have items, Mr. Clerk? [LB388]

CLERK: I have one, Mr. President, thank you. A communication from the Governor to the Clerk (read re LB94, LB105, LB133, LB170, LB262, LB295, LB316, LB340, LB434, LB499, and LB620). That's all that I have, Mr. President. (Legislative Journal page 892.) [LB94 LB105 LB133 LB170 LB262 LB295 LB316 LB340 LB434 LB499 LB620]

SENATOR COASH: Thank you, Mr. Clerk. We'll move on to the next item on the agenda, LB271. [LB271]

CLERK: LB271 is a bill by Senator Lautenbaugh. (Read title.) The bill was introduced on January 16, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. [LB271]

SENATOR COASH: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB271. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. This is a very simple bill and very easily explained. There is no committee amendment. I know it's tradition to say that we'll stand here and work with anyone with any changes that are necessary, but this one really doesn't call for that. I mean, I'm nothing if not flexible. Someone called in this morning to my office, named Sara (phonetic), and said my tie did not match my shirt, so I changed ties. But that's pretty much as far as I'm willing to go today. So that said, we'll move forward. This bill addresses early voting. As you all know, 35 days before the election, under current law, we start mailing out ballots by mail; so they have to be printed and ready to go by that date. And, under current law, people can show up at the election commission offices and vote in person 35 days before. This changes it so the in-person voting is changed to 25 days before, for a very simple reason. Once the ballots are created...and that's frequently a challenge to get done by that 35-day deadline because we cannot control when the Presidential candidates are certified, based upon when Presidential nominating conventions take place. And if we have petitions to put items on the statewide ballot, sometimes there's litigation that holds those up after the certification deadline for petitions. So getting the paper ballot done by 35 days out is sometimes a challenge, because, as you know, it has to be done and done right and proofed and checked and tested and whatnot. Then there's an additional step: there are machines for the visually impaired--I believe the brand name is "AutoMARK"--that then has to be programmed to correctly mark those paper ballots for the visually impaired using those machines. And those machines are routinely not ready 35 days out. There was a complaint, I believe, in the 2012 election cycle in Lancaster County that a visually impaired voter showed up 30-some days prior to the election and the AutoMARK machine was not ready to go. And that was alleged

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to be discriminatory because the ballots were available. So a person without a visual impairment could vote in person 35 days prior, but a person with a visual impairment could not use that machine because it had not been programmed and tested yet because of the traditional lateness of the ballot itself being ready. There was a complaint filed under the Help America Vote Act. A hearing officer heard it, heard the testimony, was cognizant of the fact that this is not a Nebraska-specific problem, because the visually impaired machines have to be programmed to accommodate the paper ballot only after the paper ballot is ready in several jurisdictions, and that deadline is routinely missed. So I believe the hearing officer recommended and the Secretary of State agreed that the most equitable solution would be to change in-person voting to 25 days out, which would give an extra 10 days to program these machines. This is not something that would cause a hardship to any voter, reasonably understood. People could still show up and take a ballot with them, if they are of a mind to, and mail it back. They could still request a ballot by mail 35 days out and get it by mail and mail it back. The only thing that wouldn't start until 25 days out would be for people who want to show up at the election office and vote in person and hand their ballot back on that day in the election office. And, once again, that would not be available for anyone, so there's no discrimination or disparate treatment between the visually impaired and otherwise. Nebraska, with this new 25-day deadline, would still be above the national average for early in-person voting, which is 22 days if you take all the states and average them up. So this is far from a dramatic change, far from an extreme change, and not really anything that would cause anyone any inconvenience. Again, there's plenty of ways to get around this if it becomes an issue, that 10 days, somehow. So that is what it does, in a nutshell. Again, there is no committee amendment. I do thank Senator Avery for making this a Government Committee priority bill. This was not one of my passions that I'd been, you know, looking at for years and finally decided this time was right. This was brought to me by the Secretary of State saying this is a problem, it's a chronic problem, and it needs to be addressed. And this is the way that best addresses it without creating additional problems, as another countervailing proposal would have done. So I would urge you to approve this bill. I know you've received some e-mails suggesting this would cause problems. We can go into those numbers as alleged. And I've looked those up myself, and I could explain why that is not the problem that it's presented as and this is just a common-sense solution to avoid an allegedly discriminatory situation. And I would urge your support of the bill. Thank you very much. [LB271]

SENATOR COASH: Thank you, Senator Lautenbaugh. Members, you've heard the opening to LB271. The floor is now open for debate. Members wishing to speak: Senators Chambers, Nordquist, and Avery. Senator Chambers, you are recognized. [LB271]

SENATOR CHAMBERS: Thank you, Mr. President. First, I'd like to look at some of the language and the changes being made by Senator Lautenbaugh's bill, which I presume was drafted by the Secretary of State. But before I make any presumptions, I'd like to

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know if Senator Lautenbaugh would yield to a question or two. [LB271]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB271]

SENATOR LAUTENBAUGH: Yes, I will. [LB271]

SENATOR CHAMBERS: The reason I ask was because he said he changed his necktie pursuant to somebody saying it didn't match his britches and that's as far as he was going, so I thought maybe that included not answering questions. But I'm glad to see it doesn't extend to that. Senator Lautenbaugh, on page 2 of the bill, in line 4, it strikes the words "and applications." Why are those words stricken? [LB271]

SENATOR LAUTENBAUGH: The language reads currently: Except as otherwise provided in section whatever, ballots for early voting and applications to be mailed pursuant to...it adds "to be mailed." So it currently reads, "ballots for early voting and applications shall be ready for delivery." I believe that is stricken...and I recall this being stricken because there really is no prescribed application process anymore, that is, the one approved form. I don't believe that the various election offices or county clerks, depending on where you are, necessarily provide a specific application, because it's very basic information: name, date of birth, signature, if I recall; "Please send me a ballot." So there's no application involved that is a specific form to be prepared by the office. [LB271]

SENATOR CHAMBERS: But there are applications that people are told to send in before they can get a ballot for mailing in. [LB271]

SENATOR LAUTENBAUGH: That's correct, but those come from a variety of sources. This is saying...it would be odd in statute to dictate that these applications from whatever source be available by a certain date, because... [LB271]

SENATOR CHAMBERS: Oh, so that's what...it's not doing away with the application as such, but it relates to the preparation...delivery date...the preparation...okay. [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR CHAMBERS: So then if I wanted to restore that language, you wouldn't object. [LB271]

SENATOR LAUTENBAUGH: I'd like to...well, again, I think I was very clear: I was willing to change my tie and nothing else, but...and I would like to think on that to make sure my answer is 100 percent correct and I'm not doing something improvident, but I don't see any real harm in it as I stand here now. [LB271]

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SENATOR CHAMBERS: Okay, now then if we drop down to line 10, it's not difficult for me to understand why you'd strike the word "forward" and insert "mail or issue." We're not really harming or substantively changing anything of substance with that particular change there, correct? [LB271]

SENATOR LAUTENBAUGH: I believe that's just a clearer statement of what actually happens rather than the word "forward," yes. [LB271]

SENATOR CHAMBERS: Okay, now if we will go to page 4, which is the last page, the language stricken starting in line 6 is the following, "but who is present in the county after ballots are available." First of all, why do you think that language was put in the statute? And if there was a reason for it, why is it now being stricken? [LB271]

SENATOR LAUTENBAUGH: Well, I don't think you have to be present in the county; I don't think that's necessary. I think it's probably archaic language from a time when maybe we had a greater standard. And I'm glad to see Senator Murante nodding, out of the corner of my eye, so he agrees. You used to have to give a reason for voting early, "I'm going to be gone on election day, but I'm here now." That would seem to be archaic language that hasn't kept pace with other changes in the law. [LB271]

SENATOR CHAMBERS: I hate to acknowledge it, but I had come to the same conclusion. But...and if you had reached a different one, then there would be a bone of contention. Now the language that you add is clear in what it says and what it purports to do. So I don't have any more questions of you. Thank you. But, members of the... [LB271]

SENATOR COASH: One minute. [LB271]

SENATOR CHAMBERS: ...of the Legislature, because of what happened in Douglas County during last year, there are some things I'm going to talk about. And since there is not much in the bill itself that can be amended, I'm going to offer some motions. I'm going to suggest some amendments which I wouldn't even be trying to get accepted. But rather than expect people to debate a bill which...there is not really much to debate, because either you agree with what's here or you don't, I'm going to create opportunities to say what I've got to say. And I told Senator Lautenbaugh I would use his bill for that purpose; I alerted the body to it this morning. And you may not want to listen, and you may try to cut me off, but you've got to let me go eight hours. If you leave me alone, it's not going to take me anywhere near that amount of time, I don't think. [LB271]

SENATOR COASH: Time, Senator. [LB271]

SENATOR CHAMBERS: Thank you, Mr. President. [LB271]

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SENATOR COASH: Thank you, Senator Chambers. Senator Nordquist, you're recognized. [LB271]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise with concerns over this legislation, LB271. I don't think it's for any, you know, deceitful reason, this bill, the underlying bill, but I do think that if there is an issue that we do need to address, let us err on the side of not reducing the voting window. Let us protect it rather than reducing it by nearly 30 percent. If there's an issue, then let's look at alternatives. And I think there was a bill in committee Senator Ken Haar proposed, LB525, which would have moved filing dates back ten days previously. If we have to reduce the window, does it have to be by ten days? Can we reduce it five days and still meet the same purpose? These are the questions that we need to ask and have answered during this debate. And I certainly won't support the underlying bill unless, you know, we are shown that this is the only alternative to solve this problem. Because for my constituents, I know that there were many that took advantage of early voting, many that took advantage of it right away, and it's a matter of convenience for them. And I'm not going to support any bill that reduces access, even in a small way, when there are alternatives to not reduce that access. So, with that, I'm going to listen to the debate. Maybe I'll ask Senator Lautenbaugh a question, if he would. [LB271 LB525]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR NORDQUIST: Senator Lautenbaugh, I appreciate the discussion we're going to have. So the ten-day number, can you explain the rationale for the ten day? [LB271]

SENATOR LAUTENBAUGH: It's simply based upon...well, there are several factors. One, it's a round number which leaves you with 25, which is a reasonable, knowable, and calculable number. Two, it's a reasonable number to allow for the time to actually do what needs to be done, which is program and test the AutoMARK machines for the visually impaired and make sure they are actually recording the votes properly, before people start using them. It was chosen because it still puts us on the high side of the national average but it allows us to address the alleged disparate treatment. If you're asking me, are 9 or 11 somehow unacceptable numbers; there's no answer for that. But ten is the number that was round and gave the adequate amount of time. [LB271]

SENATOR NORDQUIST: As far as the programming of the machines, have we...and I...maybe you can...well, I guess the first question would be: Is that a county-contracted function with...or is that a Secretary of State...contracted for the state? [LB271]

SENATOR LAUTENBAUGH: If memory serves, it is contracted county by county,...

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[LB271]

SENATOR NORDQUIST: Okay. [LB271]

SENATOR LAUTENBAUGH: ...I believe. [LB271]

SENATOR NORDQUIST: Okay. Has...so each county negotiates that with the vendor, you think? [LB271]

SENATOR LAUTENBAUGH: Well, that would seem--with, you know, so many counties--that would seem unlikely...well, but that's probably how it works. I mean, each county prepares its ballots. I assume each county is free to use different equipment. It's entirely possible that it's not an accident that this seems to be the standard equipment largely throughout the state. [LB271]

SENATOR NORDQUIST: Sure. [LB271]

SENATOR LAUTENBAUGH: So there may have been some federal money, there may have been state money that helped with a joint purchase. So I really can't answer that with specificity as to how it was negotiated and if each of the 90-some counties signed off on it. [LB271]

SENATOR NORDQUIST: And I can find out that information off the mike. And also, you know, the question of, have we talked to that vendor about pushing their work... [LB271]

SENATOR COASH: One minute. [LB271]

SENATOR NORDQUIST: ...up a little bit further? But...so essentially there's no magic to the ten-day number. You know, 30 would be a round number too; maybe 5 days is a little better. But I'm going to take the position of protecting the early voting window in Nebraska as much as possible. And that's why at this point I won't support LB271 and may, as discussion goes on, look for alternatives. Thank you, Mr. President. [LB271]

SENATOR COASH: Thank you, Senator Nordquist. Senator Avery, you're recognized. [LB271]

SENATOR AVERY: Thank you, Mr. President. Let me give you a little bit of the history here. I know that Senator Lautenbaugh did talk about some of it. The Government Committee was presented with an issue that we felt was important enough to prioritize this bill. And that issue is that the bill is necessary because currently the state of Nebraska is out of compliance with a federal law passed in 2002 known as the Help America Vote Act. That law was designed to bring some uniformity to America's election laws. It was also designed to facilitate voting, making it easier. A lot of good things

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happened because of the Help America Vote Act. We in this state have been very serious about implementing that law and about complying with its terms. And voting has improved, for the most part, throughout the state. The fact is that we had an instance here in Lancaster County where a visually impaired person called the election commissioner's office and asked if it would be possible for her to come in to vote early in person. And the answer was: Yes, you can, but not until the 12th of October. Well, early voting started on the 1st of October. So she inquired as to why, and the answer was that the AutoMARK machine, which is, by the way, a machine that is a ballot-marking device that allows visually impaired voters and other voters in need of assistance to vote privately and independently; it's a very important part of the voting process. She was told that it would not be ready until the 12th. And that led her to complain...or to seek assistance in filing a complaint that charged the Secretary of State's Office with a failure to comply with the Help America Vote Act. A hearing officer was appointed; the hearing officer heard the testimony of all parties; and all the evidence was presented. And the hearing officer concluded that the state of Nebraska was out of compliance with the Help America Vote Act and recommended the bill that we are now considering. I think that's important. This has the...this is a result of the recommendation both of the Secretary of State and of the hearing officer that heard the case involving this voter. The...it is...only applies to in-person early voting. It does not change the terms of paper balloting at all. This is a small number of voters that show up at the election commissioner's office and seek to vote early in person. And in order to make it lawful, it has to apply to everybody during that ten-day window, not just to people who are visually impaired. So this is a part of the history. I am sure that questions might be raised as: Why couldn't you move the dates? That was in Senator Haar's bill. And the problem is that there are too many elements in the process of preparing for an election, so that the Secretary of State... [LB271]

SENATOR COASH: One minute. [LB271]

SENATOR AVERY: ...does not have enough time to finalize the ballots before September 15. September 15 is the date that the Secretary of State must finalize the ballot, and that is the point at which all this information has to be available. And there are things in that process the Secretary of State does not control, and therefore, he can't have all the information before September 15. And it's at that time the ballots go to the vendor, who prepares the machines. And then it takes from September 15 until about October 12 for the vendor to be prepared. So this is why we consider this to be an important bill, because it does not apply to a large number of voters, it only applies to early voting in person, and it is made necessary by a ruling of the hearing officer in this particular case. [LB271]

SENATOR COASH: Time, Senator. [LB271]

SENATOR AVERY: So...thank you, Mr. President. [LB271]

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SENATOR COASH: Thank you, Senator Avery. Mr. Clerk, you have an item. [LB271]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend the bill with FA47. (Legislative Journal page 892.) [LB271]

SENATOR COASH: Senator Chambers, you're recognized to open on FA47. [LB271]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, as I stated, I'm going to offer some amendments and make some motions, but they are not going to have any impact on what actually the bill will say. This amendment goes to page 2, in line 4. The language which Senator Lautenbaugh and I discussed comprises two words, "and applications." My amendment would reinstate, "and applications." And because I need a little time, at least ten minutes, I've got to do it in this way, because I don't think this Legislature was ever confronted with what had happened in my community. So this is a letter that I had written to Governor Dave Heineman after several missteps by the person he appointed as election commissioner had taken place. And therefore, the date of this letter is April 7, 2012, after we were well into the dispute. When the media subsequently asked the Governor about this letter--because I always publicize things of this nature to the extent that I can--he did not want to comment, and I don't blame him. Dear Governor Heineman,...oh, and here's the caption: Your duty to become involved with remedying problems spawned by unwarranted closing of polling sites in Douglas County by Election Commissioner. Rather than recount all events in this letter, I'm enclosing for your convenience the Omaha World-Herald articles about the situation; my letter to the election commissioner, Mr. Dave Phipps, whom I have dubbed "Mr. Fibbs," F-i-b-b-s, due to his varying reasons for the closings; plus two columns I wrote for The Omaha Star. "Mississippi-fication" of election system: Unarguably, the elective franchise is a cardinal right in America, as evidenced by the protection accorded by the U.S. and Nebraska Constitutions, congressional enactments, and U.S. Supreme Court decisions. The racially-hyphen-identifiable impact on black and Latino people is nothing less than the "Mississippi-fication" of the Douglas County electoral system. Nebraska and the elective franchise historically: More than a century ago, Nebraska's admission into the Union...and by the way, some of this, people in Nebraska don't know; it's not taught. More than a century ago, Nebraska's admission into the Union was delayed until the state agreed to comply with the requirement imposed by Congress which is the following: that this act, quote, an act for the admission of the state Nebraska into the Union, shall not take effect except upon the fundamental condition that within the state of Nebraska there shall be no denial of the elective franchise, or any other right, to any person by reason of race or color. That long ago, Nebraska was trying to get away with doing the wrong thing. After Territorial Governor Alvin Saunders summoned the Legislature to meet on February 20, 1867, at the capital city of Omaha...and the Legislature did meet and adopt the provision "to be a part of the organic law of the state of Nebraska," President Andrew Johnson, who had

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rejected a previous application, signed and sealed the proclamation of admission. And what was adopted was that condition that there be no denial of the elective franchise, or any other right, to any person by reason of race or color. That had to become a part of the organic law of Nebraska, which was the constitution. This is the proclamation signed by then President Andrew Johnson, who, as most of you all know, took over after Abraham Lincoln had been assassinated: Now, therefore, I, Andrew Johnson, President of the United States of America, do, in accordance with the provisions of the act of Congress last herein named, declare and proclaim the fact that the fundamental conditions imposed by Congress on the state of Nebraska to entitle that state to admission to the Union have been ratified, accepted, and that admission of the state into the Union is now complete. In testimony whereof, I have hereto set my hand and have caused the seal of the United States to be affixed. What other people besides those who have been denied rights would have any interest in looking into the history of Nebraska? It's not taught in the schools. I didn't learn this in elementary school. I didn't learn it in high school. I didn't learn it at Creighton, where I majored in history. Continuing with the letter, and this is a part of what Andrew Johnson's proclamation contained: Done at the city of Washington this 1st day of March in the year of our Lord 1867 and of the independence of the United States of America, the 91st--the 91st year--by the President, Andrew Johnson. Thus, from the beginning, the elective franchise was deemed of cardinal importance. Yet here we are in 2012 faced with a serious abridgement of the right to vote. The Constitution of Nebraska: In keeping with the condition imposed by Congress for admission into the Union, as well as by the U.S. Constitution, Article I of the Nebraska Constitution provides, Section 22, elections to be free. "All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise." Now to you, Governor. Governor Heineman, I watched you during a recent interview on KMTV regarding the problems growing out of the poll site closings by your appointee, Election Commissioner Dave Phipps. You displayed joviality, jocularly, and a bit of jesting while declaring that, quote, it is a local issue, unquote, and claiming, therefore, that you have no role to play in it. There seemed to be an unfortunate air of the flippant and cavalier clinging to you. As to your conclusion regarding noninvolvement of the Governor's Office, I strongly disagree. Are you not the Governor for the entire state of Nebraska and of all its inhabitants, all of its people? It is regrettable and highly unseemly that you would attempt to wash your hands of any and all responsibility to involve yourself in an extremely urgent and grave matter involving a fundamental right of the citizens of the most populous county, containing the most populous city in the state and also the largest population of African-American citizens. Alpha male? Article IV of the Nebraska Constitution provides, "Section 6, Supreme executive power: The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed and the affairs of the state efficiently and economically administered." "Supreme" is a powerful word. It means greatest in authority, power, rank that is paramount, equalled, or surpassed by none in the realm of executive authority. The constitution thus ensconces you, Governor, as the alpha male of the executive power. If

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the constitutional provision guaranteeing the right to vote is not a law, then nothing is. In the same way that you are the paramount executive authority in the state, the right to vote... [LB271]

SENATOR COASH: One minute. [LB271]

SENATOR CHAMBERS: ...is the paramount civic right in a democracy. You cannot turn your back on a "hindrance or impediment to the right to exercise the elective franchise," without turning your back on your duty to "take care that the laws be faithfully executed." Governor, it is past time for you, the alpha male, to exert your, quote, supreme executive power and exercise leadership in addressing this dreadful and racially tinged assault upon free exercise of the franchise. And I'm going to stop at this point because I think my time has run out. [LB271]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to FA47. Senator Karpisek, you are recognized. [LB271]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. If you look at the committee statement, I was the only person who voted against this bill. I've had a lot of people ask, why did you do that, is it that big a deal? Well, to me it is. We had a problem, there is an issue of the dates when the AutoMARKs can be programmed; we'll get into that a little later. But to me, to solve a problem by saying, oh well, we'll just move the date back ten days, to me is no solution. I agree with Senator Lautenbaugh that we would still be better than average. That's nice. But to take ten days away for early voting once we had them, to me again, is not a solution. Have we talked to the people that do the programming? Have we tried to do any of those things? I don't know that. And again, I'll get into that a little later. But once we had a number of 35, that number must have been put in for some reason. And then to just say, well, they can't get it done, or we can't get it done, or we don't know, so we'll just move it back ten days. Now I understand why the ten days. Senator Lautenbaugh explained that and I understand why he...why we have that number. But again, well, why not 20? If early voting really doesn't matter that much, then let's move it back even further. It probably cost less money to do it even more, to cut it back. I don't think that that is a solution. To me this seems like the easy way out to get out from under what happened, but to just take away ten days doesn't feel right to me. I think that there has to be a different way to go about it, to work with the company, to work with someone. I realize this all takes time. Would Senator Lautenbaugh yield, please? [LB271]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. Is there a way that we could

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go less than the ten days, or can we talk to Secretary of State to get this done faster?  
[LB271]

SENATOR LAUTENBAUGH: Well, the short answer is, no, because this is the deadline that came from the Secretary of State after talking with the programming company to make sure that these are done correctly and timely. So the ten days was their choice after consulting with the company. It was seen as the minimum amount necessary to make sure this is available and done correctly. [LB271]

SENATOR KARPISEK: Okay, thank you. And so the Secretary of State talked to AutoMARK about that? [LB271]

SENATOR LAUTENBAUGH: I don't know if AutoMARK is the company name. [LB271]

SENATOR KARPISEK: Well, okay, yeah. [LB271]

SENATOR LAUTENBAUGH: But that's the people who program it, I believe, and gave input on what it would take to get it done. And it's actually known. I mean, this is not a new problem. It's kind of well known that when the paper ballot is available it takes this much time to program the machines and test them. That's just a reasonable period. I mean, there's...this isn't a new problem, by any measure. [LB271]

SENATOR KARPISEK: This is just the first time that we've had a complaint? [LB271]

SENATOR LAUTENBAUGH: Yes, I believe so. [LB271]

SENATOR KARPISEK: And how long have we had the...this 35 days? [LB271]

SENATOR LAUTENBAUGH: Well, I can tell you as long as I can remember, but that's not helpful. [LB271]

SENATOR COASH: One minute. [LB271]

SENATOR LAUTENBAUGH: I don't know the answer to that. [LB271]

SENATOR KARPISEK: Okay, that's fine. Okay, thank you, Senator Lautenbaugh. Again, this is a solution. Just because we have a solution doesn't mean it's the right solution. We see that very often. A lot of bills are a solution to a problem; doesn't mean it's the right one. I don't think that this is the right answer to go about solving this problem. We want people to vote. We talk about wanting to get people to vote. We are always talking about that. But then we try to make it harder. Especially handicapped people, it might be hard for them to get there at certain times, especially blind people. Maybe they can only go once a month; I don't know. But to try to cut down on the

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amount of days that they are...can get there, to me, doesn't seem right. Thank you, Mr. President. [LB271]

SENATOR COASH: Thank you, Senator Karpisek. Senator Cook, you are recognized. [LB271]

SENATOR COOK: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to LB271 and want to speak about that and also share with the body and the record and Nebraskans and history an experience that I had with a bill that I proposed before the Government Committee earlier this year. I proposed LB41 which recommended a permanent automatic voting list for our states. I'd introduced this proposal, or one very, very similar two years ago, with the support of the Secretary of State's Office and had looked forward to that same support this year. In fact, I got a phone call from the Secretary of State's Office two days before the hearing this year on LB41 ensuring me that the Secretary of State's Office would be at the hearing and testify in support of the bill proposal. What I'd like to reiterate is that I brought the proposal, like many of you, believing in democracy and feeling as though, in general, we should provide ways to maximize access to the polls themselves, which means not moving them around. My polling place got moved around, specifically. Other people showed up at their regular polling place; it wasn't there. Places that had been polling places for decades were shut down, through the experience that Senator Chambers has described. But back to LB41 and the hearing this year. So I arrived that day, read my introductory testimony. I had several questions from the committee and that's their job. They do a really good job, not only reading the bills, but preparing their testimony and questions and answers. I remember lots of questions from Senator Murante and Senator Scheer about the specifics of how the bill would be carried out. And then, you know, everybody here has had a bill introduced and there's a protocol: first proponents of the bill; then people testify in an oppositional capacity. There was plenty of that from the people who are the election commissioners or act in that capacity in their various counties, interestingly including a gentleman here, Mr. Shively, who maintains a permanent automatic voter list. But once again, that's neither here nor there. Well, here was kind of the cake taker that day for me. The representative from the Secretary of State's Office showed up when it was time for the Chair to call for testimony in opposition and sat right down in a chair and went on for quite a bit with his testimony in opposition to my bill. As I described earlier, this bill was very similar to a bill that I had worked with their office on two years ago, and I was quite taken aback and mentioned that to the testifier in the hallway afterward in colorful terms that my grandmother would not be proud of but which were sincere and remain sincere, but would probably cause me to be censured if I mentioned them on this floor right now. I think it is a shame and a disgrace. I think it is something that I've observed increasingly in my short time here in the Legislature. I'm in my second term, four and a half years I think, and when somebody tells you something two days before and then turns around, I'm not going to use the large word, which is "disingenuous." I think that's one of our vocabulary words

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this year. It used to be just called lying. I'm going to call it lying. Senator Chambers has a more polite word, fibbing. [LB271 LB41]

SENATOR COASH: One minute. [LB271]

SENATOR COOK: I'm going to go ahead and call it lying. I don't like it. Everybody in here needs to know about it and be forewarned. Thank you, Mr. President. [LB271]

SENATOR COASH: Thank you, Senator Cook. Senator Lautenbaugh, you're recognized. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I would note that this, again, came out of the committee with only one negative vote. And there were two lobbyists that came in and testified against it, but otherwise there was no opposition. The question was asked, well, why not 20 if it has to be 10 days we're lopping off. Well, I guess the short answer is there's no reason to lop off 20 days. The ten days gets the job done and shows that we're not discriminating against anyone. The 10 days still leaves 25 days of early voting. Keeping in mind, and I cannot stress enough, if you just show up at the election office 35 days out and say I want a ballot to go, they'll still give it to you. But it only affects people who insist on voting in person in the office 30 days prior to an election. This says, no, you can't do that until 25 days prior. It is...I'm struggling to imagine a scenario where a visually impaired person would be readily available to get to the election office 30 days out but not 25 days out. And would be unable to avail himself or herself of every other way to vote that is available, including on election day, because we have these AutoMARK machines at the polling places or at the election offices. At least in Douglas County they're at the polling places I believe. So, folks, I hope you understand, and I mention this entirely too often, I used to be an election commissioner. I understand what we're doing here and why we're doing this, and I think that's why they brought me this bill. I'm sure we'll have a discussion regarding extraneous matters that have nothing to do with this particular bill. We've been promised that. But I don't want to lose focus. This is not meant to keep anyone from voting. This is meant to address a complaint of, basically, alleged discrimination that the visually impaired machines were not ready 35 days out. And here's the answer to that: Those machines are often not available 35 days out. They were not available, in my day, 35 days out either because they have to be programmed again to work with the paper ballot, and the paper ballot is barely available 35 days out. So what we're doing here is, basically, acknowledging the reality that those machines are not ready to go. And the one thing that we always came back to on election night, the most important thing was accuracy, actually counting the votes correctly. So I'm not anxious to say, well, we should tell the vendor that they only get eight days to program rather than ten, or maybe five is good enough, or somehow freelance a number here on the floor and tell them they should get it done in that period. Because again, 25 days out places us still above the national average for early in-person voting and it is just...it's eminently

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reasonable and infinitely defensible, as I guess we'll hear all afternoon from me. But we have to be accurate on this. There was one election night in 2000, it was a Presidential year, where we do periodic releases of results and we have several counters in Douglas County, so we had to accumulate all the results from each scanner every time we put out results. So we released a batch of results. And about 45 minutes later we released another batch and some people's totals had gone down. And the Secretary of State's Office called me and said, hey, that can't happen while you're counting more ballots, obviously. So we looked into it. And there was an error in a prior release, someone had loaded a set of totals from a machine twice and then, without disclosing it after we did the release, backed those totals out, so the numbers went down. I immediately stopped releasing results and made them re-create the error... [LB271]

SENATOR COASH: One minute. [LB271]

SENATOR LAUTENBAUGH: ...and show me how they did it and that was actually what had happened and that was corrected. We had a two-hour lag where we released no results from Douglas County where the Gore campaign was literally calling from Nashville to reach the state democratic chairman to see what's going on in Douglas County. Why aren't they releasing results as scheduled? Because we stopped everything to be sure we were right, and this is akin to that. This has to be right. It has to be done right. It has to be available and we have to have accuracy. And that's what this is about in a nutshell. Thank you, Mr. President. [LB271]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized. [LB271]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm going to depart from my reading right now to freelance. You heard Senator Cook's comments. You may believe them and you may not. But it may not make you any difference because people can always alibi. Even Senator Lautenbaugh told what a wonderful job his friend, Dave Phipps, did during the time he was messing over people in my community. And you know what his friend did? And they like to say it was just an accident. He sent out 2,000 inaccurate cards to black people saying where they should go vote, knowing they were inaccurate when he sent them. And that's some of what I'm going to read. Document it with the World-Herald. I don't control them. And you know what he said? He knew they were inaccurate when he sent them out. He knew they were wrong. He knew he was sending cards to black people saying, you vote at place A, when you don't and he knew it. And when his hand was called, you know what he said? It was easier to just go on and send them and then send a letter explaining it. KMTV went to the printer; laid all this out that had happened. And the printer said, this had been brought to Mr. Phipps's attention. Those cards are incorrect. There is time enough for us to print correct cards and they'll be sent out according to your mailing schedule. And Phipps did not want that done. And then somebody here will explain and

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say, well, Mr. Phipps had his reasons. It didn't happen to Senator Lautenbaugh. He can't see why people who can't see well would have a problem, because now you say they have 25 days instead of 35 days. He hasn't experienced this. They set up the 35-day period. And now, because they discriminated against a protected group, he says, well, let's change it and not let anybody have 35 days; we'll show those people who brought this complaint. And that's what some of the discussion was if you proceed with the complaint, nobody will have 35 days. So the cost, the punishment, the penalty for filing a legitimate complaint under a federal law results in everybody losing ten days during which they can vote early in person. What business is it of his why anybody votes in person? He is so arrogant in that statement. He cannot see why visually impaired people cannot make it here in 25 days, because he sees that they can do it. And because he sees it, that's the way it should be, and it won't inconvenience them because he can't see where it is inconvenient. Well, people can't see why it's inconvenient for us who are black people to get a knowingly false direction from the election commissioner's office misleading us as to where we should go vote when he knew it was false at the time he sent it. Well, they can't see why that's a problem because he sent a letter later on explaining it, after his hand was caught in the cookie jar. But you know what happened? People who had been deceived were now skeptical about the letter. What is the truth? Why is it necessary that these blunders occur? And this sending out the 2,000 false cards was not the first one. Even the World-Herald editorialized about all these missteps,... [LB271]

SENATOR MCGILL PRESIDING

SENATOR MCGILL: One minute. [LB271]

SENATOR CHAMBERS: ...all of these blunders. And I'm going to take the time today to read through that. And whether anybody here listens or not, I don't care, because remember this is streamed to other people. It will give them an opportunity to see how things are done in Douglas County, and how the Governor looks the other way; how the Secretary of State, after telling the media, he was very troubled by the way Phipps, the Douglas County Election Commissioner, closed all these polling places, it was too much to do at one time, but he said he's not going to investigate. I will have a chance to go through that. But I'm glad that Senator...what's his name now, no. Senator Nelson thought I was talking about him. Senator Karpisek. I wanted him to know that I'm aware that he can say something that will punch my button too. I wanted to be sure he was listening. And he made me deviate from my reading so I could deal with these things, but before... [LB271]

SENATOR MCGILL: Time. [LB271]

SENATOR CHAMBERS: ...the afternoon is over...thank you, Madam President. [LB271]

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SENATOR MCGILL: Thank you, Senator Chambers. Senator Bolz, you are recognized. [LB271]

SENATOR BOLZ: Thank you, Madam President. Will Senator Lautenbaugh yield to a question? [LB271]

SENATOR MCGILL: Will Senator Lautenbaugh yield? [LB271]

SENATOR LAUTENBAUGH: Yes, I will. [LB271]

SENATOR BOLZ: Senator, I understand that part of the dilemma here is the time that's needed to program these voting machines. But it seems to me that people probably voted before machines were in existence. So can you just help me understand what precludes somebody from finding an old-school manner of voting? [LB271]

SENATOR LAUTENBAUGH: Yes. In the case of the visually impaired, they were voted...they voted, presumably, by having the ballot read to them, which meant they no longer had a secret ballot. So these machines were invented to protect the secrecy of their ballot and this became the standard for how the visually impaired can choose to vote if they don't want to share their choices with someone else. So in a time before these machines, you're correct, there was no problem or delay in programming them; there was also no secret ballot for the visually impaired. [LB271]

SENATOR BOLZ: So, would an individual who is visually impaired no longer have the opportunity to fill out a paper ballot with the assistance of an individual of their own choosing? [LB271]

SENATOR LAUTENBAUGH: No, that can still happen, and even under this change if a person shows up and says, I want to take a ballot home to my visually impaired friend, cousin, whatever, they can do it however they want. But for the visually impaired who, understandably, want to have the same secrecy of the ballot that all of the rest of us enjoy, these machines can be available 25 days out, but routinely aren't available 35 days out. [LB271]

SENATOR BOLZ: Okay. Thank you, Senator. [LB271]

SENATOR MCGILL: Thank you, Senator Bolz and Senator Lautenbaugh. Senator Schumacher, you are recognized. [LB271]

SENATOR SCHUMACHER: Thank you, Madam Chairman, members of the body. Senator Lautenbaugh's comments changed the course of what I was anticipating saying. Seems that this bill is about preserving the secret ballot for folks who are sight impaired. Well, guess what, folks. On mail-in ballots, on provisional ballots, on any kind

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of ballot that's not cast right there in person and dropped into the secret ballot box with the ceremony with the metal case, we don't have a secret ballot in this state anymore. When you get a mail-in ballot, guess what happens. You get the ballot and you get a return envelope with your name and identifying information on it. You have to send that back in the mail and there the folks in the election commissioner's office open the envelope, take out the ballots that you marked, right there in big daylight for them to see, and can see right along side of it the return envelope that you sent it in. Now one day in the distant past, there was an inside envelope, so they pulled out the inside envelope, pitched them in a pile and you had a secret envelope...or secret ballot as anybody else had; but not anymore. Right now, you have no secret ballot. Now there's been a bill in Government Committee two years ago, and one sitting there right now that tries to fix that. There's a threat from the ACLU to sue and to bring to the federal court's attention violations of the Voting Rights Act, violations of the Nebraska Constitution because we no longer provide a secret ballot, although our constitution says we must do it. But that bill is tied up in committee for some reason, never advances. Oh my, why? Well, you see the election commissioners show up and say, you know, it would be just so much work for us to have that inside envelope; it would just burden us something terrible. Besides that, trust us, we won't peek. We won't take our iPhone or cell phone camera out and take a picture of it and broadcast it over the Internet. There's no crime in doing so, but we won't do it. So, folks, when Senator Lautenbaugh says the reason for this change in law is because we want to preserve the secret ballot, we better look at the secret ballot. And the people out there who vote the secret ballot, do you think your ballot is secret? It's only your trust in the election commissioners that they won't peek that keeps it secret. And that's an atrocity that we need to address in this Legislature. And one year, one time maybe the Government Committee will advance that bill. Maybe there's ways to force committees to advance bills; maybe I'll learn that from Senator Chambers. But that's something that needs to be addressed. I do have a couple of questions for Senator Lautenbaugh. [LB271]

SENATOR MCGILL: Senator Lautenbaugh, would you yield? [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR SCHUMACHER: Senator Lautenbaugh, could you explain the mechanics here. Does somebody go around to each of these counties with a keyboard or something and program a machine, or they do it over the phone lines, or how do they actually do it? [LB271]

SENATOR LAUTENBAUGH: I don't know with the current state of technology if it is remotely done or physically done to each machine. I'm assuming, since I...well, it is a danger when you assume. You know that. I can't answer you if the person has to be physically present with the machine to program it or not. I just don't know the answer to that. [LB271]

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SENATOR SCHUMACHER: Okay. Thank you, Senator Lautenbaugh. It's not that hard to update machines. I think we need to know exactly what the procedure is and why this can't be done in a very reasonable and fast system. If the Nebraska Cooperative Government can update a hundred keno machines in ten days, I can't see why it would be so hard to update an equal amount of 93 counties'... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR SCHUMACHER: ...worth of election machines. It seems a lot of times what we're hearing is, oh, it's this darn computer programming and it's combed so much and so involved. I think we need more facts to find out whether or not this couldn't be done faster, and if the vendor can't do it faster, then why not? And these sometimes are convenient excuses for just not wanting to do it, just like the secret ballot. Thank you. [LB271]

SENATOR MCGILL: Thank you, Senator Schumacher. Next in the queue is Senator Avery. You are recognized. [LB271]

SENATOR AVERY: Thank you, Madam President. As I said when I was on the microphone last, this is a necessary bill. It is not a bill that I am eager to endorse because I'm not eager to narrow the window for early voting. But I would remind you that this applies to only in-person early voting. It does not apply to the law that covers paper ballot early voting. That is still available starting October 1 to anyone who wishes to use it. The Help America Vote Act is really what is requiring a lot of this legislation. The language of the act of 2002 is clear that accessibility for the blind and visually impaired shall be satisfied through the use of a voting system equipped for individuals with disabilities. This language is not discretionary. It is, in fact, mandatory. We must have the...a voting system equipped for individuals with disabilities. The state of Nebraska has contracted with ES&S Election Systems and we have decided through our contracts with that company to use their machine called AutoMARK for satisfying this mandate under the Help America Vote Act. This is a voting system that must be available during the in-person early voting period. Now I was asked off the microphone, why couldn't we just require ES&S to provide the machines by October 1? The problem with that is that it's still a time issue. If we were to present a contract to ES&S and say you must sign this contract requiring you to provide these machines ready and programmed by October 1, I'll tell you what the outcome might be. They would probably say, sorry, we can't sign that contract. Then the state of Nebraska will be stuck with 5,000 useless voting machines, pretty expensive paperweights, because we wouldn't be able to use them. We have in this state 1,300 voting places statewide and the average number of ballot splits, they're called, would be three per voting place. That means we have potentially in any given election 3,900 ballot faces, 3,900 ballot faces. The Secretary of State cannot compel ES&S to come in and program their computers for

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3,900 ballot faces and expect them to get it done overnight. We cannot do that. We could try, but my guess is that we would find ourselves with 5,000 unprogrammed voting machines and that would not be an acceptable outcome for the state. The fact is that voting has become more complicated. We have a very advanced early voting law in this state. [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR AVERY: It's a good law. And I have long advocated for making early voting easier and all kinds of voting easier and registration easier and I sometimes irritate my committee because I'm always talking about it. But I can tell you that we have good laws in this state. This is a necessary law. I'm not eager to do it, but we have to do it, given the circumstances, and that's a reality we need to face in deciding how to vote on this. So I appeal to you to put your desires aside and face reality, because often what we want is not possible, but what we must live with is what we have to do. Thank you, Mr. President. [LB271]

SENATOR MCGILL: Thank you, Senator Avery. Next in the queue: Senator Karpisek, Lautenbaugh, Chambers, and Davis. Senator Karpisek, you are recognized. [LB271]

SENATOR KARPISEK: Thank you, Madam President, members of the Legislature. Senator Avery said this is a necessary bill. I disagree. There are other ways to go about this. This is the easiest way. I don't agree that this is the only way to go about it. Help America Vote Act, HAVA, hmm, to help America vote when we want you to do it, how we want you to do it. Why we want you to do it, well, yeah, we really want to get people out to vote more, but, well, since this just isn't working, we'll just cut ten days off. I don't think that that's any way to go about trying to get more people to vote. Would Senator Avery yield, please? [LB271]

SENATOR MCGILL: Senator Avery, would you yield? [LB271]

SENATOR AVERY: I will. [LB271]

SENATOR KARPISEK: Thank you, Senator Avery. ES&S is the company that we contract with. Is that correct? [LB271]

SENATOR AVERY: That is correct. [LB271]

SENATOR KARPISEK: Do you know, are there any other companies that do this? [LB271]

SENATOR AVERY: Well, it's my understanding that they have contracts with about 50 states. [LB271]

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SENATOR KARPISEK: That would be most of them, huh? [LB271]

SENATOR AVERY: I don't know if...I'd say that's most of them. I would suggest that this particular type of voting machine is available throughout the country. They've pretty much cornered the market in this country. Now there are other manufacturers, so this is not the only type of voting machine available. [LB271]

SENATOR KARPISEK: Okay, but you think for this...so we bought this through...these voting machines through ES&S, is that...? [LB271]

SENATOR AVERY: Yes. [LB271]

SENATOR KARPISEK: Okay. So they kind of...you think that they hold the upper hand in saying when they'll get them programmed? [LB271]

SENATOR AVERY: I can tell you that when election time rolls around, they are trying to get ready voting machines in multiple states at the same time and it's extremely time-consuming and difficult task. [LB271]

SENATOR KARPISEK: But if we're one of the first states, then shouldn't that take a little bit of the busyness off of them? [LB271]

SENATOR AVERY: Well, they can't start early. They...I mean, we certify our ballots by the 15th of September. That might be earlier than some states, but nonetheless, there's a lot of preparation that takes place, preprogramming that takes place in these machines prior to these deadlines. The deadline triggers the time when they have the ballot they know will go before the voter and now they can put these in the machines. [LB271]

SENATOR KARPISEK: Okay. Being in private business at one time in my life, I think if somebody who you do business with and they come to you with a really good amount of business, you bust your neck to get done what they want to have done. So I think that we need to talk to them and renegotiate a contract, if that's what we need to do. Senator Schumacher talked about reprogramming keno machines and I'm sure something about historic horse racing, so I thought those machines are probably election machines now. But I don't think if they want our business and if they're going to say we can't do it, now you've got 5,000 machines that you can't do anything with. I know right where I'd put those 5,000 machines and I'm sure that we would... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR KARPISEK: ...let every other state know, too, how well they were willing to

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work with us and get done what we want to get done. I do not disagree with Senator Avery that something needs to be done. And I know that he isn't crazy about this whole idea either. But something does need to be done. I don't think this is the only way to go about it. I don't know that it has to be done this year either. I just don't think that saying, oh well, we'll just take more days off then that will fix the problem, is any way to do business. Thank you, Madam President. [LB271]

SENATOR MCGILL: Thank you, Senator. Senator Lautenbaugh, you are recognized. [LB271]

SENATOR LAUTENBAUGH: Thank you, Madam President, members of the body. I wonder if Senator Karpisek would yield to a question. [LB271]

SENATOR MCGILL: Senator Karpisek, do you yield? [LB271]

SENATOR KARPISEK: Yes, I will. [LB271]

SENATOR LAUTENBAUGH: Senator Karpisek, what do you think we should do? [LB271]

SENATOR KARPISEK: I think that we should go and try to negotiate with the company and see if we can get this done so we can still have 35 days. [LB271]

SENATOR LAUTENBAUGH: Thank you, Senator Karpisek. Sometimes we have to make hard choices that deal in reality and with the facts on the ground and what we're actually faced with. And understand the paper ballot is barely available by the 35th day. These machines are programmed derived from the paper ballot which is available 35 days out. These machines, I've learned, are not wirelessly connected, which makes them different from keno machines and, I would argue, a tad more important than keno machines. These have to be right. If you're foolish enough to play keno, I'm not really worried whether or not the machine is right or not. These have to be right. And what we're saying here is, give these people ten days to program these machines for all 93 counties. And as you all know, every county has a different ballot, and multiple precincts in Douglas County. Each one has multiple different ballots. And we're saying do this in ten days. And we're being told, no, that's not the right thing to do; we should tell them five days; we should tell them to work harder; we should tell them to work faster. Folks, you're being told nonsense. Twenty-five days is above the national average. Ten days is a reasonable time to take what's on the paper ballot, put it into all these various machines throughout 93 counties...are programmed for all 93 counties and the various ballot faces within each 1--and I'll talk about ES&S in a moment--and then test them and then physically take some kind of disk or chip out to each machine and insert it. That has to be done statewide in ten days is what we're saying. Does that really seem like an exorbitant amount of time for you to program something with thousands of different

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ballot faces, test it, and then deliver it to 93 counties installed in the machines and make sure the machines work yet? Ten days, folks; it is just plain irresponsible to stand up here and say, I think it should be shorter, because you don't know, or we don't have to deal with it this year. Well, maybe we should get sued and then we can deal with it. We've already had the HAVA complaint. There's a point at which you have to consider what we're actually being asked to do here. And when you have me and Senator Avery and Mr. Erickson from the Secretary of State, and heaven knows who else, and NACO coming in here and saying this is what we need to do to do it right, I would hope you would at least take that at face value. And, realize that all of us don't always agree on everything, but we've looked at this, some of us have lived with this, and this is what it takes to get it done, to preserve the right to vote, to make sure the visually impaired are not treated differently than the nonvisually impaired, which is our burden. We have to do that. And you have to understand that ES&S grew up in Omaha, because our elections in Douglas County are the most complex in the nation and, in some ways, in the world, because we have partisan primaries. We elect more political subdivisions than any others. We have to rotate the names from precinct to precinct. The way it works is, if ES&S can make it in Douglas County, they can make it anywhere. We're talking thousands of ballot faces in just one county. That's why they're able to do pretty much anything anywhere else because other states don't OPPD, MUD, NRD, OPS, Learning Community,... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR LAUTENBAUGH: ...State Board of Education, Regents, on and on and on. They don't have the difficulties we have in programming. It is a monumental task. And for us to stand here and say we're going to substitute our judgment because we think they should be able to do it quicker, do you really want them doing this more quickly? Do you really want the people tabulating our results to be in a hurry about it? I mean we used to struggle with that on election night. Everybody wants accuracy, accuracy, and speed, speed. Speed kills when you're going for accuracy. We can't substitute our judgment here; we shouldn't. For once, we should listen and say this is reasonable. We still have more time than most states to vote early. This is a reasonable accommodation and go with it because it guarantees the integrity of our system and guarantees we won't be sued for this particular thing. That's the point of the bill. I'd please ask you to support it. [LB271]

SENATOR MCGILL: Time. Thank you, Senator Lautenbaugh. Senator Chambers, you are recognized. [LB271]

SENATOR CHAMBERS: Thank you, Madam President. I would like to ask Senator Avery a question. [LB271]

SENATOR MCGILL: Senator Avery, will you yield to a question? [LB271]

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SENATOR AVERY: I will. [LB271]

SENATOR CHAMBERS: Senator Avery, some of us feel it's unreasonable to cut ten days off the number of days available for in-person early voting. Why not add 10 days and make 45 days available? If in-person early voting is of value, why not give ten more days to do it and then your machine people can do what they've got to do? They got the ten days. We have the...not only the 35 days but more. And here's what we can say, so we won't just have the problem pushed out further. Make the ballots available 45 days before the election. Let these people have ten days to program their machines. Then the 35 days that we have now to allow people to vote in person would kick in and that's how it would be resolved. Why can't it be handled that way or is that too inconvenient for the machine people? [LB271]

SENATOR AVERY: No, I...has a lot to do with the date that the ballots are certified. Are you talking about adding ten days at the front end or the tail end of the early voting period? [LB271]

SENATOR CHAMBERS: I'm saying, instead of having this beginning at 35 days before the election, require the certification of the ballots 45 days before and then allow the in-person voting to start 35 days before the election. [LB271]

SENATOR AVERY: Well, the problem with that is that the Secretary of State's Office has to certify the ballots before any programming of the machines can start. The Secretary of State has those certifications ready by the 15th of September. [LB271]

SENATOR CHAMBERS: But let me stop you for a second. These dates are legislatively established. Is that correct? Do we tell the Secretary of State when the certification has to be done? [LB271]

SENATOR AVERY: I think that's in our election law, yes. [LB271]

SENATOR CHAMBERS: So we can change that, can't we? [LB271]

SENATOR AVERY: Well, these dates are determined by how long it takes to get the job done. [LB271]

SENATOR CHAMBERS: What do you mean "get the job done"? [LB271]

SENATOR AVERY: They can't be arbitrary dates. You can't just say you're going to have this done by September 1 if it takes until September 15 for the Secretary of State to certify. [LB271]

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SENATOR CHAMBERS: Then let the Secretary of State start sooner. [LB271]

SENATOR AVERY: Well... [LB271]

SENATOR CHAMBERS: What are they saying, they can't get a print shop to print the ballots in time or what? [LB271]

SENATOR AVERY: Well, you have things that are involved in this that you can't control. For example, the political parties have to certify who are their delegates and their Presidential electors. All of those things come into play. And the Secretary of State does not have the authority and doesn't want the authority to tell the political parties when they have to hold their conventions and certify their delegates. That's just one of the issues. [LB271]

SENATOR CHAMBERS: Didn't some guy called the "daddy of your country" say that there was a horrible problem when you have political parties and factions? Isn't that what... [LB271]

SENATOR AVERY: Yes. [LB271]

SENATOR CHAMBERS: ...the "daddy of your country" said? [LB271]

SENATOR AVERY: That is correct. [LB271]

SENATOR CHAMBERS: "Georgie," "Georgie" said it. [LB271]

SENATOR AVERY: It was not only George, but John Adams too. [LB271]

SENATOR CHAMBERS: But you don't follow that, do you? You want to go contrary to what he said about that, don't you? [LB271]

SENATOR AVERY: No, I don't. [LB271]

SENATOR CHAMBERS: Well, who does? Then why don't we get rid of partisan elections? That's not required constitutional... [LB271]

SENATOR AVERY: It works very well for us in this body. I'd like to see more of that. [LB271]

SENATOR CHAMBERS: Well, why don't we change the date for the certification of the ballots... [LB271]

SENATOR MCGILL: One minute. [LB271]

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SENATOR CHAMBERS: ...and whatever entity does not have their business done by then, they won't be on the ballot? [LB271]

SENATOR AVERY: Is that a question directed to me, sir? [LB271]

SENATOR CHAMBERS: Yes. Why don't we do that? [LB271]

SENATOR AVERY: The reason for that is that the Secretary of State doesn't have the required information in order to do that by...before the 15th of September. [LB271]

SENATOR CHAMBERS: So whatever information is not available by then won't be on the ballot. [LB271]

SENATOR AVERY: That's correct. [LB271]

SENATOR CHAMBERS: If we want to do that, what I'm getting at, we, as the Legislature, can do that if we want to, can't we? [LB271]

SENATOR AVERY: Oh sure, but I would argue that wouldn't be responsible legislation. [LB271]

SENATOR CHAMBERS: Thank you, Senator Avery. Whenever you talk about inconveniencing the political parties, can't do that; inconvenience the Secretary of State, can't do that. But these visually impaired people, what difference does it make? Why don't they find time to do it when we say they ought to do it? Some of those formulas that the "Bibble" would put together: the lame, the halt, and the blind, they're biblical. I don't see anything about Democrats, Republicans,... [LB271]

SENATOR MCGILL: Time. [LB271]

SENATOR CHAMBERS: ...and all the rest of the stuff you all are talking about. You pray up here. [LB271]

SENATOR MCGILL: Time. Thank you, Senator Chambers. Next in the queue, Senator Davis, you are recognized. [LB271]

SENATOR DAVIS: Thank you, Madam Chair. Senator Avery, would you yield to a couple questions? [LB271]

SENATOR MCGILL: Senator, would you yield? [LB271]

SENATOR DAVIS: Senator Avery. [LB271]

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SENATOR AVERY: I will yield. [LB271]

SENATOR DAVIS: I'd like to follow this up a little bit with Senator Chambers, what he was talking about, because I think he's got a good point. And I want to know if it is in statute that the Secretary of State certify the ballots by the 15th of September. [LB271]

SENATOR AVERY: Yes, it is. [LB271]

SENATOR DAVIS: So why are we inconveniencing the Secretary of State by moving that date up ten days? How does that change anything? [LB271]

SENATOR AVERY: No, we're not moving...we're not changing that date. The date... [LB271]

SENATOR DAVIS: I know, but I'm asking that question. Why is that...why can't we look at that? [LB271]

SENATOR AVERY: Why couldn't we? All right, let me give you an example. The political parties don't even certify their Presidential candidates in Presidential election years until the 8th of September. And that's got to be factored into certifying the ballots and getting a structure in the ballot for the programmers. [LB271]

SENATOR DAVIS: So would that be the state Democratic and the state Republican Party? [LB271]

SENATOR AVERY: And any other party that might have a Presidential candidate. [LB271]

SENATOR DAVIS: Any other candidate. So is that in statute that they can't certify their electors until the 8th of September or is that an option that they have? [LB271]

SENATOR AVERY: I think it's...I don't know if it's in our statute. It might be federal. But it is...it most certainly would be in statute. [LB271]

SENATOR DAVIS: It would be in statute that we would recognize that the political parties have to certify by the 8th of September. [LB271]

SENATOR AVERY: Yes. [LB271]

SENATOR DAVIS: And that is sacrosanct. [LB271]

SENATOR AVERY: So that they can...so they can be sure that their candidate's name

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will appear on the ballots. [LB271]

SENATOR DAVIS: And we can't touch that. You think that's sacrosanct and sacred. [LB271]

SENATOR AVERY: Well, the fact is that the political parties don't even know who their candidates are often until mid to late August. [LB271]

SENATOR DAVIS: Wouldn't you think, though, Senator Avery, that if they knew they had to certify by the 5th of September they would probably find a way to accommodate a ballot process? [LB271]

SENATOR AVERY: Well, I suppose that if enough states were to demand that the candidates be selected earlier, that might happen. And I'm not so sure that one state with five electoral votes would have that much impact. [LB271]

SENATOR DAVIS: I beg to differ with you, Senator Avery. I think we probably would. But thank you. Senator Schumacher, would you yield to a couple questions? [LB271]

SENATOR SCHUMACHER: I will. [LB271]

SENATOR DAVIS And I came and approached you earlier, but I wanted to talk a little bit about my experience with the secret ballot because I have voted as a...in Cherry County where I live, we vote by mail all the time. In fact, all the electors, with the exception of the people around Valentine, are elected by a mail-in ballot. And so when we get our ballots in the mail, we get an envelop on the outside which is stamped. The ballots are loose on the inside and there's another envelop that's included in that with a self-addressed back to the county clerk's office, and that's stamped. And then we put all of our ballots, signed, into that secret envelop on the inside and mail that back into the Cherry County Clerk's. And that's not the way it's done in other districts. Is that correct? [LB271]

SENATOR SCHUMACHER: That's correct. And that's what the testimony at the Government Committee would uphold. In fact, the county officials and the three election commissioners, at least, appeared twice now to protest that including that envelop would be an expense. [LB271]

SENATOR DAVIS: And what is the exception that they take to the inclusion of a secret-ballot envelop on the inside? [LB271]

SENATOR SCHUMACHER: Because it would be so darn much work to open that second envelop and it would be terribly expensive. [LB271]

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SENATOR DAVIS: And don't we as a legislative body have the authority to say to the county officials in this state, you know, the secret ballot is more valuable than anything else in the democratic process and you need to step up? [LB271]

SENATOR SCHUMACHER: I think we have not only the right but the obligation to do that, Senator. [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR DAVIS: Have you considered doing an amendment to this particular bill to maybe address that issue? [LB271]

SENATOR SCHUMACHER: I've got an amendment that is being worked on to transform the bill in Government Committee into an amendment. I expect there will be probably a germaneness challenge. But I would raise that the...Senator Lautenbaugh, the introducer of this amendment, has said that, folks, this is the reason for it, is the secrecy, the reason that we're here today on this particular bill. So we'll see how things develop. [LB271]

SENATOR DAVIS: Well, I would think it would be germane for that and I would support your position on that. Thank you, Madam Chair. [LB271]

SENATOR SCHUMACHER: Thank you. [LB271]

SENATOR MCGILL: Thank you, Senator Davis. Senator Murante, Conrad, Nordquist, Schumacher, Avery and Lautenbaugh are in the queue. Senator Murante, you are recognized. [LB271]

SENATOR MURANTE: Thank you, Madam Chairman and members of the Legislature. We've been going over deadlines and dates and I thought I'd throw another date out there for everyone to think about, and that date is 120 days. And the reason why I bring up 120 days is when we talk about when an individual in the state of Nebraska can begin requesting to vote early, the deadline is not 35 days or 25 days under LB271. If you want to request to vote early, you have four months before the election to submit a letter to your election officer and let them know that you want to vote early. Then you sit back, relax, and wait for the election commissioner to mail you a ballot. I've been going through the statutes and I've tried to find all of the various ways in which a citizen of the state of Nebraska can exercise their right to vote. Assuming we pass LB271, a voter in Nebraska has the opportunity, obviously, first to go to their polling place and vote on election day. In some counties in Nebraska, the state Legislature has authorized their local counties to do away with polling places and to do...exclusively vote by mail. So in those counties, the election officials will mail a ballot to every registered voter's house and then they can return it to the election office. Assuming LB271 passes, a person can

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then go to an election office within in the last 25 days of the election and vote in person in the election office. Now again as I said earlier, you have 120 days to request a ballot to be...to request a ballot be mailed to you. And if you do that, then the election officer will mail you a ballot 35 days before the election. And if you don't want to do any of that, you can declare a person to be your agent. That person can do all the work for you, go pick up the ballot, fill it out for you at your request and return it on your behalf. And all you have to do is sign a piece of paper. So I'm not sure that we are at all burdening the people of Nebraska in how we allow them to exercise their right to vote. What I did do is look up, with the discussion of all what would have to happen if we just said let's move the certification deadline back. So what I did was I looked up the official election calendar as published by the Secretary of State for 2012. So if we want to do that, we have to make the following changes. First, the statutory deadline that is the last day to issue and mail special absentee ballots to those registered voters with applications on file specifically requesting a "special absentee ballot," we have to change that statute. There's a deadline that says the last day to file a petition to fill a vacancy for a nonpartisan office, we'd have to change that statute. The last day for a candidate nominated at a primary election to decline the nomination, we'd have to change that statute. The last day for filing for a political office by petition, we'd have to change that statute. Last day for a political subdivision to submit a special issue for the general election ballot, we'd have to change that statute. The deadline for a candidate of a new political party to file for the general election ballot status to file petition of nomination to be on the general election ballot, we have to change that statute. The last day for submission of petitions to change political subdivision from district elections to at-large elections, we'd have to change that statute. The deadline for the Secretary of State to determine if sufficient signatures were turned in for a new political party, we'd have to change that statute. The deadline to file an objection to a nonincumbent candidate filing,... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR MURANTE: ...we'd have to change statute. I could keep going, colleagues. But the bill you're talking about right now is a massive overhaul of the Election Act. It's not tinkering with a date here and there. We would certainly need a new public hearing on the subject matter because these are changes which have not been considered by the Government Committee since I've been serving. I think that what Senator Lautenbaugh is proposing to do is a remedy to a problem that it seems we all acknowledge exists. It is a remedy that is in proportion to the problem, without completely overhauling how we conduct elections in Nebraska and the deadlines and the filing deadlines that we have to date. So I support Senator Lautenbaugh's proposal, LB271. I encourage you to do the same. Thank you, members. [LB271]

SENATOR MCGILL: Thank you, Senator Murante. Senator Conrad, you are recognized. [LB271]

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SENATOR CONRAD: Thank you, Mr. President. Before I get to the substance of my comments, I'm so glad my light came up after my good friend, Senator Murante. Senator Murante, Senator Murante, Senator Murante, it is particularly striking to me that you would make a burdensome kind of argument at this stage in our debate, particularly after what was advanced by proponents in regards to Senator Larson's bill on the Environmental Trust, that we had to flip cartwheels and change state law because the potential loss of some, maybe, revenue for some counties. And you know, we had to change state laws. But we can't change state law in this instance when constitutional rights are at issue? We have to, I think, be careful about the consistency of our arguments. Okay, that being said, I rise in opposition to LB271. And in addition to some of the legitimate time frame issues that proponents have brought forward, let me throw another into the mix. We have time. There is no urgency, as Senator Avery noted. We don't need to hold our nose and push green and move forward. The next general election to face this state is November 2014. There was nothing wrong with taking an interim study by the Government Committee and this body to look comprehensively at the appropriate solution to this and other issues affecting electoral franchise, because I will stand in opposition and have stood in opposition to attempts to limit those constitutional rights for our citizens for a variety of reasons, not just constitutional and legal, but also moral. And, friends, look no further than the "Nebraska At-A-Glance" report that our own Legislative Research Office put out this session. Turn to page 49, look at voter turnout in Nebraska. What are we ranked? Forty-third, forty-third in the country. We've heard a lot about rankings this session. There's another one that we should all be concerned about. Regardless if you're Democrat or Republican, we should all be concerned about getting more people, not less, to engage in the political process and turn out to vote. And this represents a limitation, a constriction of that electoral franchise and those constitutional rights. It's been noted by proponents that we must move forward with this because the vendor has some issues, it would be too hard for them, it might be too difficult. Well, if that's the case, then we should find another vendor, because we're paying a significant amount of taxpayer dollars to ensure that they can meet the obligations that they said they could meet when they were afforded the contract. And as I understand it, we don't have to utilize the vendor at all. Douglas County programs their own machines, and, in fact, were the only county that were found that they were not in violation. So there are, indeed, a variety of different solutions to look at to address this issue. We have the time to take a comprehensive look. We should take a comprehensive look and we shouldn't take the easy way out. We shouldn't take the cheap way out. We shouldn't take a less-desirable way out when constitutional rights are at stake, and particularly those affecting some of our most vulnerable citizens. I stand opposed to LB271. Thank you. [LB271]

SENATOR MCGILL: Thank you, Senator Conrad. Senator Nordquist, you are recognized. [LB271]

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SENATOR NORDQUIST: Thank you, Madam President and members. I appreciate Senator Murante identifying all the relevant sections of statutes that would need to be amended to...as an alternative to LB271. I think that's in a perfect starting point for an interim studying on this issue. Because as Senator Conrad just, rightfully, pointed out, we don't have any elections between now and next session. We can take time. This is an issue that arose in the fall of 2012. We didn't have an interim study on it. This recommendation...I asked Senator Lautenbaugh and...where it came from. He suggested the Secretary of State. So I contacted them and got a copy of the recommendations and the findings from the hearing officer on this case, and that's where this ten-day recommendation did come from. But that is one alternative. There are several other alternatives. But as I read through this document, I did find a few things that I think were interesting that we need to have pointed out on the record here. First of all, for this election period, the deadline provided to ES&S by the Secretary of State for coding the machines was October 15. So they were never told we need to have this on October 1. And the hearing officer goes on to say, this year the ballots were certified by Lancaster County Election Commissioner on September 18 and the AutoMARK machine was programmed and available for use in Lancaster County on October 9, 2012, which was six days ahead of that October 15 deadline. ES&S could, I believe, have completed the programming of the AutoMARK equipment by October 1, but did not attempt to as its election milestone calendar showed October 15 as its deadline. So that's from the hearing officer. Also interesting to note, he says testimony indicated that of the five states which have a longer in-person voting period than Nebraska and which use the AutoMARK, and those states are Iowa, Idaho, Wyoming, South Dakota, all of them have a significantly longer amount of time between the certification date and the date early voting begins. That's the alternative approach we're talking about here. Five states have a longer window than we do and they use AutoMARK. Iowa, South Dakota, Wyoming, and Idaho all have longer windows and use the same programmer and somehow get by. And how do they get by? They have a longer certification period which is what...which is one of the alternatives that we're talking about here. So why are we rushing to the simple solution of saying, let's whack off days and make it more difficult, even if it's a few people, why are we making it more difficult for those few people to vote when we have an alternative here where we don't have to make it more difficult for the blind to vote and we can do it like these other states do? I would also say, as Senator Conrad said, do we have to use AutoMARK? Douglas County doesn't; they do their own programming. They were able to do it and be in compliance. Now not every county, I'm sure, can have that technical expertise on hand. But it is an alternative. But certainly, even if we wanted to use AutoMARK, three of our neighboring states have showed that they can use AutoMARK; they can have even more days of early voting and make it all work. So let's not rush to this solution saying this is the...as Senator Avery said, this is the must-have solution. Let's take some time; let's do an interim study. Let's look at the alternative. If it's moving all the dates that Senator Murante identified back, that's a much better solution, in my mind, and even if it's affecting a handful of voters, than moving that date back. Thank you, Madam

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Chair. [LB271]

SENATOR MCGILL: Thank you, Senator Nordquist. Mr. Clerk, you have a priority motion on the desk. [LB271]

ASSISTANT CLERK: Senator Lautenbaugh would move to bracket LB271 until June 3, 2013. [LB271]

SENATOR MCGILL: Senator Lautenbaugh, you are recognized to open on your motion. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body...Madam President. I'm sorry, Madam President. I'll be blunt about this. Sometimes I just get impatient. And it was good of Senator Murante to go through all those deadlines. And the suggestion was, well sure, we should just move those maybe; we should look at that. Even though those deal with people trying to get petitions on the ballot, those people don't have rights compared to maybe taking away ten days of early voting. We don't care about those people. If you look through the list of all the things we'd have to move, Senator Murante touched on a lot of people who, last time I checked, have some rights as well. And we are being told that we're somehow infringing on the rights of people by going from 35 days to 25 days. Senator Nordquist just revealed some information that isn't surprising. Yes, other states have a longer deadline. We checked with some of those dates, well, those other states, I should say, and guess what. They miss the deadline routinely in many counties with their AutoMARK machines. They have the deadline. They just do what we've been doing for years, which is miss the deadline. Well now our hand has been called. And I'm going to call this bill something akin to a political maturity test, and I'm afraid this is becoming a partisan thing that doesn't need to be. And this veers into another bill that we eventually, I believe, put out of committee, over my objection, that would give us the ability to approve the appointment of election commissioners. And that one is not going to come up this year and I voted "no" on that and here's the reason. That's a political decision and this body is not equipped to deal with it. And this debate is showing why. We have heard the attacks on Mr. Phipps today, which have nothing to do with this, and I will tell you about the one precinct that got the mailing, since it's out there. We're supposed to be talking to people on TV and setting the record straight, here's the record, Mr. Phipps consolidated precincts based upon a bill we passed. The Secretary of State said, oh, I'm troubled, he shouldn't have done them all at once, he should have done them piecemeal, which sounds like a prescription for chaos. He did them all at once, consistent with the law we passed. He was contacted by the city councilman that represents Ward 2 and said, can you change this one polling place? So he did. The cards that went out were wrong and he corrected them, end of story. And what we are told constantly, that that is some sort of evidence of malfeasance, misfeasance, nonfeasance, it's a scandal, we need to approve these people, it's partisan, it's voter

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suppression, well, guess what. The mayor of Omaha went out and did door hangers over the weekend in the eastern part of the city and had the wrong polling places per precinct on those and had to do corrective calls. Was he suppressing vote or was it a mistake? We aren't going to hear about that. The lobbyist for whatever citizen group that's been trumped up to hound Mr. Phipps and all of us on election issues isn't going to complain about that. But we're going to talk about Mr. Phipps as if he's this evil character. Well, guess what, folks. If you'll actually talk to the Secretary of State, there was no chaos in Douglas County in 2012, despite Senator Chambers' predecessor using that word. People got their voting cards and they went to their polling places and they voted in numbers consistent with the past. And in the primary, there was one individual who set up vans in north Omaha to deliver people to their polling places and he was asked to explain why isn't your phone ringing? And the response was, well, people are so confused by these voter cards, they're just paralyzed into inaction. Folks, you're being fed nonsense. It is partisan nonsense. It is a vendetta against Mr. Phipps. And it has now insinuated itself into this bill and we're somehow being told this bipartisan solution needs to be thought about harder or maybe we should do something entirely different and change all the other deadlines because there is something impermissible about moving this deadline. And it's good to stand up here and say, boy, I'm in favor of people voting and we need to give them every chance to vote. We're all in favor of voting, but we don't need to give people every possible chance to vote. There's a point at which you have to be respectful of everyone's rights and make sure that the election is done properly. That's always been the touchstone; that's always been the touchstone for Mr. Phipps. He's probably been the most fair election commissioner Douglas County ever had, fairer than me, at least less partisan than me, and he has not deserved what he has gotten from some in this body. One member sent a letter to the Government Committee about an interim study and said Mr. Phipps's actions were calculated to depress voter turnout. And I'm sure that's what's being said about this--This is being done to keep people from voting. Well, folks, it's utter nonsense. And we're supposed to be grown-ups about this and actually evaluate the policies here and listen to what this bill actually does and the reasons therefor. And, yes, Douglas County programs its own AutoMARKs, but they still have to program them. They still have hundreds of them. They still have thousands of ballot faces. We have to be realistic here about what you're being asked. And you can either believe that Avery, Senator Avery, excuse me, and the Secretary of State's Office and Mr. Erickson and me, we've all cooked this up to somehow disadvantage or punish the blind, or you can say this is a reasonable approach to a problem that has nothing to do with the Douglas County election office and everything to do with getting this right and correcting something in our election law that's too often been ignored, and that is the fact that we don't make this deadline a lot of the time. And finally someone called them on it this year. So we are where we are with this, folks. This is not a partisan issue. It doesn't have to be a partisan issue. It shouldn't become a partisan issue just because I'm the one bringing the bill. I mean Senator Avery made it a committee priority. I would have thought that would have signalled something about the intent here, that this was actually considered,

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we took committee testimony from the Secretary of State, from NACO, and we made a considered choice and advanced this bill. It's important. It's important to do this right. And again, as I stated before, accuracy is the touchstone for an election. We have to have confidence that the vote is counted right. And this allows us to make sure we have the programming in place and we test these machines accurately and people have 25 days to vote in person. Or again, they can show up 35 days out and take the ballot with them, or they could request it through the mail, or they could vote on election day. And it was...I was described earlier as being arrogant when I stand here and say, I don't know who could make it in 35 days but couldn't make it in 25 days. Well, fine, then I'm arrogant. But I still don't know the answer to that question and I haven't heard anyone articulate it. But we're always good at putting up the strawman. What about the person who just is going on an around-the-world trip and is distrustful of the mail? So they'll be gone 25 days before the election but not 35 days before, but they don't trust the mail. And they don't want to vote in person and bring it home and vote and bring it back because somehow that's not adequate either. Yes, we could gin those up until the cows come home. That doesn't mean we're behaving rationally. That doesn't mean we're actually discussing the policy that this bill is trying to address. This is fair. This is reasonable. We're asked: Well, if 10 days are good enough, why not 20 days? Because 20 days isn't necessary. This is what was recommended as a reasonable approach to getting this right. And we've had a lot of extraneous talk and I'll address it as needed, but I hope we don't lose focus of what we're actually trying to do, how this issue came about, and what we're actually trying to address. And ask yourself how we could still have early voting greater than the national average, but somehow be discriminating against people by advocating this solution. Ask yourself if it is really fair to say we're somehow punishing people by moving this deadline when maybe we should punish everybody else and move every other deadline that affects other candidates, other parties, other voters, people who have petitions that they want on the ballot. None of this works in a vacuum. It is incredibly complex and there are a lot of deadlines to be met. And yeah, we can rail against the parties, but we can't really tell the national party when they have to have their convention, and we don't tell them when they have to get their stuff to us. It doesn't work like that. So we can either pursue a reasonable solution or we can go off the deep end and pursue something that actually will cause chaos. But that's the choice you're being offered. Of course I don't want to bracket this bill. I'm not serious about this motion, but this seemed like the proper time to do things that aren't serious and I didn't want to not participate. So please focus on what we're doing. I'm happy to answer any questions as to why we're doing what we're doing. [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR LAUTENBAUGH: Thank you, Madam President. But let's talk about the bill. And with that, I'll withdraw the motion. [LB271]

SENATOR MCGILL: Thank you, Senator Lautenbaugh. The bracket motion has been

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withdrawn. We will continue with debate on FA47 from Senator Chambers. Senator Schumacher, you are recognized. [LB271]

SENATOR SCHUMACHER: Thank you, Madam Chairman, members of the body. I rise in comment to the technological nature of the...updating of these devices. Senator Lautenbaugh, will you yield to a question? [LB271]

SENATOR LAUTENBAUGH: Yes, I will. [LB271]

SENATOR SCHUMACHER: Senator Lautenbaugh, since our last discussion, have you determined that the way these machines are updated is still with sending somebody out around the state with a chip or a disk or something to put in the machines in the various locations? [LB271]

SENATOR LAUTENBAUGH: To be clear, I can't say that the AutoMARK repairman visits himself on every county. What I'm saying is, there is something that has to be physically sent to that county and inserted in the device and then tested. I don't know if there is a person who does it, if it is done by FedEx. It still has to be manually done at the end somehow. [LB271]

SENATOR SCHUMACHER: Thank you, Senator Lautenbaugh. And that was the impression that I had also from testimony a couple of years ago when I was on Government Committee and this particular issue of how these machines are updated came up in the context of a bill that Senator Karpisek had which was examining how these machines work and how much integrity they have. At that particular point, and it sounds like the procedure has not changed, is that these chips were sent out by some type of courier and inserted into the machine. At that time the question was asked whether or not the machines in the election commissioner's office had the capacity to run a checksum, which is a way of verifying the integrity of a chip, and whether or not that was being done to make sure that that chip was not either intercepted, changed, altered, or in some way doctored in the process of being in transit or even in shipping. And the answer was, no, it did not have such "checksumming" capability, which in fact makes them less secure than the keno machine I mentioned, because all those are "checksummed" and won't run without an accurate checksum. So whatever this procedure is that supposedly takes so long and then has to be FedExed out, it certainly deserves to be examined, as suggested by Senator Nordquist, with maybe some type of interim study on the particular matter of just how these election machines work and why it takes so long to update. The Internet industry can update routers around the world with "checksumming" capability very, very, very quickly. So how much are we paying these people, why does it take so long, why is it so complicated become legitimate questions. In this entire context, I hope this bill does move forward, because on Select File I do intend to address the secret ballot issue, or at least attempt to, because that apparently and still is the only purpose of this bill, because the blind folks have...don't

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want to have their secrecy invaded by having a third person possibly see their results or what their voting is. Everybody should have that same right of secrecy and this is a very germane issue to this particular bill if that's the reason for this bill. And so we'll be seeing that issue, if Bill Drafting can't get it done today, then on Select File here. I think that it is important that we understand the process. I think it's important that the ballots remain secret. And I think it's important that if these machines are, in fact, so difficult to update and can be updated in such an unreliable fashion that... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR SCHUMACHER: ...we know about that because that's something in our realm of governance. Thank you, Madam President. [LB271]

SENATOR MCGILL: Thank you, Senator Schumacher. Mr. President for a priority motion. [LB271]

ASSISTANT CLERK: Madam President, Senator Chambers would move to bracket the bill until June 5. [LB271]

SENATOR MCGILL: Senator Chambers, you are recognized to open on your priority motion. [LB271]

SENATOR CHAMBERS: Thank you, Madam President. And I am going to take this to a vote. Senator Lautenbaugh said that somebody referred to Mr. Phipps as "Fibs." I did. And I could refer to Senator Lautenbaugh as Mr. "Flip," because when he was election commissioner, he flipped the numbers of two districts during a school board election so that different people would still be able to run because now they're not in the district that's going to be affected. You would elect in even and then odd. And he flipped the numbers and the Supreme Court said, you can't do that; you equalize the districts and so forth. And I will bring the case tomorrow, because we're still going to be on the bill. And I'd like him to say that I'm misrepresenting the record. And he said that Mr. "Fibbs" is being unfairly chastised and he mentioned those cards that were incorrect. The headline on the Omaha World-Herald, dated March 28, 2012, says, incorrect voting cards knowingly sent out, knowingly. The north Omaha polling place error will be fixed in another mailing, Phipps said. About 2,000 voters in north Omaha, not in Senator Lautenbaugh's area, in mine. And he said there was no chaos because there was none where he lives. There were people who went to polling places based on the card that was supposed to be corrected, and they were told their name is not there and they could not vote. Why do you think the Justice Department was here monitoring these small local elections yesterday? Because of what Mr. Phipps, Senator Lautenbaugh's buddy, did with all of those blunders that he made. And I don't care if he is Senator Lautenbaugh's friend. It was wrong what they did. It was wrong in my community. And it was not Ben Gray's problem. He was the city council member who mentioned...well, let

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me read the article: Douglas County Election Commissioner Dave Phipps said he knew the cards were incorrect when he mailed them, but it was simpler for his office to send corrected cards later. The error involved one polling place, in my area, 2,000 voters. Phipps already has upset some north Omaha and south Omaha groups with his recent decision to close about half of the polling places in Douglas County. Voting rights groups and others protested, saying the decision will disenfranchise the poor and elderly and, most of the polling places, a greater number in north and south Omaha where the so-called minorities live. The incorrect voting cards turned up the heat on Phipps. Quote: this is an unbelievable scenario, said Preston Love, Jr., who heads a voter outreach project in north Omaha. He said this will increase confusion about where north Omaha voters should go on May 15. And it did. And the so-called correcting letter did not help, but other cards were sent out. Phipps said that it was a routine change and that he will send out corrected cards and an explanatory letter this week. He also plans to post a notice on the now-closed polling place. He sent those people on those cards to a polling place that no longer functioned as a polling place, and all of these things happened to take place in the area where my people and Latino people and poor white people live, not out there where he is. Why should he care? But I care. And you have somebody on the floor who will stand up to him. Phipps originally planned that voters in the ninth precinct of City Council District 2, would vote at the Catholic Charities' Christ Child Center, 2111 Emmet Street. That was closed. It was not a polling place. He said, a few weeks ago, City Councilman Ben Gray asked Phipps to move the polling place a few blocks away to the Omaha Housing Authority's Evans Tower at 3600 North 24th, since that one where he sent them to was closed. Go to a place that is not that far away. At that point, the 315,000 voter cards for countywide distribution were being printed but had not been sent, Phipps said. Phipps made the polling place changes, then sent out the cards. He intended to correct the ninth precinct information later, he said. When asked why he did not hold back the cards until the right information could be printed, Phipps said, it would have been more complicated to do that than just send a letter explaining it, because it was in our area. Send the knowingly incorrect cards. It seems to me like it's just one illogical action after another coming out of the Douglas County Election Commissioner's Office, said Adam Morfeld, executive director of Nebraskans for Civic Reform, a voting rights group. Gray, the councilman, said he's not sure why Phipps seems to be blaming him for the incorrect voting cards. Yes, I caused the change, but the cards had not gone out yet, Gray said; that was an error in his office. And that was true. And KMTV did a story that showed the printer establishing that these cards could have been corrected and mailed at the times Phipps wanted them mailed, and he chose not to do it. So Senator Lautenbaugh wants to give you a few words and say, well, that's no big thing, forget it. And that's what's been happening. And somebody has to speak about it and I shall. And I'll stay on this until the cows come home and the rooster crows tomorrow morning. And it's not going to go away. And I'm going to bring that case tomorrow involving Senator Lautenbaugh and then he can say that the Nebraska Supreme Court made up something; they're being overly sensitive. They should have understood why he flipped the numbers in these school board

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districts. But then the Supreme Court quoted some of his testimony. And I'll have a chance to read that for you tomorrow and I'm going to do it. And Phipps blundered and blundered and blundered. And what I did was sent a letter to the U.S. Attorney's Office in Omaha. This letter is dated April 10, 2012: Dear Ernie, Thank you for sending me the copies of your correspondence to the Governor and the Douglas County Election Commissioner. Our office has been in contact with the voting rights division of the Department of Justice, Civil Rights department, in Washington, D.C. Your correspondence has been forwarded to them as well. I have stressed that time is of the essence in this situation. Making certain that voting rights are protected is a high priority of the Department of Justice. Please be advised that this issue is being reviewed very carefully. And people came from the Justice Department in response to what I and others were doing. And they did talk to people; and they did see the need to place watchers at the polls. And they saw the need to come back this time and monitor what happened in those city elections. And Senator Lautenbaugh is going to play like it's no big thing. Some people are making up things; there's no chaos. The Justice Department is going to come here on several occasions because some people are upset about nothing? Let him get the Justice Department to do anything. They always...and when I say "they," I mean white people who are complicit. In things being done to nonwhite people and poor white people, it's customary for them to say there's nothing to that, because those groups usually have nobody to speak for them. They are not represented. And sometimes when they're trying to get their point across... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR CHAMBERS: ...people who should listen pretend not to understand, so they need a voice like mine. They need somebody who is ferocious in the defense and will manifest that ferocity anytime, anyplace, anyway that's necessary. He's in the majority. So he thinks he can get away with saying anything he wants to. And for the record, I'm pointing toward Senator Lautenbaugh. And he knows good and well I'm not going to take low and be quiet when he stands up here and talks the kind of things he's talking. Maybe the last person who was here, who was a woman, did differently, but as old as I am, try me. Thank you, Madam President. [LB271]

SENATOR MCGILL: Thank you, Senator Chambers. Senator Avery, you are recognized. [LB271]

SENATOR AVERY: Thank you, Madam Chair. I want to speak just for a little bit about the early voting accessibility in Lancaster County. If you look back at the history of what has been taking place in this county under a variety of election commissioners, it's clear that this county, and I would say that the state generally, has a commitment to voting accessibility, it is a priority, and that we have a commitment also to early voting. The Lancaster County Election Commissioner's Office, in the hearing that took place on the issue we've been discussing, testified that prior to the accessibility requirements

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contained in the Help America Vote Act, that his office had been providing Braille ballots for blind voters at polling locations. He wasn't required to do that. And that from 2002 to 2005, his office provided an electronic voting machine for visually impaired voters who voted early, neither of which was required by state law or federal law. So the fact is that at least in Lancaster County, and that's the county in which this case originated, in Lancaster County, the election commissioner has done a very good job of both providing voting accessibility, also providing early voting. The testimony before this hearing official also indicated that each party involved in preparing and finalizing the ballots for the general election worked diligently to complete the task. The ballot was prepared by ES&S by the 21st of September. That was the statewide deadline. The programming was mailed by ES&S and received by Lancaster County six days earlier than required. That is significant. Also in the recommendations that a hearing officer made, he pointed out that the whole issue was one of timing, not deliberate efforts to restrict access to the ballot. Nebraska has, as has been pointed out already, one of the longest voting periods in the nation. The average number of days for in-person early voting nationwide is about 22 days. Nebraska in-person early voting is 35 days, and that's in statute. Three issues were identified in this case that make it difficult to change any date other than the starting date for in-person early voting. In other words, if you were going to change the dates, here are some of the problems. First, the national parties that certify candidates, they're doing it later and later and later each year. The state law in Nebraska requires that the parties let us know by September 8. That's right around the time that the Secretary of State is finalizing the ballot. The Secretary of State cannot certify ballots until the Secretary of State knows who the candidates are. So that's an issue. Additionally, you have initiatives and referenda petitions. They can result, and often do, in litigation, and I've got a list of them in recent past here on my desk. A final decision from the courts is necessary... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR AVERY: ...before the ballot can be resolved. So these are things that...and it's important to point out that the time frame to finalize the ballot layout and to program AutoMARK involves so many things beyond the control of the Secretary of State. And we can't fix them here. I think that we need to pass this bill so that we can become compliant with the HAVA requirements. If we want to look at secret balloting, improving that for next year, I'd be happy to participate in that. If we want to look at perhaps an interim study, I'd be happy to endorse that effort as well. But I think what we have here is a recommendation that is reasonable. It is not based on irrational assumptions or irrational thinking. It is, in fact, something we need to do. I think we need to do it this year rather than wait until next year, because next year we're going to be in the midst of an election. [LB271]

SENATOR MCGILL: Time. [LB271]

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SENATOR AVERY: Thank you, Mr. President. [LB271]

SENATOR MCGILL: Thank you, Senator... [LB271]

SENATOR AVERY: Madam President, excuse me. [LB271]

SENATOR MCGILL: Thank you for that correction, Senator Avery. Next in the queue we have Senators Carlson, Chambers, Karpisek, Conrad, Bloomfield, Johnson, Lautenbaugh, and Wallman. Senator Carlson, you are recognized. [LB271]

SENATOR CARLSON: Thank you, Madam Chair and members of the Legislature. We're having a debate. I think the atmosphere is getting a little bit thick in here and I'm going to try something. I would like to address Senator Lautenbaugh, if he would yield. [LB271]

SENATOR MCGILL: Senator Lautenbaugh, would you yield? [LB271]

SENATOR LAUTENBAUGH: Yes, I will. [LB271]

SENATOR CARLSON: Senator Lautenbaugh, you've been located between Senator Chambers and me, and he referred to the Good Book about 30 minutes ago and I have a question for you. Does the Good Book say specifically that we are to help or show kindness to the foreigners, the widows, and the orphans? [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR CARLSON: That's a good answer, and I don't know if that came to you through Senator Chambers or to me, but it's having an effect and I appreciate that. And because of that, I'm going to yield you the rest of my time. [LB271]

SENATOR MCGILL: Senator Lautenbaugh, 4 minutes and 11 seconds. [LB271]

SENATOR LAUTENBAUGH: Since I don't want to deceive anyone, thank you, Senator Carlson, and he did give me a note ahead of time that said the answer is yes. So that tells you what Senator Carlson thinks about me and my knowledge of the Bible, and he'd be correct. This will be a fight apparently. And I'm known to be a little stubborn myself. If there are curious observers out there in TV land, I would...and maybe you in the body, those of you who are left and still curious, I would commend to you the litigation over the OPS redistricting back in 2001. The case is fascinating. I argued it poorly and the court decided wrong. If we talk about it tomorrow, I'll tell you how. Maybe Senator Chambers will tell you about the case where he sued me that went all the way to the Supreme Court back in the day. So it's been a rich tapestry. Let me say this though. As I think I pointed out before, I used to be the election commissioner in

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Douglas County. Every election we send out notices of polling places and then we lose a polling place. If you want to say Mr. Phipps should have held the run of cards or pulled all the run of cards until we got corrected ones, fine. He chose the route of sending all the voters in that one precinct an explanatory letter and corrective cards. But if you want...and you can quibble with that choice all you want, but I know same thing happened when I was election commissioner. Something else happened when I was election commissioner, interestingly enough. Since I was there right after a census, I closed a bunch of polling places, and they were predominantly in east Omaha. Was it voter suppression? No. It was because those were the ones that were too small due to the population changes. And you know what I did? I sent people cards and told them where their new polling places were. And you know what they did? They went out and voted. That was pretty much the end of the story. Mr. Phipps's sin was, well, being born late so now he's a commissioner when you've got an advocacy group out there that's determined to turn everything into a conspiracy and others that are willing to help. Mr. Phipps told people what he was doing. Apparently that's a dangerous approach when you're a government official, because if you're preconditioned to assume someone is out to get you, you're going to assume they're out to get you. Mr. Phipps did entirely what was consistent with the law that we passed. Those of you who are new aren't responsible. Those of you who were here, look in a mirror. He did not send cards to 2,000 voters because, well, I suppose it's possible, but he sent corrective cards. If you believe there was chaos on election day, ask the Secretary of State if voter turnout was different, if complaints were different. There's always chaos in Omaha on election day depending on how you measure it. I was there. I know this. People don't read their voting cards--most do, some don't. People think they registered and they didn't. People move and they fail to reregister. It goes on and on and on. My polling place changed. The World-Herald did a study and showed that most of the changes... [LB271]

SENATOR MCGILL: One minute. [LB271]

SENATOR LAUTENBAUGH: ...that the eastern part of the city was not disproportionately affected. You don't hear that. Changes were throughout the county. In my household, we got new voter cards. My wife looked at the card and said, hey, we don't vote at the other church, we vote at our church again now; thus, the crisis passed. So it all depends on what you want to believe. And maybe I'm taking too much time and maybe I'm not supposed to respond to these things, but I'll not let it stand. I wrote a letter to the World-Herald, an Op-Ed piece. I'll read that tomorrow if I have to. But I'm not going to let Mr. Phipps be smeared. And I'm going to answer the charges, and I'll defend my record in the Supreme Court as well as a defendant, a litigant, sometimes appellant, sometimes appellee. But this is an important bill, it's a reasonable bill. I thank Senator Avery for his comments bringing us back to the bill. And I think we need to advance it. Thank you, Madam President. [LB271]

SENATOR MCGILL: Thank you, Senator Lautenbaugh and Senator Carlson. Senator

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Chambers, you are recognized. [LB271]

SENATOR CHAMBERS: Thank you, Madam President. Senator Lautenbaugh still says it didn't involve 2,000 people. So everybody who said that, the television stations, the World-Herald, and the people who got the cards, and these groups were all false because his buddy he thinks he's protecting. Phipps didn't deny having sent that many, and Phipps did not deny knowing in advance they were incorrect. But it's pointless to continue saying that. But the World-Herald editorialized, and I will take tomorrow to do that because I want to speak off the cuff and in response to things that are being said right now. When Senator Lautenbaugh talks about having been the one who argued his case, and he said he didn't argue it well. I'd like to ask Senator Lautenbaugh a question. [LB271]

SENATOR MCGILL: Senator Lautenbaugh, would you yield to a question? [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR CHAMBERS: Senator Lautenbaugh, did you handle your case yourself? [LB271]

SENATOR LAUTENBAUGH: Not at the appellate level. [LB271]

SENATOR CHAMBERS: Who handled it for you at the appellate level? [LB271]

SENATOR LAUTENBAUGH: I think the attorney's last name was Smith (phonetic). [LB271]

SENATOR CHAMBERS: Okay. Now you argued it in the trial court. [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR CHAMBERS: So you handle your case at the level where the record is being made, evidence is being produced, and so forth. Correct? [LB271]

SENATOR LAUTENBAUGH: We didn't have an actual trial, but, yes, that is the level that it happens. [LB271]

SENATOR CHAMBERS: Well, at the trial court level. [LB271]

SENATOR LAUTENBAUGH: Yes. Yes. [LB271]

SENATOR CHAMBERS: What do they say about a person who represents himself or herself? [LB271]

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SENATOR LAUTENBAUGH: (Laugh) [LB271]

SENATOR CHAMBERS: Okay. He chuckled. [LB271]

SENATOR LAUTENBAUGH: Accurately so, the attorney who represents himself has a fool for a client. [LB271]

SENATOR CHAMBERS: And for a lawyer also. [LB271]

SENATOR LAUTENBAUGH: For a lawyer, yes. [LB271]

SENATOR CHAMBERS: But that's not always true because I've represented myself and won cases. Now I did sue Senator Lautenbaugh's office for, was it redistricting or something, correct? [LB271]

SENATOR LAUTENBAUGH: Council, yes. [LB271]

SENATOR CHAMBERS: In that case, I did not represent myself and who lost? [LB271]

SENATOR LAUTENBAUGH: That would be you, Senator Chambers. [LB271]

SENATOR CHAMBERS: Thank you. I got a lawyer. When I represent myself, it's different. There was a grand jury that sat in Omaha about some problems at a credit union. And that grand jury besmirched a lot of people, including me. And Senator DeCamp at that time took it into federal court and it was dismissed without a hearing. I do my research. I presented the case at the trial court level to the district court and lost. I appealed it to the Supreme Court and I won. The Supreme Court said the entire report should be expunged, that means removed from the record, because the grand jury exceeded its authority and had no power under the law to issue that report. And I did the arguing in the lower court. I did the briefing and arguing in the Supreme Court and I won. But I thought this matter was so clear that a lawyer could handle it, in the one that Senator Lautenbaugh is talking about, and I hired a lawyer and lost the case. But that's what happens. However, when I bring that case tomorrow, then as he said, he recommends it to people, so I'm going to accommodate. But here is what I'm going to continue doing, talking about what happened in Douglas County. The letter that I read to you was written to me by U.S. Attorney Deborah Gilg. I did not mention her by name as the one who wrote me the letter. She is the one who contacted the Justice Department. She is the one who emphasized that time is of the essence. The Justice Department then made calls to me, and the Justice Department sent people to Omaha. Take what Senator Lautenbaugh is saying is true. Nothing was going on. The Justice Department people just needed a vacation... [LB271]

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SENATOR MCGILL: One minute. [LB271]

SENATOR CHAMBERS: ...and they decided Omaha is the best place to take a vacation. And when they got here they had nothing to do, so they decided they'd just kind of look at how elections are being conducted just so that they can go back and make a report about how things are done in Omaha. And they enjoyed themselves so much, the friendliness, the business-friendly atmosphere that they came back again yesterday to observe how city elections are carried out. So if you accept Senator Lautenbaugh's scenario, that's what the Justice Department does. They don't...I mean, they just come because somebody like me will say there's a problem, and they won't listen to somebody like him who says, no, there isn't. But that's what we're going to have in a situation like this. He's trying to defend somebody who's indefensible. I'm going to defend the people who were cheated during an election. And he's never going to say he's wrong and I'm certainly never going to say that I'm wrong for defending... [LB271]

SENATOR MCGILL: Time. [LB271]

SENATOR CHAMBERS: ...people in the way that I do. Thank you, Madam President. [LB271]

SENATOR MCGILL: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB271]

SENATOR KARPISEK: Thank you, Madam President, members of the body. It takes a while to get back up again after a couple of bracket motions are filed and some other things happen. Senator Lautenbaugh talked about a bill that will give the Legislature the ability to approve "gubernatorially" appointed election commissioners. That is my bill. It's LB188. And why he's been against that bill is because he's afraid that Mr. Phipps is going to get lambasted. I don't disagree with him. I understand. But the reason I brought that bill, I brought a bill similar before any of these things occurred in Douglas County. I haven't spoken about the things that happened in Douglas County because that is not the intention of that bill. The intention of that bill is that the Governor appoints the election commissioners in the top three most-populous counties in the state. So the Governor appoints county officials. I just don't think that's right. It has nothing to do with who it is. So that didn't work out well for me, so then I came with another bill to say that at least the Legislature would be able to have approval of those commissioners. Senator Lautenbaugh still didn't like that bill and I understand. However, I agreed to wait until later in the session to get the bill out so hopefully we can get it on the agenda next year. And I also agreed that the effective date wouldn't be until January 1, 2015, when we have a new Governor, a new Legislature, and possible new election commissioners. So I did those things because I don't want my bill to all center around what happened in Omaha or what didn't. That's not what that bill is about. However, Senator Lautenbaugh brought it up so I guess I would tell you the rest of the story. And I'm fine with what we

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did. But I, number one, don't think a Governor should appoint county officials in 3 of 93 counties. But, number two, if the...we are going to go with that, then I think this body should have the ability to approve or disapprove them. ES&S is not the only company that can program these machines. We know that. We've heard that, and that Douglas County does do their own. Douglas County has a lot of the bills here in the Legislature, maybe they should go out and do them for everyone else for a fee. I think that would be a great idea. Maybe the state could even hire some people to... [LB271 LB188]

SENATOR MCGILL: One minute. [LB271]

SENATOR KARPISEK: ...program them ourselves. Maybe we could save some money doing that. Maybe the Secretary of State could program it, send something out. I don't know. These are all things that could be looked into. Again, I don't think that we should just go with the easy way out here. We have time to look into this. I've been trying to draw a comparison to what we're doing here. I haven't gotten one yet. I'm sure it's very easy to find one and I will try the next time up. But the easy way out is not the best way out most of the time. I hope we keep looking into this. Thank you, Madam President. [LB271]

SENATOR MCGILL: Thank you, Senator Karpisek. Senator Conrad, you are recognized. [LB271]

SENATOR CONRAD: Thank you, Madam President. Good afternoon, almost good evening, colleagues. I wanted to just continue my comments in regards to my opposition to LB271 and in support of the bracket motion. Some people have said, well, why are we taking this much time and trouble for just a few people who might be visually impaired and making all of these changes to accommodate them? Well, number one, if one person's franchise or electoral rights are impacted, we should all take notice. But secondarily, that's not the case. If you look back, and this information was provided to me by some people who had already completed this research, we are talking about a significant amount of voters in Douglas County who took advantage of voting in this first early vote period, this in person, this first ten-day period that is at stake. And I'm...oh, here we are. The actual amount in Douglas County for voters who voted early in person the first ten days was 1,766, in Sarpy County it was 730, and we're still trying to get the numbers in regards to Lancaster County and some other numbers...other counties. So I think that it's important to note that, yes, this issue has a great deal of impact for visually impaired and disabled Nebraskans, but it also has a great deal of impact for other Nebraskans who avail themselves to this early voting window, and that's something to keep in mind. Obviously, thousands of Nebraskans have found this critical time period at issue in LB271 convenient or important to their ability to participate in our electoral franchise, and so we should be thoughtful about that fact before we rush to judgment with solutions that may not be necessary. And on the solution side, I wanted to just reiterate the fact that we should take a step back and we should look at this in a

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comprehensive manner from an interim study perspective because we have the time. There's no need to rush to judgment. There's no need to enter...to pass this legislation at this period of time when we should be exploring potential changes in terms of the vendor, as Senator Karpisek and others have noted. We should be looking at moving back various other deadlines, as Senator Davis and Senator Schumacher and others have put forward, to facilitate the process. We could look at the contracting issues themselves. There's a lot of different options before us. And I appreciate that this is one option that the Government Committee decided to put forward, but it's not the only option on the issue. It may be the only option before us on the issue right now, but that's not a good enough reason to rush to judgment and to pass legislation that may or may not just be the easiest way to deal with the matter. Again, particularly when Nebraskan's electoral rights are at stake, not only the disabled which are critically important that we are thoughtful in terms of protection, but other Nebraskans who have utilized this period for voting as well, we should be doing everything in our power collectively together to expand franchise, to expand electoral opportunity, not to constrict, not to limit. Thank you, Madam President. [LB271]

SENATOR MCGILL: Thank you, Senator Conrad. Senator Bloomfield, you are recognized. [LB271]

SENATOR BLOOMFIELD: Thank you, Madam President. Colleagues, I stand in opposition to the bracket motion. I also stand in opposition to what we're doing here. We have before us a problem, a bill that addresses that problem that came out of our committee 7 to 1. Apparently the committee process means nothing anymore. We have gone back to addressing the sins of Douglas County, what happened over the last year, two years, three years, five years. I have at home in a drawer somewhere an electric bill from two years ago. I may bring it in and read it into the record. What in the world are we doing here? We have a bill that takes care of a problem. It came out of the committee, clearly after being thoroughly discussed. We are dealing in nonsense. Let's get on with what we're doing here. What Mr. Phipps did or didn't do has no bearing on this. That's past history. Let's deal with what we have at hand. And now at the risk of becoming a terrible member of a vast clique, I'm going to yield the rest of my time to Senator Lautenbaugh who sat on the same committee I did when we passed this out. [LB271]

SENATOR MCGILL: Senator Lautenbaugh, 3 minutes and 30 seconds. [LB271]

SENATOR LAUTENBAUGH: Thank you, Senator Bloomfield. I can always count on my clique. And I do appreciate the time because I do want to address the actual numbers that were thrown out there. In Douglas County in the first ten days, 1,767 people voted over that ten-day period in 2012. That's out of a total of 11,652. As the election day approached, the number of people voting in person increases to the point where that 1,767 amounted to a very ambitious day and a half. Now I think it's important to present

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numbers in context. Senator Conrad, would you yield to a question? [LB271]

SENATOR MCGILL: Senator Conrad, would you yield? [LB271]

SENATOR LAUTENBAUGH: Oh, I apologize. I didn't realize she was out of the room, out of the Chamber, Madam President. But the point I was going to make is this. We're not talking about trampling on anyone's rights by changing this deadline. I defy anyone to stand up here and say that we are actually...if we're violating somebody's rights, we'd be subject to some sort of a claim to that effect. And I'd like to hear the argument that somehow going from 35 days to 25 days for everyone in early in-person voting is somehow a violation of anyone's rights in particular. I defy anyone to coherently make that case or point to a decision where something like that has been found to be the case. We've articulated well I think the reasons why we're doing this. And Senator Conrad made the statement if one voter is disenfranchised, and my how sloppy we've become with the word disenfranchisement over the last few years, if one voter is disenfranchised, that's too many. Well, folks, if we start talking about moving all these deadlines, we're to be affecting the people who do petitions, people who might want to be candidates, people who might want to form new parties, and on and on and on. And I'm not going to stand here and say those rights don't matter. And we were told this was the easy way out. This isn't an easy way out. This is the best solution to a problem. And it doesn't seem to matter when we point out the practical effect of these others, other methods, well, we should contract with somebody else. [LB271]

SENATOR GLOOR PRESIDING [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR LAUTENBAUGH: How do we know that addresses this? Douglas County programs themselves and they're in favor of the extra ten days. And I understand why they want it. And I don't understand who is actually negatively impacted by this that couldn't avail him or herself of the other 25 days we would still provide. And, again, I'll be cast as insensitive or arrogant for saying that, but you still have to tell me why it isn't true. And, folks, I just urge you to support this bill. It's an important bill. I'll be here as long as it takes. There's a pattern forming and this is my turn, so I'll stand here as long as it takes. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members in the queue: Johnson, Lautenbaugh, Wallman, Chambers, and Karpisek. Senator Johnson, you are recognized. [LB271]

SENATOR JOHNSON: Thank you, Mr. President and members of the Legislature. I hope we can stay back or stay on the subject of the bill. But evidently if it's the word Douglas County or Lancaster County or voting commissioner or polling place enters into

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the sentence, it becomes germane to the bill and we keep talking about it. But I want to talk about the bill itself and go back to what I've seen as the major issues, the one being the discrimination for those that have vision impairment having ten less days for the voting opportunity. That's the 35-day/25-day situation. There's been discussion about trying to extend that out to 45 days and 35 days. There's still a ten-day discrimination. We haven't solved that part of it. It doesn't sound like moving it out to 45 days is going to work anyway because of all the outside issues. So let's look at it from a little different perspective. If there would be a way to shorten up the time for the machines to be programmed, and I will just say to five days, let's go to one date. Let's move everything to 30 days. The people that are getting it by mail or by paper are giving up five days and it's not available to them. But at the same day, it's available to those that are coming in on the machine so everybody is on one date. Then there's no discrimination. We've narrowed the gap by five days so we're getting it five days closer. But in this situation, everybody would be looking at one day--30 days prior to the election. Those are my comments. I'm not sure if that's the solution. I think this...I'm not necessarily in favor of bracket, but I do believe that the bill needs a lot more work. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Johnson. Senator Wallman, you are recognized. [LB271]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Thank you, Senator Johnson. You know, we can't solve past problems. It's done. So we can look forward to this. I like your idea and maybe that should be an amendment on this bill. But I'm not in favor of bracketing it. I think we ought to solve whatever happens here today tonight. And voter confidence, that's a tremendous important thing. If we have...if we lose that voter trust, we've got lower voter turnout already. So if we want more voter turnout, let's make sure we get this right. And I voted this bill out of committee as well, and so I'm not for the bracket. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Chambers. [LB271]

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, Senator Bloomfield, we talk about things far afield. And if you have an electric bill two years old, I would listen to it as you read it into the record and I would not begrudge your doing that. But I don't have to read electric bills into the record because I have something to say. And contrary to what you think, Mr. Bloomfield, some of the things that Mr. Phipps did are still having negative effects in our community now. Do you know what his people did at the last election? They required people to have identification before they could get a ballot, and that probably doesn't seem to be too bad to you because it's over now. Why even talk about it? Because it happens in my community and these things all happen to happen there and under Mr. Phipps, and Mr. Phipps always says, well, that's isolated

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and really it...we told people they can't do that and we'll train them better. So I'm going to keep talking about what happened in the past. And if you talk about something that happened yesterday, that's in the past. If you bring up what you said or anybody said earlier in the day, that's in the past. But I think you know by now those things don't mean anything to me. I'm going to deal with the issues before us in the way I think they needed to be dealt with and I'm not going to get tired. If you look for me during the day, you look here. Unlike others, I don't leave the floor and stay away and then come back and am irritated. We have different ways of handling the job of being a legislator. Nobody can make us be on the floor. We do things voluntarily. I just take more seriously my duties than most of the people here. That's why I pay attention to more bills. There's not just one area that I'm interested in like water or gun-toters' rights or gambling or things such as that. I am going to do and say what I think is necessary. And I don't care how many times I lose the vote. I expect that. I know where I am. I know the kind of attitudes here. And I know the kind of people who are here. Now wouldn't I be foolish to think that things are going to happen other than the way they happen? I know and I confront it, and I don't look for people even to be consistent here, and I don't speculate about what's going to happen. People are too changeable and there are forces outside this body which will determine what happens. And I would wager, Senator Johnson, that I may be one of a handful, if there are that many others, who paid attention to what you said and the suggestion you made about shortening up some things and maybe reaching what could be called a compromise and having a number of days so everybody seems at least to be operating under the same principle. That's not going to be discussed. It wasn't even listened to because you don't talk enough. So when you talk, they say, oh, that's old Johnson; he's not going to say much, and if he does, it won't last long. But I listen to everybody on this floor. Every time somebody speaks, I listen. And the only time my attention is divided is if one of your colleagues finds it necessary to converse with me. But I have two ears and I listen to one with one ear and to the best of my ability I listen to what's going on with the other ear. And the brain is capable of multitasking. [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR CHAMBERS: Some people think it's not, but we don't really know all of that. This discussion gives us an opportunity to hash out very important issues. And the little bit of information I read to you all about the conditions under which Nebraska came into this Union as a state dealt with the right to vote, not political parties, not drawing precincts, not protecting an election commissioner, but the right to vote and putting into the law a provision against depriving anybody of their rights based on race or color. That's what the constitution was about. That's what the history was about. And I need to talk about it because you all don't know and it's in the past, Senator Bloomfield, but it's as important today as it was then, maybe more so now. Thank you, Mr. President. [LB271]

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SENATOR GLOOR: Thank you, Senator Chambers. Senator Karpisek, you're recognized. [LB271]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I did also listen to Senator Johnson. I think that people probably listen to him more because he doesn't speak a lot. Maybe they don't listen to me much because I do speak too much. But then I get louder and then they listen a little bit better. I did hear Senator Johnson and Senator Wallman both talk about not wanting to bracket this bill. But I don't know where there is common ground here. Can we do five days? Senator Chambers said we won't talk about that. I don't know if we will or we won't or if it has to be ten. I don't know. I don't think it probably needs to be. I don't think it needs to be any. I've said that before. But can we try to negotiate a number? And if we do, I don't know that I would even be happy giving one day. Again, I think that if they want our contract, then they should do what we want. If they don't want to do what we want, then we'll find someone else to do it. And we should do it ourselves if that doesn't work. And maybe that's the best way to do it. Maybe we'd save some money. We're always in favor of saving money. So what can we do? There's all sorts of, I still think, different ways to go about this. But if you don't want to bracket the bill, then I guess that Senator Johnson gave us some ideas, but what are we going to do? We're getting a little bit later on. I see people leaving. And so a bracket motion that I thought might have had a little bit of a chance here probably doesn't now. I'll get into that whole how I feel about that at another time, but I probably better not right now. Senator Lautenbaugh also thought that this is turning into a partisan issue. I hope that is not the case. If there is one thing I cannot stand around here is partisan issues and I try not to be on one side or the other. Senator Bloomfield likes partisan issues and we talk about that all the time. It's because he's on the winning side most of the time. I don't like that. I see too many things happen around here that are not partisan and I appreciate that. It doesn't matter. So I hope that that is not the case. If you're looking at this because Senator Lautenbaugh is on one side and I'm on the other, I hope that you look at the bill and think about it and not just go by that. Because Senator Lautenbaugh and I usually agree on almost everything, almost. And it's no fun when we don't. Senator Chambers is...says he won't get tired. I will. But I'll keep going (laugh) or I'll try. It does wear you down. It wears you out, and especially if there's no movement toward the middle. I'm just more tired than everybody else that we have to start going later now. I don't like holding things up. We've all got other things to do. We've got families. But that's the job... [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR KARPISEK: ...that we took. Excuse me, Mr. President. [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR KARPISEK: Thank you. We took this job, kind of didn't see this week coming

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maybe, but we know what's coming. Things have to get done. You're going to want things done later this year. So I hope that everyone looks at this bill, thinks about it, maybe come up with a solution or at least an idea to talk about. I just cannot support LB271. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Lautenbaugh, you are recognized. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I think, I don't know how to put this, I've not hesitated to compromise when there was a compromise that made sense. I'm not sure if bargaining with the number of days here is sensible because I don't know if five days is enough. I was told ten was enough by the people who are in a position to know. And I guess we'll just have to stand here and talk about it. But there are some things that all of you should be cognizant of as the session goes on, because this will continue. There's nothing that says that a filibuster has to be eight hours long. You won't find that in the rules I don't believe. It is what it is. The rules provide for us suspending the rules, but we've always been told that's a black art we better not deal in. But it's in the rules but we better not do it. So we're taking a lot of time and we're going to take the time necessary on this bill, because I'm serious about it or, as you might have imagined, I would be standing here doing this. And I do apologize, this does get far afield sometimes. And I think when things are said, they do need to be answered. I don't believe it's true in the last election that anybody was asked for a voter ID in Omaha. I believe they were asked for voter ID numbers because that was a blank on the form. And that was not proper procedure currently but it was the procedure when I was there because that's how we knew people had called the election office to find out where they were supposed to vote. They were given their voter ID number and they were to present that at their proper polling place. And some of the inspectors at polling places have been there forever, dating back to my day and before, and they were doing it wrong. And that's become part of this unfortunate ball of facts that will not go away. And there will never be a fair shake, but I'll continue to defend Mr. Phipps. Because apparently we're going to take the time no matter what, so I'll spend it in a useful way from where I'm standing because it has the virtue of being correct. Mr. Phipps closed a lot of polling places for the primary in 2012 and people complained. So he reopened some. And then the complaint became, well, gee, now these people have had two different polling places, some of them, this year. Well, that's because he reopened some to accommodate people who were complaining that they were closed. And that became part of the narrative: Well, he keeps changing their polling places; that's meant to suppress voters. That isn't true. That's what known as no good deed goes unpunished. Closing of polling places took place throughout the county, as I indicated before. It happened when I was there. It happened more vigorously this time around because we changed the law authorizing it to take into account the fact that people vote early now, which brings us to what we're talking about today. Most people who vote early vote by mail, not in person. We're still providing that with this bill. I think this is a good bill,

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obviously, or again I would not have brought it. I wouldn't have introduced it. I wouldn't be standing here defending it today. I'll look into the five-day issue to see if that's workable. But, again, I hope we all understand that we don't know. We know the ten days is workable because it came to us and we heard testimony about it and it was justified to us. I would have to check on the five, and I'm not even saying I'm willing to do it. I'm saying I don't know the answer. I don't know if five is enough. I know 10 was enough and it was a good number because it still left 25 days to vote early, but it gave time to do this right. [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And doing it right remains important. I know if we do this as an interim study we aren't going to be ready to go for the primary probably in 2014, which will be in May and we will have one. So we'd have to do a bill with an emergency clause. And on another bill earlier this session we were told, by God, we have to act this year, even though we'll be here next year, because we may not pass it next year with an emergency clause. Now we're being told on this bill we've got time for an interim study; we've got all the time in the world; the election isn't until next year. Folks, that doesn't make sense. It's not overly consistent. We need to act on this. Senator Avery again has been very calm and measured and given very good reasons why we're doing this. And there are good reasons why we're doing this. And I'm not going to be inclined to walk away. I'll ask for your vote for cloture when the time comes. I will see this through because we need to act and we need to do it. [LB271]

SENATOR GLOOR: Time, Senator. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Mr. Clerk, some items? [LB271]

CLERK: Mr. President, a Reference report referring gubernatorial appointee to standing committee for a confirmation hearing. Senator Howard offers LR125, new resolution; that will be laid over. That's all that I have. Thank you. (Legislative Journal page 893.) [LB271 LR125]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Chambers, you're recognized but this would be your third time. Are you waiving closing, Senator Chambers? [LB271]

SENATOR CHAMBERS: (Microphone malfunction)...closing. [LB271]

SENATOR GLOOR: This would be your third time, Senator. [LB271]

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SENATOR CHAMBERS: Oh, okay. Mr. President, members of the Legislature, Senator Lautenbaugh gives his version. I was told by people they were asked for identification, Senator Lautenbaugh, and I gave their names to the Justice Department; identification, not numbers. I know what you read in the paper and they talked about provisional ballots. These were not people getting provisional ballots. They were told before you can get a ballot here to vote, show identification. And I gave those names to the Justice Department. So you're getting two stories. I have people coming to me directly and I do forward the names. He's getting stuff from his friend whom he wants to defend. But I'm going to tell you about this haste in having to do something. When a member of the Omaha School Board working with Senator Lautenbaugh wanted to shrink the size of OPS and have an election this year, I told that school board member I will not do it because there will not be enough time to get the districts established, to notify the public so that those who may be interested in running will have time to do so. This school board member, his name is Justin Wayne, asked me if he could get the work done in terms of drawing district boundaries that I found acceptable, what about that? Believing he couldn't do it, I said, fine, do it. And in a couple of days he had it done. And I talked to Senator Lautenbaugh and I believe I was given an assurance by him, or maybe I read it, that the part about term limits or some other provision in his bill would be taken out. And it would be a straight bill to reduce the number on the school board and then have an election this year. And I agreed and I supported him. And when he was attacked on the floor, I defended him and fended off those attacks. And when he was in a dispute with Senator Lathrop about a bill that he was being chaffed over, I defended his right to do that, pointed to rules where he could do it. And now all of a sudden he's going to take out after me. See how quickly people forget. But he's the one who said it can be done in time and, in fact, it was done in time. And there has been an election in the same year that we got the school board reduced in size, districts established, and they had 39 candidates altogether running for nine positions, which probably was the most candidates in a school board election. So for that same man to say that we've got to do this right now, this session, it can't be done next session because of time, and the primary, he said there must be consistency, but he forgot to apply it to himself. If he were consistent, he'd say in this realm nothing is impossible because he did it himself. I helped a bit. But still it was Senator Lautenbaugh who was the captain of that ship and he brought it to port and things happened the way he said they could and would happen. And I'm glad for it. And I told him and I won't let anybody take away from the significance of what he accomplished. He brought the bill. He pushed for it. And now he's on a hobby horse where I disagree with him. And I don't think his friend that he's trying to defend has done the right thing. He's loyal to a fault, but he's not going to be loyal on the backs of the people I represent who have had these problems. And he knows nothing about them, but I'm there. He says you ought to listen to him and the Secretary of State and whoever else he's talking about. But he doesn't think he should listen to me who continues to live in the district among the people to whom this is happening. You shouldn't listen. But anything he tells you, you ought to pay attention to. It doesn't work that way with me. You take into consideration what he's saying but also

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what Senator Karpisek said about letting a contract. If the person with whom you're contracting cannot provide the service, you don't give them the contract. This company that is doing this is not the only show in town. But if they can make you think that you cannot live without them, that they're indispensable, then... [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR CHAMBERS: ...they call the shots on the state. They dictate to the Legislature what the Legislature can do by saying we don't have the technicians who can do what you want done, so don't do it. Don't...and what are you doing it for anyway? Oh, you got a few people who can't see well. That's not our fault. It's not the Legislature's fault. That's on God. He struck them blind for some reason. And then they go on to say they might. I don't see why they make you cut out these curbs at every corner because somebody in a wheelchair might come through. I have yet to see a person in a wheelchair drive through one of those slots, but I'm glad that they're there. And I would never say because there is one unfortunate person or there are two unfortunate persons they shouldn't count. If that unfortunate person were in our family, it would count and they would take seriously if people with that affliction were dismissed out of hand or debased. [LB271]

SENATOR GLOOR: Time, Senator. Time, Senator. [LB271]

SENATOR CHAMBERS: Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Bloomfield, you are recognized. [LB271]

SENATOR BLOOMFIELD: Thank you, Mr. President. Would Senator Karpisek yield to a question? [LB271]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB271]

SENATOR KARPISEK: I will. [LB271]

SENATOR BLOOMFIELD: Thank you, Senator Karpisek. You a little while ago accused me of being partisan. I suppose I could be guilty of a wee bit of that. But you said you didn't like something and I wasn't sure whether that was...whether you didn't like that I was occasionally on the right side of these things and won or whether you didn't like that I was partisan. Would you explain to me which one it is that you really didn't like? [LB271]

SENATOR KARPISEK: Oh, I didn't think that I meant to say that you were partisan. I said you like the partisan issues when we have them because every time in committee

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when something comes up you said, I think that hurts the two-party system, and then I say, well, good. So (laughter) how do I...what do I like...how do I...I don't think you're partisan all the time, Senator. I think you like the two-party system. [LB271]

SENATOR BLOOMFIELD: I do indeed like the two-party system. And I'm pleased that it rears its lovely head in this Chamber every once in a great while. We claim that we are so nonpartisan in here. All we have to do is look at the votes. We know better. I don't rush down to Republican headquarters and say, how should I vote on this. I'm sure you don't rush down to the DNC and ask for that. But you and I disagree enough to know which side each one of us is on and I appreciate that. Every once in a while we agree and I really appreciate that. So I was just wondering whether it was you didn't like me being on the winning side or the partisan part. But I got may answer and thank you. And it looks like Senator Lautenbaugh has left. No, he is back. If he would like a little time, Senator Lautenbaugh, whatever I have left is yours. [LB271]

SENATOR GLOOR: Senator Lautenbaugh, 3 minutes and 1 second. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And thank you, Senator Bloomfield, of course. And I did enjoy his observation. That sound you heard was a bunch of World-Herald editorial writers being overcome with a case of the vapors because you suggested we might be partisan down here, despite our noble nonpartisan tradition. And in some ways Senator Chambers is an accurate historian in that we did work well together on the OPS stuff. But I can remember being in his office over one lunch hour and saying it's great to get along on this but you understand, you know, I'm going to have a horse racing bill and you're going to try to repeal capital punishment so this will not last. And he acknowledged it would not last. So here we are. But I don't want to belabor...well, it's probably too late for that. I don't know the answer to whether or not five days works. Ten days was safe. The danger with picking another period like 5 days and shortening it to 30 days is what if it doesn't work. What if we still can't get it done in time reliably, election in, election out? And they aren't all the same, you have to understand. Sometimes the ballot is done sooner. Sometimes it's not. Sometimes you have a petition on there. Sometimes there's a court challenge to the petition. There are myriad variables that go into when the ballot is actually ready. And then this, again, is something we have to do after it to make these machines for the visually impaired available. So ten days was chosen, was thrown out by the hearing officer. Actually, one of the proposals was to take it down so we only have 22 days of early voting, which was the national average. They said, oh, that's too much but 25 will work. That takes ten days off. I don't know if five days works. I know ten days is represented to work. But, again, the people who are advocating for ten days are people who have an interest in the elections working well. [LB271]

SENATOR GLOOR: One minute. [LB271]

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SENATOR LAUTENBAUGH: Thank you, Mr. President. They're not interested in shortening anybody's time to vote for the sake of shortening time to vote, and other methods do remain available. I can't point out enough so I should probably stop pointing it out. But this does remain an important bill and I don't want it to be something that we have to wait and do as an emergency last year. Yes, we did have some luck with the OPS bill, getting it done quickly. But we had to count on the board to fail to swear itself in properly to get done, and I don't think we can count on a break like that with this. So I urge you to move this bill forward and please understand the underlining purpose is important and just. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Lautenbaugh and Senator Bloomfield. Senator Ken Haar, you're recognized. [LB271]

SENATOR HAAR: Mr. President, members of the body, a lot of these things have been said but I want to get on the record saying it as well. When Senator Lautenbaugh introduced the bill, I took, quote, getting ballots out is a challenge, and I believe that. But it seems to me, you know, I also worked with computers and sometimes I'd work 24 hours to get a project done. I really believe that if it's a challenge, but it would benefit the voters, that we ought to go with the voters. I think that's a principle of government that, yeah, if things are a little tough on us, we have to try our best to work around that if it benefits the citizen. And, you know, this point has been brought up again but, you know, the next statewide primary is in 2014. There's plenty of time for the Secretary of State and this company and the lawmakers to come together and work on that time line. And I just cannot believe that this company is unwilling to talk about time lines. They may even charge more. They may grouse. They may gripe. But it's important that if somebody is put in a bind and it's between us and the citizens, we ought to suffer the bind and do what's right for the citizens. Voting is the most basic right, I believe, and this does shorten that time. And I think we should be in the bind. The Secretary of State's Office should be in the bind. If they need additional people to get the ballots ready, then we should provide them. But it's our responsibility with this most basic and most sacred of privileges to do what's right for the citizen. And I think...I heard Senator Johnson has somewhat of a...has an amendment he was talking about. Maybe there's some room for compromise here. But we can't just say, well, we can't do it. Yeah, we can. It's going to be challenging. It may cost a little more money, but we can and we should. Thank you very much. [LB271]

SENATOR GLOOR: Thank you, Senator Haar. There are no members remaining in the queue. Senator Chambers, you're recognized to close on your motion to bracket. [LB271]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, we are going to be on this matter for some time. And I will return to my reading when I think it's appropriate because it emphasizes in the letter that I sent to the Governor what his duty

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is and the importance placed on the untrammled right to vote, the importance placed on that by the U.S. government before they would allow Nebraska to become a state. You all probably did not know that Nebraska was engaging in the type of discrimination and absence of protection of everybody's rights that would prevent this state from being added to the Union when they wanted to come in. How many of you knew that Nebraska's application was turned down and their entry into the Union was delayed? And it was delayed because they had no guarantee that people such as me and mine would not be discriminated against because of our race and color. Why don't they teach that to the kids in school? Why do you try to prettify and whitewash history? Didn't that really happen? But you think by not talking about it, it goes away. Then when it is brought up, it seems inappropriate. But I think it's very appropriate. History should cover everything. And quiet as it's kept, to use an outdated cliché, our history as a people did not begin with slavery in the United States. And not all of us were slaves in the United States. And some people have never heard of Frederick Douglass, but he was a black man, and I'll have the opportunity to go into more detail about that when we talk about the license plates, because he was instrumental in arranging to help Abraham Lincoln recruit some black men to be soldiers for this country. But there was a well-known newspaper writer at that time, and he was visiting the White House. And he said he looked in this room; it was in semidarkness. He saw this individual sitting on a couch. They might have called it a settee or whatever it was in those days. He had these prominent cheekbones, these very piercing eyes. And he knew. He'd never met him before, but he said, I knew I was looking at the President of the United States, Abraham Lincoln. He said, I approached the man and I said, Mr. Lincoln. And the man said to me, I'm not Mr. Lincoln; my name is Frederick Douglass. Frederick Douglass was a black man. A contemporary thought that black man was Abraham Lincoln when he saw him. So what does that say? It says different things to different people. But there are black people who have done things that help advance this country and its interests even while their brothers and sisters were enslaved. And that has always been the divided role that we've had to play in this society. Here I am spending all these hours in a Legislature when there could be other things maybe more effective in trying to demonstrate how unsatisfactory our plight in this country is and would probably give me, for the amount of time that I would have to live, a degree of satisfaction that all the years of what I've done here cannot ever give me. But I have to still try to think of what is best in the long run, not for me as an individual but for me as a part of a race of people who still are not accorded dignity and freedom in this country, who still have... [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR CHAMBERS: ...our right to vote impeded, still listen on the floor of the Legislature to a white man saying that this didn't happen, that the guy who did all these things really didn't do them, that he's being inappropriately criticized, that that happened in the past and it shouldn't be discussed. So the Jews should never talk about the holocaust. And I'm sure that would make a lot of people happy because that was in the

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past. Those are the things I have to listen to while I'm here. You know why it makes you all no difference? You've never been in that situation. You've always had everything your way. And you have no sensitivity and that's why somebody can say you've got a few blind people so what...why can't they get here in 25 days and vote like everybody else. They're not like everybody else. They're not treated like everybody else, and the strong are to bear the infirmities of the weak. And that's what they pray... [LB271]

SENATOR GLOOR: Time, Senator. [LB271]

SENATOR CHAMBERS: ...about and Senator Carlson talks about but it's not acted on. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Chambers. [LB271]

SENATOR CHAMBERS: I'll ask for a call of the house. [LB271]

SENATOR GLOOR: 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, Mr. Clerk. [LB271]

CLERK: 25 ayes, 0 nays, Mr. President, to place the house under call. [LB271]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Burke Harr, Kintner, Nordquist, Harms, Conrad, and Nelson, please return to the Chamber and record your presence. Senator Chambers, how do you wish to proceed? [LB271]

SENATOR CHAMBERS: Roll call vote. [LB271]

SENATOR GLOOR: Members, the question before us is, shall LB271 be bracketed until 6/5/13? Mr. Clerk, call the roll. [LB271]

CLERK: (Roll call vote taken, Legislative Journal page 894.) 12 ayes, 29 nays, Mr. President, on the bracket motion. [LB271]

SENATOR GLOOR: The motion fails. Raise the call. Members, we are back to discussion on FA47. Are there senators who wish to be recognized? Senator Chambers, this would be your closing. There are no members in the queue on floor amendment. [LB271]

SENATOR CHAMBERS: This would be my closing you say? [LB271]

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SENATOR GLOOR: It would be, Senator. There are no other members in the queue. [LB271]

SENATOR CHAMBERS: I don't really want to close. (Laughter) That doesn't mean I'm waiving it. I mean, it's such a wonderful time that we're having here. This is an amendment, members of the Legislature, which would reinstate the stricken language on page 2 of the bill. That stricken language consists of two words found in line 4. The two words are "and applications." And the sentence of which it is a part begins in this manner, "Except as otherwise provided in Section 32-939.02, ballots for early voting and applications." The two words, "and applications," are stricken. And my motion would restore those words. Whether they are restored or not is of no great importance to me. I had offered that amendment right away so that I can ensure some discussion without the bill being advanced before I was ready to have it advanced. I'm still not ready for that vote to be taken. And I think that in the same way that much in this society is recycled, this amendment that I'm offering probably will fail. So I'm going to recycle it. And it doesn't matter what is before us by way of a motion or an amendment. We're going to discuss the same thing and we're going to repeat things that have been said. I repeat them because I think it's essential that they be repeated because I don't think that what is offered here is listened to. But that's the way it is in a classroom. You know it's like that in churches, especially those who have rituals where they repeat the same thing not only every time they meet but several times during the ceremony. Why do they think people don't understand it, don't get it the first time or, worse than all of that, are weary of it? But people become conditioned and socialized to expect things to be repeated. So whether you're dealing with commercials on television, you will see it; a few minutes pass, you'll see it again. Campaign ads--they're repeated. People have a short attention span or they pay no attention at all initially. In the classroom--repetition, repetition. In the sermons--repetition. Nobody on this floor who has ever gone to church can say that every Sunday they heard a fresh, new sermon. It's always the same thing. You know what's going to be said. On the floor of the Legislature, people don't become different. Sometimes they're distracted. Sometimes they're trying not to have to listen. But then if their guard slips and they listen, their mind may be engaged and they'll say, I might pick up on something if I pay attention to this. But whether they pick up on anything or not on this floor, there are people who will hear what we're talking about. And those who listen to the discussion on this bill will see that there are some very concerned about the voting rights of the least among us, that those who probably will never have a representative on this floor, because who is going to vote for a visually impaired person, when we vote for that person to be in the Legislature, when we're not even mindful of that person's right to vote? There's no need in pretending that these ten days are insignificant. It's not really the days themselves. It's the cavalier fashion in which the number of days is being reduced,... [LB271]

SENATOR GLOOR: One minute. [LB271]

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SENATOR CHAMBERS: ...probably by way of retaliation against those visually impaired persons who had the temerity, who had the gall to do what the law allows, and that's to complain and file a complaint because a right guaranteed to them was not extended by the governing authorities. Why is it that if a person is exercising a right that there's going to be retaliation? Because that's what happens when the one trying to vindicate the right is among those who are considered insignificant and unimportant. But they're very important to me. And when I say defender of the downtrodden, that's exactly what I mean. So I'm going to ask for...that we check in and then I will take a machine vote on this one, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Chambers... [LB271]

SENATOR CHAMBERS: Was the call lifted? [LB271]

SENATOR GLOOR: The call was lifted. Would you like to call? [LB271]

SENATOR CHAMBERS: Oh, then I will ask for a call of the house. [LB271]

SENATOR GLOOR: Fine, Senator. There has been a request to place the house under call. The question is, shall the house go under call? Those in favor vote yea; those opposed vote nay. Record, Mr. Clerk. [LB271]

CLERK: 28 ayes, 1 nay to place the house under call, Mr. President. [LB271]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. [LB271]

SENATOR CHAMBERS: Mr. President, I'll accept what's on the board as the vote. (Laughter) [LB271]

SENATOR GLOOR: Senators Lautenbaugh and Carlson. Thank you, Senators. Members, the question is, shall the amendment to LB271 be adopted? Those in favor vote yea; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB271]

CLERK: 7 ayes, 27 nays, Mr. President, on the adoption of the amendment. [LB271]

SENATOR GLOOR: The adoption fails. [LB271]

CLERK: Mr. President, I have a priority motion. Senator Chambers would move to reconsider the vote. I assume the vote just taken, Senator, is that correct? Yes, to

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consider the vote on that FA47. [LB271]

SENATOR GLOOR: Raise the call. Senator Chambers, you are recognized to open on your motion to reconsider. [LB271]

SENATOR CHAMBERS: Thank you. Mr. President, what I would like to do at this stage is read a letter that a constituent sent me, dated April 12, 2012: Dear Senator Chambers, I am writing to inform you of some of the issues that I have experienced in Douglas County Election Commissioner Dave Phipps's polling place closing fiasco. I have received three mailings of polling place notification. The first was notification that...was that my former polling place, a church located at 41st and Pratt Street, had been changed to the Christ Child Center located at 21st and Emmet Street. This location is not even listed in the telephone book. The second mailing was notification was that this place had been listed in error and that I had been assigned to vote at the Evans Tower located at 24th and Evans Street. The third mailing was the delivery of my official voter information card. My polling place went from 7 blocks to around 20 blocks, triple the distance. I requested an early ballot. I was informed that the request for this early ballot must be made in writing, no phone or e-mail requests. I went to the Douglas County Election Commissioner's Web site and downloaded the early voting ballot application, something that others with a computer might not know. This saved me the mailing cost and/or the transportation cost to deliver it to the election commissioner's office. The next step after completion of the application was to mail it, fax it, or deliver it to the election commissioner. Fortunately, my computer has a fax function which saved me additional mailing and/or transportation cost. This was an issue...there was an issue with the mail delivery of my ballot. I was not at home when my mail was delivered. On the envelope there was a bold lettering: Do not fold. I have a mail slot in my door that will not accept oversized envelopes. Since my postal carrier could not fold and insert the envelope, he took it next door to see if my brother would accept my mail. If he had chosen not to accept it, it would have been taken back to the post office as undeliverable. I'm not aware of what would have happened after this point. There might be others who might be having...experienced this same scenario. I am livid with the election commissioner's decision to close polling places in what he purports to be a cost-saving effort. Then he explains things that were done in the '70s to notify people not only that they should vote but where they should vote. Having said what I have said, Douglas County Election Commissioner Dave Phipps, in essence, has reinstated a poll tax for some in our community: mailing and transportation expenses. He has also incorporated a poll test with all the stipulations listed on the mailing envelope and the ballot. Some will not have benefit of clarification by a poll worker. It states on that ballot that if there are errors made, the vote may not count. This leaves the door open to what might be termed "unjudicious" discretion. As it relates to increased distance between home and polling places, a large number of low-income and minority members of our community have limited vehicular transportation. This is due, in part, to the cost to fuel and maintain a vehicle, making sure vehicles are properly registered and licensed,

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naturally, and must maintain insurance to operate a vehicle. As an aside, many argue about President Obama's healthcare mandate when there are already government mandates in existence. With the high unemployment rate in the minority community, these costs are disproportionately higher than the community at large. Before closing, there are many who look forward to the civic duty of poll-working. Who will be denied this opportunity with these closings? One of the polling places that will be closed is at my grandson's school. He would come home and tell me about the people voting. Now he will not see this franchise at work. What kind of example does this lack of firsthand observation hold for our young people? To use your very fitting analogy from former President Ronald Reagan, Mr. Phipps, tear down this wall. And there were other correspondences that I received. But he said he didn't mind me reading his--his name is Arnold Traynham--and giving his name. And that's why I've used it from time to time. And there are other things I'm going to read into the record that I wrote to the Governor and to Mr. Phipps, because I said that I would. And I think, as long as we are going to be here and there remains time on the clock, these things ought to be put into the record. Whereas, as I've stated, my colleagues have grown weary, I don't get tired. I know what it was that I set out to do, and I'm going to carry through on it. One reason we don't go very late every night is because all you young fellows and ladies would get worn out. But an oldster like me is not going to get worn out. What I wish would happen is that the Speaker would say what he is going to do in exercising his prerogative as Speaker is let the stamina of a soon-to-be 76-year-old determine how long we're going to stay here every night. And then when I wear out, then you get to leave out. But if I can go on and on, then we have to stay at least until 11:59, or no later, because if you go one minute past midnight then another day starts. There were some people in a legislature who did not want a particular legislative day to end because there was something they wanted to do and they didn't have enough people in the chamber. So somebody got a ladder and went up and disengaged the mechanism in the clock so it could never pass midnight. And it was challenged in court. And you know what the court said? That a clock merely measures the passage of time. It does not account for time moving or not moving. So by stopping the clock, you did not stop the passage of time. You were there beyond midnight, so the amount of time you could spend in that session had elapsed. You did not do what you wanted to do. Anything that you did after that 12:00 midnight, it doesn't count, it is null and void. So you've got to stop by 11:59 unless you want to do two days in one. But you know why I know that won't happen? If you stayed beyond midnight, you couldn't go on. But I'd wager that I can. But I'll never be put to the test, and that's the one thing I regret. Sometimes, you ought to call my hand on these things. How do you know I'm not as tired as Senator Karpisek says that he is? And don't take at face value what he tells you. When he sits back there smelling like...smiling like a Cheshire cat, that lets you know that he is pulling your leg. And as for Senator Bloomfield sitting up there, doing whatever it is he calls himself doing, he doesn't know it but he's my inspiration. I watch him. And as long as he's wide awake and engaged, then I know that all is not lost. And I'm going to take the time that I have and I'll speak. I can continue. He thought I was kidding. I tell you that I will deliver. And

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for those who didn't know it, he's stretched out as though he were dead to see if I would continue, and I stopped until he came back alive. Then I could continue. And as time goes on, you're going to find out that what is happening now will happen. Things will occur that will lighten the mood, break whatever tension there was, then we go back to what it was that we were doing. I understand what a lot of us know intellectually, but it doesn't reach the level of influencing how we act. I know what people are made of. I know how people do get tired. I know how they get saturated with the discussion that we're having when we continue to go over the same ground,... [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR CHAMBERS: ...chew the same cud, so to speak. So you have to allow something to intervene that will reinvigorate them. So you say something that might be preposterous, tell a joke. Everybody comes awake again and now we're ready to go for six or seven more hours. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Chambers. Members in the queue: Wallman, Bloomfield, Lautenbaugh, Chambers. Senator Wallman, you are recognized. [LB271]

SENATOR WALLMAN: Thank you, Mr. President. Senator Chambers, you and I are both 1938 models, I presume. And, Senator Bloomfield, as a truck driver, as well as I, myself, I'm sure you went all night long and didn't fill out a log book. (Laugh) But those were the old days. But I still appreciate energy in here. There's energy in political debate, and it'll give you energy. And whether you...especially if you plug in. And I was in the South when there was segregation, Senator, and they told me I couldn't sit in the front of the...back of the bus because I had to sit in the front. And that bothered me tremendously going down to Pensacola. And so that was a sad day in our history when we did these things and how we treated the Native Americans, and we should be sorry for some of these things. And the Trail of Tears when right through my area. And so...but now we have to do the best we can and to make sure that people can vote. And watching the Native Americans last night on International Falls in Canada, how the Canadians treat the natives up there, you have to pay \$2,500 to educate your child. And the United States educates them for nothing. So there's inequality in every nation, this included. I think we do a pretty decent job in this country. I'm proud to be a United States citizen, not always what we do. But we serve our country, we serve our Legislature, and we do the best we can. And are we prejudiced sometimes? Absolutely. I don't know of a single person that can't be prejudiced about some issues, and myself included. Saint or sinner though I be, thank goodness somebody loves me. And so this is an interesting conversation tonight. We're going to go all over the place. But for goodness' sake, let's not lose the focus on what...we have a tremendous, tremendous advantage over a lot of countries--we can vote--and we're not using it very well. And that makes me sad. Whenever I ran for election, I hit the streets and I says, vote, vote, vote. Most of the veterans do vote. But lots of youngster...younger people seem, you

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know, unplugged. So the pages over there, I sure hope they vote because it is a right that somebody died for. And that's all, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Bloomfield, you are recognized. [LB271]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I rise again in opposition of this reconsider thing that, to me, appears to be another little dab of foolishness we're going to deal in. But that's all right. We should be getting used to it by now. I had something all conjured up I was going to say, and it's slipped my mind for just a little bit. But if I stand here long enough, it'll come back, and it seems like we have plenty of time. I remember what it is. Lest the body think that this vote coming out of committee was, in fact, a partisan vote, which we seem to be working toward, I'd like you to look at the wild-eyed Republican, Norm Wallman, and Bill Avery. They voted in the majority, along with myself and Senator Lautenbaugh and three others on this committee. This was not a partisan thing coming out of the committee. If it becomes one on the floor, that's the way it'll be. It should not be. And I'm getting back into my clique here. If Senator Lautenbaugh would like a few minutes, he can have them. [LB271]

SENATOR GLOOR: Senator Lautenbaugh, you have been yielded 3 minutes 34 seconds. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I wonder if Senator Chambers would yield to a question. [LB271]

SENATOR GLOOR: Senator Chambers, would you yield for a question? [LB271]

SENATOR CHAMBERS: Yes. Yes, I will. [LB271]

SENATOR LAUTENBAUGH: Thank you, Senator Chambers. [LB271]

SENATOR CHAMBERS: You're welcome. That was easy. [LB271]

SENATOR LAUTENBAUGH: That wasn't a question though either. That was a thank you. [LB271]

SENATOR CHAMBERS: (Laugh) Okay. [LB271]

SENATOR LAUTENBAUGH: You're going to keep talking about this until 6:30, when we adjourn, right? [LB271]

SENATOR CHAMBERS: Yes. [LB271]

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SENATOR LAUTENBAUGH: Okay. Well, then I won't feel bad about talking also because we're going to be here no matter what, right? [LB271]

SENATOR CHAMBERS: Yes. [LB271]

SENATOR LAUTENBAUGH: And we'll probably come back to this tomorrow afternoon, will we not? [LB271]

SENATOR CHAMBERS: Aye aye, sir. [LB271]

SENATOR LAUTENBAUGH: And we're going to do some other stuff in the morning, according to the Speaker, as I understand it. Is that...? [LB271]

SENATOR CHAMBERS: Hopefully. [LB271]

SENATOR LAUTENBAUGH: Well, maybe we'll agree on those things at least. But thank you, Senator Chambers. [LB271]

SENATOR CHAMBERS: You're welcome. [LB271]

SENATOR LAUTENBAUGH: I appreciate the time, Senator Bloomfield. I don't know why I'm using it. But you can either listen to me or you can listen to Senator Chambers, or Senator Wallman can talk about trucking and accuse Senator Bloomfield of violating federal law, I think, as I understand it, with those log books. But that's neither here nor there. (Laugh) We all have immunity on the floor about that kind of thing, so nothing we say here can and will be used against you, I guess. But I was very clear when we started down this road that there could be no amendment and no compromise. But we'll see where this takes us, come tomorrow at 1:30. I think we've lost enough people that we probably can't successfully proceed to a vote this evening either way, and I don't think we're going to be allowed to this evening, either way. But as they say, tomorrow is a new day. And I know, as I stand here, this seems just like yesterday and maybe the day before and maybe the day after tomorrow. But, you know, it's the hand we're dealt. All I have to say, again, is there's nothing in the rules that says filibusters have to be eight hours. There's nothing in the rules that says we can't suspend the rules, quite the opposite. And maybe, as all of you have priority bills that you may want to talk about at some point, this isn't mine. I am reforming the Corn Board, in keeping with my agrarian roots. So we'll get to talk about mine, hopefully, someday too. But we do have to find a way to move the session along. Some of you are probably thinking, okay, then shut up and move the session along. So thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. You are next in the queue, Senator Lautenbaugh. [LB271]

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SENATOR LAUTENBAUGH: I'd like to expand upon my prior comments, but I will not. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Chambers, you are recognized. [LB271]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Lautenbaugh a question. [LB271]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB271]

SENATOR LAUTENBAUGH: Yes, I will. [LB271]

SENATOR CHAMBERS: Senator Lautenbaugh, there is an old song that says, the song has ended but the melody lingers on. I don't know what you said that was so funny, but I see people still with smiles on their faces. Would you mind telling me what you said? [LB271]

SENATOR LAUTENBAUGH: (Laugh) [LB271]

SENATOR CHAMBERS: Oh, and he's even chuckling. Maybe...that's okay. I'll leave well enough alone. Thank you, Senator Lautenbaugh. I asked the question; you answered it enough. But here is what I'm going to do: I'm going to finish this letter that I had written to the Governor: Governor, it is past time for you, the alpha male, to exert your supreme executive power and exercise leadership in addressing this dreadful and racially tense assault upon free exercise of the franchise. As you will note in the articles, the majority of the closings are in the three legislative districts where a majority of the minorities reside in Omaha. Every one of the blunders by Mr. Phipps has negatively impacted and disadvantaged the minority communities, from the unannounced closings to knowingly mailing cards to more than 2,000 people in the black district, sending them to the wrong polling place to vote, a facility that is closed. His actions have caused such confusion, doubt, and distrust, as well as suspicion, alarm, and outrage among the affected communities, that trust and reliance cannot be placed in anything that issues from the mouth or office of Election Commissioner Dave Phipps. The Douglas County Attorney's Office is investigating whether he violated the law by knowingly mailing thousands of erroneous cards to voters. This is a horrendous and damaging fiasco about which persons not directly affected can manifest a ho-hum attitude, as you all have seen here today. That I just threw in. But you, as Governor and supreme executive power in this state, are bound by the constitution and your oath of office to do better and become involved. "Deliberate and intentional" is the caption. When the harm flowing from an act can be anticipated, intent on the part of the actor is inferred. One need not possess the logical propensities of Mr. Spock, the unflappable Vulcan crew member of Star Trek's starship Enterprise, to understand the truth of the following formulation. And

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this I've said on the floor before: When a series of negative actions and events flowing from the same source fall unerringly upon an identifiable, discriminated-against group, more is in play than mere happenstance, accident, or coincidence. As a professing Christian, you may be presumed to have some awareness of the travails of Apostle Paul when he was placed under charges and brought before Roman functionaries. Convinced that justice would not be served, he, as a Roman citizen, exercised his prerogative of such citizenship and declared, I appeal to Caesar. Governor, if you intend to remain aloof and not concern yourself with the matters enumerated herein, please inform me as soon as possible in order that I may, in the manner of Apostle Paul, seek out a Caesar someplace else to whom to make appeal. In closing, I suggest that you call to mind the warnings Secretary of State John Gale advanced in his e-mail to you, warnings about voter confusion, for example. [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR CHAMBERS: P.S., Perhaps it is fortuitous that you will receive this letter during Eastertide, which commemorates the tradition of another alpha male rising from the dead. Is it possible that you will rise from apathy, a type of death, and discharge your duty pursuant to your oath of office? And what I did was appeal to a female Caesar, whatever the feminine of that word would be, the U.S. Attorney named Deborah Gilg, and she did notify the Justice Department. And I touched on their responses. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB271]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I have been getting a few e-mails about being...looking like a cat now or smelling like a cat or something, so I have to thank Senator Chambers for that one. As it gets a little later and more people start to leave, it gets even harder to find someone else to pick on as we go along. And I remember one of my first days in the Chamber. And of course, when I got here, I picked up a rock and threw it at Senator Chambers and hit him right between the eyes, proverbially. So anytime he was looking for someone to pick on, he would like to call me and ask me some questions and see what I thought about things. And in hindsight that was a lot of fun, but I really don't want to do it again. I think that we are talking about going to a vote here and come back tomorrow and pick it up where we left off. I just wanted to take up a little bit of time to make sure that everyone had a chance to talk over what we needed to get straightened out. With that, Senator Chambers, the next time you figure out a better animal for me to be, maybe a wolverine or something like that. All right. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Lautenbaugh, you are recognized. [LB271]

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SENATOR LAUTENBAUGH: Thank you, Mr. President. I wonder if Senator Chambers would yield to a question. [LB271]

SENATOR GLOOR: Senator Chambers, would you yield? [LB271]

SENATOR CHAMBERS: Maybe yes, maybe no. Yes, I will yield. [LB271]

SENATOR LAUTENBAUGH: Senator, are you aware of the results of the county attorney's investigation into Mr. Phipps's activities? [LB271]

SENATOR CHAMBERS: It apparently didn't go anywhere because I didn't hear anything more about it. But I heard it on a news story that he was considering investigating that to see what I'd put in the letter. [LB271]

SENATOR LAUTENBAUGH: And have you heard anything about any findings by any Justice Department people? [LB271]

SENATOR CHAMBERS: No, because they had indicated they don't tell people, one way or the other, what their findings are, what they intend to do, but that they would come and observe and communicate with the people in the community. [LB271]

SENATOR LAUTENBAUGH: And it's your understanding though, if they found something, there would actually be some sort of action? [LB271]

SENATOR CHAMBERS: I really don't know that because the FBI is the same way. They do find things, and the reason I know it: I've gotten information about things I've brought to their attention where they did make findings similar to the complaints that I made, but they took no action, did not notify me that they were not taking action or that they would. So with the federal government, when you do approach them, you do not always expect or you should not always expect to hear anything back necessarily. [LB271]

SENATOR LAUTENBAUGH: So in your experience, they have looked into things and...at your request but done absolutely nothing? [LB271]

SENATOR CHAMBERS: Well, they did send people here, and they watched the polls and observed and talked to people in the community. But based on what I wanted done, I don't consider that reaching the level of response that I chose to have take place. [LB271]

SENATOR LAUTENBAUGH: Okay, thank you, Senator Chambers. Again, I'm beating a dead horse here. But what we're talking about is a county attorney who was asked to

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look into something and, for whatever reason, apparently, has not or did and found nothing, a Department of Justice that looked into something. And we're supposed to, I guess, assume that there must have been something there or they wouldn't have looked into it. That seems backwards. Usually, they look into it to determine if there's something there. And I'm wondering if, as we go on our way and get into next year and we still haven't heard anything, nothing has happened and nobody has been charged or whatever the proper approach would be, if we're going to come back here on the floor and supplement the record and say, well, I guess Mr. Phipps didn't really violate state law and, apparently, no one concluded he violated federal law; it's unfortunate we made that record that day, based upon allegations, because nothing came of it. And that almost never happens, and the papers surely don't do it, not enough and not front page. And that's unfortunate. Thank you, Mr. President. [LB271]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Chambers, you are next in the queue. You are the only person in the queue. You may close, should you choose, Senator. [LB271]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Lautenbaugh a question. [LB271]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR CHAMBERS: Senator Lautenbaugh, have you heard of ethical...ethics charges being brought against attorneys and the charges will be sustained but the person is never charged with a crime? [LB271]

SENATOR LAUTENBAUGH: Yes. [LB271]

SENATOR CHAMBERS: Have you heard of lawyers being found by the Counsel for Discipline to have misappropriated or stolen the funds of clients? [LB271]

SENATOR LAUTENBAUGH: I've heard they've found it; I've heard they've not found it. There are a lot of outcomes (inaudible). [LB271]

SENATOR CHAMBERS: Have you heard cases where they found that that had occurred and the lawyer was subsequently disbarred? [LB271]

SENATOR LAUTENBAUGH: Yes, absolutely. [LB271]

SENATOR CHAMBERS: Are you aware of the bar of the Counsel for Discipline ever filing criminal charges or seeking the filing of criminal charges? [LB271]

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SENATOR LAUTENBAUGH: I don't know if that would be the entity to do that, no. [LB271]

SENATOR CHAMBERS: Right, they never have done that. But they found this type of violation and took the action they could take. And that's all that I will ask you. There are many instances, and Senator Lautenbaugh knows them very well, when conduct is engaged in which, if charged, would constitute the commission of a crime. Politicians are often given a break. The mayor of Grand Island, and I hope I got the city right, was found with an alcohol level above the legal limit and they didn't charge him with DUI, a politician. So I guess we say, even though they gave the reading in the paper, that he was not driving with an unallowable content of alcohol in his or her system. I know of prosecutions in Omaha where the same thing occurred. People are given breaks. But because the county attorney acts in a certain way or doesn't does not define what the conduct was that was involved. The federal government has gotten the goods on people and will tell them, and so will local police and the State Patrol, if you will be a snitch, we will not bring charges against you for this crime that you committed, and we know you committed it. And they don't bring charges. So the crime was not committed. He knows better than to go the path he's going, but he expects you not to know. And if he doesn't know, then he's got some learning to do. But the kind of stuff he's talking does not erase the actions of Mr. Phipps that were established, that Mr. Phipps himself apologized for and said he should have done it differently. So I guess Mr. Phipps is lying too. He really didn't do it. He was just acting like he did and apologizing for something he didn't, in fact, do to make people like me feel better. And this is the kind of discussion that happens when a man is loyal to a person and tries to defend the indefensible. But I know what happened. And he can tell me as many times as he wants to that the Earth is flat because Phipps told him it's flat. I will not accept it. They stretched Galileo, as I told you all about, and made him say that the Earth doesn't move. But he knew it moved and, ultimately, he acknowledged it again. There are many things that take place in this society which are not dealt with in the way they should. All of us know that there's a double standard in the judicial system. The wealthy, those with political clout, get away. Before I was forced out of the Legislature by term limits, a fellow of... [LB271]

SENATOR GLOOR: One minute. [LB271]

SENATOR CHAMBERS: ...Senator Lautenbaugh's party named David Hergert became a member of the Nebraska Board of Regents, and he committed some inappropriate acts that I and others felt justified impeachment. The Legislature had the Chairman of the Judiciary Committee retain a lawyer who undertook a study, as he called it, and said that the man had not committed an impeachable offense; that he would, even if impeached, not be convicted by the Supreme Court; and the Legislature had more important things to do than handle that case. And Senator Bourne, who was the Chairman of the Judiciary Committee, treated that like the Bible, like "Parson" Carlson

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views the Bible, and said, we ought to drop it. And I didn't want to drop it. And as a member of the Executive Board, I had said, we need... [LB271]

SENATOR GLOOR: Time, Senator. [LB271]

SENATOR CHAMBERS: And I'm on my closing now? [LB271]

SENATOR GLOOR: Now you would be on your closing, Senator. [LB271]

SENATOR CHAMBERS: Thank you...that we should go forward, so appoint me the head of a subcommittee, which was done. And that subcommittee authorized me to employ an attorney who I thought was capable. So I asked a man named David Domina if he would take the job, and he took it. And he did a great amount of work in a short period of time, and a resolution of impeachment was drafted and I signed it. I was the Chair of the subcommittee. Others signed it. And we had the debate on the floor of the Legislature, and there were people who referred to that earlier report by a lawyer that Senator Bourne had hired and taken so much...placed so much confidence in him. And that was rejected. And the vote on the floor of the Legislature totaled 25 votes, which meant David Hergert was impeached. That is merely an allegation. It's like the charge being filed. And it was sent to the Supreme Court for trial. I and former-Senator Beutler were named managers. And that's what the statute or the constitution says: Two senators shall manage. And we could make any changes in the charges necessary, odds and ends. So when the trial was going forward, Domina wanted to use some of the information that had come from David Hergert in his depositions. He would read the questions, then some of the answers would be given by Senator Beutler, some by me. That's what was arranged. Lunchtime came. When we came back, Senator...Mr. Domina said that, instead of going back and forth like that, he wanted me to read all of David Hergert's parts. I said, fine. So when I was on the witness stand, I was trying to put the kind of inflection into those answers that I thought Hergert would give. And there was some laughter in the courtroom, subdued, respectful, of the kind you would have in the Supreme Court proceeding. And Hergert's lawyer objected and said he would ask the court to instruct the witness not to try, through inflections, to influence what was being given by way of an answer. And the Chief Justice said, we're all capable, I believe, of looking past any inflections and considering the evidence, but I will ask the witness, would you not try to put so much inflection into what you say by way of answering? And I said, well, Your Honor, if you want me to speak in a monotone that's just the way I will speak. I learned that from our Clerk, who gives Final Reading, so I had a good instructor. To make a long story short, David Hergert was convicted; he was kicked off the Board of Regents; he can never hold another position of trust in this state. And that's because I did not accept the notion that what he did was not an impeachable offense. Senator Lautenbaugh said he's stubborn. I don't call mine stubbornness. I call mine determination because my conduct is based on the facts and what I know the law to be. But whether others will see it that way or not will always remain to be seen. I am

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in such a collegial mood this evening that, rather than take this motion to a vote, I am going to withdraw that pending reconsideration motion. [LB271]

SENATOR GLOOR: Seeing no objection...Senator Schumacher, your light is on. Senator Schumacher, are you objecting to the withdrawal? [LB271]

SENATOR SCHUMACHER: No. [LB271]

SENATOR GLOOR: Okay, so ordered. Mr. Clerk. [LB271]

CLERK: Mr. President, excuse me, I have some name adds. Senator Nordquist would like to add his name to LB507, LB625; Senator Sullivan, withdraw to LB637. (Legislative Journal page 895.) [LB507 LB625 LB637]

Mr. President, I have a priority motion. Senator Smith would move to adjourn the body until Thursday morning, April 4, at 9:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until 9:00 a.m. tomorrow morning. Those in favor say aye. Those opposed, nay. We stand adjourned.