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Floor Debate
January 16, 2014

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PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventh day of the One Hundred Third Legislature, Second Session. Our chaplain for today is retired pastor Jack Sample of Wood River Church. Pastor Sample is now residing in Grand Island which is in Senator Dubas' district. Would you please rise.

REVEREND SAMPLE: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Pastor Sample. I call to order the seventh day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: Mr. President, I have a quorum.

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

CLERK: I have no corrections, Mr. President.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or other announcements?

CLERK: I have one item, Mr. President. An appointment from the Governor with respect to the state colleges board of trustees. That will be referred to Reference for a referral to standing committee for confirmation hearing. That's all that I have, Mr. President. (Legislative Journal pages 247-248.)

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

CLERK: LB399, a bill by Senator Lautenbaugh. (Read title.) The bill was introduced on January 18, referred to the Transportation Committee, advanced to General File. At this point I have no amendments to the bill, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you. Senator Lautenbaugh, you are recognized to

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open on LB399. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. LB399 was proposed to me, not by a constituent, but by a citizen of Omaha who serves in a citizen patrol that is authorized by the Omaha Police Department under the Omaha Coalition of Citizen Patrols. The current amber light statute permits the use of flashing amber lights on various vehicles such as military, civil air patrol, or storm spotter vehicles. I think within the last few years we added storm spotters to that list. The Omaha Coalition of Citizen Patrol is comprised of 30 neighborhood patrols involving volunteers who are trained by the Omaha Police Department. Citizen patrollers operate under the endorsement of the Omaha Police Department. Their role is to patrol their neighborhoods in marked vehicles and observe and report to the police or other law enforcement any suspicious activity or anything that appears to be a crime in progress. They are unarmed. Let me underline that, they are unarmed, and under no circumstances are citizen patrollers allowed to confront anyone. They also assist the Omaha police by conducting special patrols on days and nights when foot traffic is the heaviest. They have a rapid response team of volunteers who assist law enforcement when requested in searching for missing adults or missing children and vulnerable adults. This organization has been in existence for 20 years now. For several years, the citizen patrols of the Montclair neighborhood had been using the flashing amber lights atop their vehicles already. This tends to serve two purposes: to let the residents know that the patrol is out and active; it also tends to deter those from criminal intent from acting, especially if they are aware that the citizen patrol is in the area, as they are one step away from a 9-1-1 call and they can see the amber lights on top of the vehicle. A neighbor recently complained that there was no statutory authorization...excuse me, no actual statutory authorization for the citizen patrol to have the flashing amber lights on the vehicle. So I was approached to add this to the statute authorizing such amber lights on such vehicles. This bill provides that the statutory authority would exist to allow police-authorized citizen patrols, like those affiliated with the Omaha Coalition of Citizen Patrols, to use amber lights on their vehicles while on duty and patrolling. I think this is a commonsense, straightforward, cost-free way to allow citizens to protect their own neighborhoods from crime, and I would urge your support of this bill. Thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Those wishing to speak on LB399, we have Senator Chambers. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when I first heard about this bill, a reporter came to me to ask me my opinion and I stated that I'm very much opposed to it. This is not, in my opinion, something that the Legislature ought to be involved in. Everybody wants to play cop. Everybody wants to have symbols of authority. If you are in fact interested in deterring actions and activities by criminals, when you drive around with a flashing light, you let them know where the watchdog is.

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So you just wait until they drive on by, then you do what you want to do and they alert you as to what is being watched, what is not. Let these people drive their cars if they want to as private citizens and behave as private citizens. These are not sanctioned by the Legislature. They're not prohibited by the Legislature. They don't need these lights for any purpose at all. When you look at the statute and see those entities that are allowed to use these types of lights, they are either defined or described in the statute which deals with them. So I'm going to take some time on this bill, and whatever time it takes to get into the record what I think ought to be there I will take it. This is not an innocuous piece of legislation. It is open for discrimination, favoritism, and other things that are unwholesome. There is no definition of what this kind of outfit is. If you look at any of the other entities that are allowed to use these lights there are serious public-affecting activities under way. The first one mentioned is on page 2 where you find a listing and it says the military, not just vehicles of the military department, "while on any state emergency mission." So that doesn't allow somebody in one of these military vehicles who might want to hasten to get a hamburger or something to put on the flashing lights, and people think because they see the nature of the car they've got to pull over and get out of the way. There is a limiting clause when you talk about vehicles of the military department. The next one, "any motor vehicle being operated by any public utility, vehicle service, or towing service or any publicly or privately owned construction or maintenance vehicle while performing its duties on or near the highway." These vehicles generally are of a certain configuration, have other markings, and the public is aware of what the orange, the flashing amber lights are about and what they're for. As I go through this list, you will see every one authorized to use these types of lights have done so and the public is aware of them and what is entailed. The next one, "any motor vehicle being operated by any member of the Civil Air Patrol." I suppose the Civil Air Patrol has marked vehicles. I've never seen one that I'm aware of, but we know what the Civil Air Patrol is. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR CHAMBERS: The next one, "any pilot vehicle escorting an overdimensional load." We've all seen those on the highway. Now they're bringing some of those blades for these wind turbines, and some of them, even what looks like the silo part and you know what that is about, whether the smaller vehicle is in front or behind, and some of them have one both in front and behind. Well, since my time is just about up, I won't try to go through them right now, but I intend to continue this part of my discussion before going into other matters. Thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. (Doctor of the day introduced.) Those wishing to speak on LB399, we have Senator Mello and Senator Chambers. Senator Mello. [LB399]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in

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support of LB399 and the general concept. And without, I think, reiterating a little bit of Senator Lautenbaugh's opening, this was an issue that was brought to me by citizen patrols in my legislative district in south Omaha. The issue of, we've had a longstanding history of very active neighborhood groups that serve as citizen patrol units in various parts of southeast Omaha. And this has been an issue that they've raised in a number of meetings in which last year they raised to see whether or not the Legislature would grant them the authority to be able to do this because they tried and realized it was against state law for them to be able to put an amber light on their vehicle as they were patrolling neighborhoods and trying to prevent crime. As we did our research, we informed that Senator Lautenbaugh had already introduced a bill to do exactly that, which is why I stand in support of LB399. Now Senator Lautenbaugh, Senator Dubas, and myself talked the other day after I spoke with Senator Chambers, and I'm willing to acknowledge that we can probably make some changes to the language in the bill to tighten up the structural aspects of what Senator Lautenbaugh is trying to do. Whether that is trying to focus on the permit process for an individual to try to get the amber light to be able to utilize for crime prevention. Whether or not there's a possibility of making sure there's a waiver they sign on behalf of the city in which allows them to do their neighborhood patrol so that there is not a liability issue as someone puts on an amber light their vehicle. I know that Senator Dubas and the Transportation and Telecommunications legal counsel is looking at some of those issues, and we have to be able, I think, to ferret out some good ideas and bad ideas in the hopes of trying to tighten up LB399. But the general premise, colleagues, is that there are Nebraskans who are willing to provide their time, their treasure, their energy of protecting their neighborhoods. I wouldn't call them vigilantes. I would call them dedicated community volunteers who want to try to protect their neighborhoods. They're not...they're simply going around their neighborhood, seeing if there's suspicious activity, and if there is they call the police. And that's a crime deterrent of trying to make sure that people who may be doing something that could be illegal or is something that is illegal to let them know that there are concerned neighbors who are watching what they're doing. That is the definition of what a community is. And I think it's a value Nebraskans hold very dearly is trying to build community and respect community and appreciate those who are trying to do exactly that. I appreciate Senator Lautenbaugh bringing the bill, LB399. As I mentioned, there will probably be some work on the bill as we move along the process in General and Select, but I'd urge the body to adopt this very commonsense measure that gives a little bit of, I would say, public notice to these individuals who are doing this so that when you're driving around or you're in your neighborhood and you see someone with an orange amber light, very similar in Omaha to Omaha Public Power District or the Metropolitan Utilities District who have very similar orange amber lights, it causes you to pause, it causes you to stop and see what's going on. That, colleagues, I think is a good crime prevention tool and I think it's something that is good public policy, not just for those of us in east Omaha, but I think for the entire state. Thank you, Mr. President. [LB399]

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PRESIDENT HEIDEMANN: Thank you, Senator Mello. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, first of all, you don't need these lights to do what these people are doing. Senator Lautenbaugh said they've been doing this for decades and they don't have these lights. They suddenly decide they want to be semi-cops, so here they are. I cannot help remembering the guy who shot the young black man down in Florida. He's carrying a pistol. Apparently he was licensed to carry a pistol. Maybe these people are licensed to carry pistols. If they are doing busybody spying on people, they can do it without amber lights. Let them drive their cars. And it might be better if they don't have the lights, then nobody who might have evil intentions is aware of who is watching them. I am opposed to the proliferation in this society of symbols of authority that are designed to bring into the mind of the citizen the notion that he or she is under surveillance and is not free to move where he or she pleases without somebody perhaps noting him or her and then notifying the police. Maybe some of these people, and I know some of them, Senator Lautenbaugh, because some black people have been--I don't know what the name of the neighborhood is--they were stopped by the police because somebody in the Neighborhood Watch said a strange person who didn't belong in the neighborhood was driving through the neighborhood, and they might have added something, slowing down and so forth. Well, this person was on the way to the Westroads. And there are parts of what are considered, I guess, a suburban area where mostly white people live, so people such as myself don't belong there. I am going to fight this thing because no need for it has been shown. It's something these people want. If they're volunteers and they're citizens, let them do what they want to do. But don't give them anything that carries the appearance of official authority. Every one of these other items mentioned in this section of statute...personally, I'm surprised that the Transportation Committee sent this thing out here, but I'm becoming less and less surprised as I see the types of legislation that wind up on this floor. I saw Senator Mello's horse racing bill yesterday. So I know that I'm going to earn my little salary this session. And I know these feel-good kind of bills are the kind that everybody will sit back and hope that I will fight it. They know it's not something that ought to be subject...the subject of legislative action. There need not be anything in the statute about this kind of thing. These people get together and decide what they're going to do. But let me go on with some of these others who have authorization under the statute to use these types of lights. "Any vehicle while actually engaged in the moving of houses, buildings, or other objects of extraordinary bulk." You can see the relationship between somebody with these lights and what they're being used for. "Including unbaled livestock forage as authorized by subdivision" then it gives a statutory reference so that everything is a part of the statutory scheme. Either the statute itself describes or defines these vehicles and what they're doing or it will give a reference in the statute. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

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SENATOR CHAMBERS: I didn't understand you. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR CHAMBERS: Oh, thank you, Mr. President. By the way, it's good to see you. He used to serve in the Legislature with me when we both were a bit younger. "Any motor vehicle owned by or operated on behalf of a railroad carrier that is stopped to load or unload passengers." That's clearly understood. "Any motor vehicle operated by or for an emergency management worker as defined in" the sections of statute "a storm spotter as defined in section," and it gives a statute. Then you come up with these people running around here, no definition, do what they do at the whim of a sheriff or a police chief. [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR CHAMBERS: Thank you. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Cook, you are recognized. [LB399]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I rise in opposition to LB399 in its current form just having read the bill but also running it through the filters and the rubric of what is going on on a day-to-day basis in my district. Legislative District 13 is probably one of the most diverse in terms of race and ethnicity but also socioeconomic backgrounds in the state. It has, unfortunately, a great deal of violent and property crime. And the citizens there have sought to address that crime through mechanisms such as Neighborhood Watch, and even in the case of the Miller Park Minne Lusa group through a citizen's patrol. It is my understanding that that citizen's patrol is no longer active. They worked very hard. They did a good job. But when I see a bill like this I really think that it puts my friends and neighbors who would engage in a citizen's patrol activity into kind of a dangerous spot. Colleagues, we're not always dealing with the kinds of neighbors who are inclined to do activity...how about this, the kinds of neighbors who might be inclined to engage in criminal activity, property crime, or violent crime, let me tell you something, they're not going to necessarily be that intimidated by a vehicle with a yellow light on top. And I just have a concern that you are almost putting the citizens patrols, people who are volunteering and working hard in their communities, into a dangerous situation by identifying vehicles. I think it is much more useful and just as useful according to my conversations with law enforcement in Omaha and Douglas County to have neighbors knowing neighbors, being on good terms with their neighbors, and watching out for one another. So I rise in, at this point, in opposition to the LB399 in its current form and would yield the balance of my time to Senator Chambers if he would like to take it. [LB399]

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PRESIDENT HEIDEMANN: Senator Chambers. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President, and thank you, Senator Cook. I'm glad Senator Cook raised that issue because I had said I was going to go through all of these vehicles right now authorized to use these lights, and then go off into other subject matters. Snitching, spying, stool pigeoning are dangerous activities. When you identify yourself with the police, you make yourself a target, not just in north Omaha, not just in south Omaha. There are things happening in west Omaha, things happening in east Omaha. These people show how lacking in understanding they are when they say put a light on my car to let people know I'm a snitch for the police, I'm an informant for the police. When you see me, you see the police. And I don't care what Senator Mello says, what Senator Lautenbaugh says about how great this is and these are civic-minded people. They are not dealing day to day with these serious issues like I am. I was telling you all yesterday about the killing of young children in my community from stray bullets fired by guns in the hands of young black men, and I cannot get the law enforcement people to do anything or show any interest in tracking down the source of these guns and drying them up. That's why I'm against this kind of nonsense. Talk about something that's realistic. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR CHAMBERS: These people who support this kind of legislation, I have no doubt about their good intentions, about their motives, but they don't need this kind of legislation to do it. The Legislature does not need to do this. You don't know what a citizen watch group is. Every other thing in this statute tells you in the statute itself what the ones using these lights are doing. What is an anticrime...what is a crime prevention organization? McGruff who takes a bite out of crime? You going to put that in the statute? A public safety organization. What does that consist of? What are the criteria for somebody to start one of these operations or take advantage of this legislation? [LB399]

PRESIDENT HEIDEMANN: Time, but you are next in the queue and you can continue for the next five minutes. [LB399]

SENATOR CHAMBERS: Thank you, Mr... [LB399]

PRESIDENT HEIDEMANN: This is your third time. [LB399]

SENATOR CHAMBERS: I'm aware and I have an amendment prepared that will allow me to continue and a host of amendments, because this is serious. And people might wonder why I'm talking on all these bills. They're all bad. And after I talk long enough, people begin to pay attention in their irritation. Why is he talking about, then suddenly it

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comes to them and they see it indeed is a bad bill. You all don't read them. You don't pay attention. I have to do the work for all of us, but I'm going to do it because it's my job. And if you bring these bad bills, I will deal with every one of them that comes up. As Senator "Chaos," Coash--he's not here to defend himself so I'll give his name correctly--as Senator Coash indicated and people may not have listened, the nature of that bill dealing with criminalizing the taking or the threatening to take a firearm from a police officer is the kind of bill people would automatically think that I automatically would be opposed to and try to stop. But he said you can work with Senator Chambers if you try, and it's to people's surprise. He had a bill that could be turned into something that would do what should be done. And I supported it. I spoke for it, and I'll do that for other pieces of legislation. How long and how much work did I put in on Senator Mello's manure and urine spillage bill? I worked hard for that bill, but all you all remember is my opposition. Pay attention. Can these people not do what they're doing without this legislation? No. They've been doing it for 20 years, Senator Lautenbaugh said. He didn't come up with this. Somebody came and told him we want these lights on our car. That's not a sufficient basis for us to pass a bill. It might be enough for him to bring it. But we don't have to accept everything that comes across our desk. And I'm definitely not going to accept this one. No criteria for the establishment of one of these. Rather than doing as the Legislature has done with all these other entities, these vehicles, the organizations that they are connected with you'll find in the statute. Who is going to make the decisions here? The sheriff? The police department? Or other applicable law enforcement agency? What is an applicable law enforcement agency? Does it have to be certified? Could it be a group of people who say we go a step beyond what this neighborhood patrol does, therefore we are a law enforcement organization? It doesn't say comprising peace officers or a law enforcement organization as defined such-and-such a place. The sheriff and the chief of police, and I will never consent to giving the sheriff and chief of police plenary authority to do anything, not even to fire employees. So the sheriff likes Senator Lautenbaugh. The chief of police likes Senator Mello. So they can put together this group. They don't like Senator Chambers. So they say, no, you can't have one of these groups. I say, well, I'm going to appeal your decision. Where are you going to appeal it? The statute doesn't give you the right. The statute doesn't put any restrictions or limitations on us. We can do anything we want to do with these. We can create them. We can disband them. We can tell them what to do, what not to do, who can be a member... [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR CHAMBERS: ...and we don't have to have any reason to justify anything we do. So you got another bad bill here brought by somebody who ought to know better. When you're trained in the law, you should bring that training to bear on this kind of stuff that comes before us. He could take care of handling it in court if he was on the other side. It's arbitrary. It's vague. It delegates an overabundance of authority to the sheriff and the police, but also any other law enforcement agency which is not defined. The

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only word that even modifies it is "applicable." Applicable. What is an applicable law enforcement agency? Where do they hang out? Who are members? I guess applicable law enforcement officers, whatever that means. [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Those wishing to speak on LB399 are Senator Bolz and Senator Lautenbaugh. Senator Bolz, you're recognized. [LB399]

SENATOR BOLZ: Thank you, Mr. President. I recently attended a Neighborhood Watch meeting in my district and there was a discussion of a rash of burglaries that happened around the holidays, and folks were getting creative and dressing up as maintenance workers so that they wouldn't be questioned or looked at twice when they were trying to scope out a house to be a target for a burglary. And so the point that I'm getting at is that sometimes symbols make...are not used in the way that they are intended to be used, as Senator Chambers is pointing out. My question or my concern is how will the usage of amber lights be monitored for appropriate use and what would the penalty for not using them appropriately be? And I wonder if Senator Lautenbaugh would yield and help me try to understand the answer to those questions. [LB399]

PRESIDENT HEIDEMANN: Senator Lautenbaugh? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR BOLZ: Senator Lautenbaugh, how will the appropriate use of amber lights be monitored and what would the penalty for inappropriate use of amber lights be? [LB399]

SENATOR LAUTENBAUGH: Well, honestly any vehicle now, I mean, there's a general prohibition against having amber lights on your vehicle. As I stand here I can't tell you what the penalty is for the improper display of lights. I mean, it's a ticketable offense. I suppose any vehicle that is stopped, has lights displayed on top of them, you would have to show that you are an authorized user whether you're a storm spotter or a military vehicle or a house mover or a tow truck or one of these Neighborhood Watch associations when we advance this bill. And you would be ticketed otherwise for an improper light display. I mean, it's not a serious offense, but I mean it is an offense under the traffic laws. I can't remember the specific penalty as I stand here. [LB399]

SENATOR BOLZ: Okay. I appreciate that. You know, I drive a 2000 Honda Accord. If I were a member of the neighborhood association and stuck an amber light on my car I

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could drive around my neighborhood, but so could perhaps someone with less good intentions. And so I just bring that concern to the debate. Thank you, Senator Lautenbaugh, and thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Bolz and Senator Lautenbaugh. Senator Lautenbaugh, you are next in the queue and are recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I hope we're early enough in the day that people are still listening because I want to be very clear about something. I'm not pulling this bill. So resign yourself to a discussion of this bill for as long as it takes. Senator Chambers is correct in one point. This is a bill that was brought to me. This is not something I thought of, and it did not occur to me as a priority. But this represents people in neighborhoods trying to do what they can to protect their own neighborhoods from crime. And crime in Omaha seems to be localized largely in one part of town. And so Senator Mello approached me because he'd been hearing these same concerns and said that's a great bill. I hope it comes to debate this session. And I said, well, it will, but there is an opposition to it. Because we were interviewed by NPR last year when I introduced this bill, Senator Chambers and I were. Senator Chambers told Fred Knapp this is preposterous. No citizen should take on police work. They should not be vigilantes. They should not be snitches and informants. So, understand, we can talk about how we're concerned about crime, but you apparently shouldn't be snitches and informants. You shouldn't tell things to the police. And you shouldn't be vigilantes, even though these people are prohibited from being armed, by the way, prohibited from being armed. What we're talking about here is citizens patrolling their own neighborhoods. And, Senator Cook, if you're under the misperception that somehow this requires people to put lights on top of your car and that would put these people at unnecessary risk, well let me disabuse you of that. This is an option for people who request it at their discretion. This is a tool for people in neighborhoods who want to use it in their own neighborhoods as authorized by police. There's nothing terribly vague about this. And the risks about this, about how somehow this is going to be abused, what is the danger that comes to mind if you see a vehicle in your neighborhood that has yellow lights? Are you automatically going to let that person into your house? Would a tow truck driver somehow have authority to enter your house? Would you let a storm spotter into your house if he said, stand aside I'm a storm spotter, let me in? At some point this session, and this week particularly, we should bring common sense to bear. And I'm hoping today is the day, because it's been in remarkable short supply so far this week, remarkable short supply. And I'm going to stand here all day on this if that's what it takes. And I will not apologize because these evil black-hearted people in these Neighborhood Watch associations want to patrol their own neighborhoods and want an extra tool to let people know somebody is out there keeping an eye on the neighborhood. And they aren't vigilantes. And they aren't snitches in some nefarious way. They're Neighborhood Watch organizations. And, yes, they've been around for 20 years. And, yeah, they're approved by local law

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enforcement. And to stand here and say this could be done in a discriminatory way, well guess what, there's a remedy for that in the courts of law. There's a...tow truck licenses could be granted in a discriminatory way and there's a remedy for that too. Everything could be done in a discriminatory way. That's not a reason for authorizing the underlying policy. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR LAUTENBAUGH: That's a reason for paralysis. That's a rationale for just not doing something that for whatever reason you just don't want to do because you have a sort of a knee-jerk opposition to something. Well, I'm sorry but these people came to me in good faith. This bill came out of the Transportation Committee with overwhelming support, and it just makes good sense. And I'm not willing to turn my back on these people just because there's opposition. Because, frankly, I don't understand the opposition. I've talked to Senator Dubas. I said if we need to tighten up some of these terms somehow to provide some specificity regarding what law enforcement looks at or say these have to be renewed every year or something, fine, so be it. But this is an innocuous thing that would allow these neighborhood patrols an extra tool to just let people know that the neighborhood is being patrolled and give law enforcement a hand. And what kind of a Bizarro world are we in where this is going to be eight hours? [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Mr. Clerk. [LB399]

CLERK: Mr. President, I have an amendment. If I may, some items before we move to that. New bills, Mr. President. (Read LB933-938 by title for the first time.) Your Committee on Urban Affairs, chaired by Senator McGill, reports LB404 to General File with amendments attached. I also have hearing notices from the Banking, Commerce and Insurance Committee. Those signed by Senator Gloor. (Legislative Journal pages 248-249.) [LB399 LB933 LB934 LB935 LB936 LB937 LB938 LB404]

Mr. President, Senator Chambers would move to amend the bill on page 3, line 3, after the period...place a period after the word "department" and strike the remaining matter. (FA163, Legislative Journal page 250.) [LB399]

PRESIDENT HEIDEMANN: Senator Chambers, you are recognized to open on your amendment. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, despite what Senator Lautenbaugh

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has said and implied, it's his bill and I'm going to ask him some questions about it. So I'd like to ask him a question or two with reference to the amendment that I'm bringing if he will yield. [LB399]

PRESIDENT HEIDEMANN: Senator Lautenbaugh, will you yield? [LB399]

SENATOR LAUTENBAUGH: Yes, I will yield. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, what this amendment does, on page 3, line 3, after the word "department" a period would be placed, and that other language which says "or other applicable law enforcement agency" would be stricken. What is "other applicable law enforcement agency" referring to? [LB399]

SENATOR LAUTENBAUGH: Honestly, in the context of the Neighborhood Watch associations, I'm trying to come up with an entity that wouldn't be covered by police or sheriff. I think that was added by suggestion to be sort of all encompassing, but I don't know what police and sheriff would not encompass in an urban setting certainly. So I'm not sure what...I can't imagine the FBI authorizing these things, so I think police and sheriff probably amply covers the field. [LB399]

SENATOR CHAMBERS: So why are you opposed to this amendment? [LB399]

SENATOR LAUTENBAUGH: I don't believe I said I was. [LB399]

SENATOR CHAMBERS: Are you opposed to this amendment? [LB399]

SENATOR LAUTENBAUGH: Well, I haven't seen it yet but if that's all it does I don't know that I really care. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, do you see what I've done already? I am going into the language that was put in the bill by the introducer of the bill. He suggested that common sense ought to rule. I agree. But we have different definitions of common sense. I think common sense would be to person to put language in a bill that he or she understands the meaning of and will be able to explain what purpose is being served thereby. Nobody in Senator Dubas' committee saw fit to do anything about this. I did. Overwhelming support for it. Supporting what? Language that has no purpose and no meaning. Who brought it up? Who would have even discussed this bill? There sits Senator Mello back there. People ask him to jump onto this wagon. So I'm going to ask Senator Mello a question or two if he will yield. [LB399]

PRESIDENT HEIDEMANN: Senator Mello, will you yield? [LB399]

SENATOR MELLO: Of course I would. [LB399]

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SENATOR CHAMBERS: Senator Mello, are you aware of what my amendment would do? [LB399]

SENATOR MELLO: Senator Chambers, I just pulled up your amendment as I'm trying to go through the committee transcript a little bit on the underlying bill. [LB399]

SENATOR CHAMBERS: Well, are you aware of what my amendment states now that you've pulled it up? [LB399]

SENATOR MELLO: I am unaware as I'm just trying to get it here and read it. [LB399]

SENATOR CHAMBERS: Well, let me tell you what it says. On page 3, line 3. Have you got that on the bill in front of you? [LB399]

SENATOR MELLO: Yes. [LB399]

SENATOR CHAMBERS: The words that will be stricken from that line, first a period would be placed after the word "department." Then these words would be stricken, "or other applicable law enforcement agency". You support this bill, don't you? [LB399]

SENATOR MELLO: I do. [LB399]

SENATOR CHAMBERS: What is the meaning of the term "other applicable law enforcement agency"? [LB399]

SENATOR MELLO: Senator Chambers, I think we discussed this yesterday. I do not believe there's a definition of what other applicable law enforcement agency specifically is. One could probably assume that that is maybe the State Patrol. [LB399]

SENATOR CHAMBERS: What do they say about the word assume? [LB399]

SENATOR MELLO: (Laugh.) [LB399]

SENATOR CHAMBERS: Have you talked to anybody? Are you aware of the State Patrol ever having established one of these types of outfits? [LB399]

SENATOR MELLO: No, no. [LB399]

SENATOR CHAMBERS: So you don't really know what's being referred to here, do you? [LB399]

SENATOR MELLO: That's the only...I think my general understanding of law

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enforcement in Nebraska outside of your police, your sheriff, the only other law enforcement agency, I believe, would be your State Patrol. [LB399]

SENATOR CHAMBERS: You don't know what this language refers to, do you? [LB399]

SENATOR MELLO: It's not...I would say that it's...there's not a definition to this specific language. [LB399]

SENATOR CHAMBERS: Then let me ask it a different way. Do you know what this language refers to? [LB399]

SENATOR MELLO: No. [LB399]

SENATOR CHAMBERS: Yet you support the bill, correct? [LB399]

SENATOR MELLO: I do support the bill, and as I mentioned to you yesterday before we got to debating LB399 I thought that language like this needed to be considered in the sense of, I would say, tightening up the legislative intent of what Senator Lautenbaugh is doing under LB399. [LB399]

SENATOR CHAMBERS: I'm going to...thank you, I'm going to paraphrase something Ray Charles sang. This is for Senator Mello. (Singing) Yesterday, all my troubles seemed so far away. Now it seems as though they're here to stay. The troubles that I brought to your attention yesterday are here and you still are not prepared. You know why you're not prepared? Because the words lack meaning. This is what I describe as a bad bill. I tell you all we have a job to do in constructing the language that goes into the statutes and you all don't care and you won't pay attention. Then you get angry at me because I call it to your attention. And I will give Senator Lautenbaugh a chance to go eight hours on it. He thinks I can't do it because I had some bad bills that I had to deal with in the past. I'm like one of those running backs that they talk about in football. The longer and the more often I run the ball, the stronger I get. I find my stride. I find my rhythm. I get in my zone. And my zone right now unfortunately has to be that of a sanitation engineer to clean up this kind of foolish, sloppily-drafted legislation. And I don't care who drafted it. You know what I would want you all to do? If I bring a bill and it has parts in it that shouldn't go into the statute, I'm the first one who wants to know. I do the best I can in crafting language, but I'm not offended when somebody shows me how to improve on it because I constantly try to get you all to pay attention and you won't to the fact that the statute books are the way we give notice to the public. We tell them what they can do and what they cannot do if they want to avoid consequences. And if an ordinary, reasonable, prudent person cannot pick up a statute and understand what it means, and it says reasonable and prudent, so the presumption when you give that formula is that this person is informed in the premises and, nevertheless, cannot understand what it means. Then it's considered vague, indefinite, or overly broad. It

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could mean A or it could mean B. And a statute like that when there are consequences cannot stand, and courts are not reluctant to strike them down. Senator Lautenbaugh wants to be dismissive and say, well, this is just people trying to take care of their neighborhoods. They can do that without this legislation. They've been doing it already. Now they want the accoutrements of quasi law enforcement, semi law enforcement, faux--f-a-u-x--law enforcement. Why do you need these orange lights to drive up and down the street and if you see something, you call the police? I'd like to ask Senator Lautenbaugh another question if he's willing to yield. [LB399]

PRESIDENT HEIDEMANN: Senator Lautenbaugh? [LB399]

SENATOR LAUTENBAUGH: Yes, I will yield. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, where does it say here that these people who are on these citizen patrols are prohibited from being armed? [LB399]

SENATOR LAUTENBAUGH: That's in the policy of the police department that approves them. [LB399]

SENATOR CHAMBERS: If the police department changes that policy and allows them to be armed, they then can be armed and there's nothing in this statute that would prevent that from happening, isn't that true? [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR LAUTENBAUGH: I suppose that's correct, yes. I suppose if the city allowed arming of tow truck drivers they could all be armed too. [LB399]

SENATOR CHAMBERS: But, see, you and I are not talking about tow truck drivers and you're not in court talking to a jury. You're in the Legislature talking to me. And I'll point out that we're talking about what you brought to us and an allegation you made. The reason I say allegation, an allegation is a statement of fact without proof. So I'm giving him a chance to convert it from a mere allegation into a fact. He said that they are not armed pursuant to the regulations established by the police. And I have to acknowledge. I know that. But here's what I'm getting at. The police and the sheriff are given plenary authority to do anything with this they want. That's all I'll ask you now, Senator. Thank you very much. Members of the Legislature, I'm ready to defend the legislative process, the Legislature as an institution, and oppose anything that I feel is being promoted for inclusion in the statutes... [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. [LB399]

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PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Those wishing to speak on LB399, we have Senator Lautenbaugh, Senator Brasch, Senator Chambers. Senator Lautenbaugh, you're recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I wonder if Senator Chambers would yield to a question. [LB399]

PRESIDENT HEIDEMANN: Senator Chambers, would you yield? [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR LAUTENBAUGH: Senator Chambers, you were here when I was on the mike last, is that correct? [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR LAUTENBAUGH: Did you interpret my comments as saying I particularly wanted to go eight hours or that I was willing to go eight hours? [LB399]

SENATOR CHAMBERS: That you welcomed the opportunity and you want to show people how to bring common sense into the Legislature which has been lacking in the last few days. And I assume you felt it was lacking because you were not here. And when you came, that would be the first step toward bringing and restoring common sense to the Legislature. You asked for my opinion, and that's what I'm giving. [LB399]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator Chambers. Well, let me take this opportunity to clarify things then just a tad. What I said was I will go eight hours. I don't want to go eight hours. I think it is the height of absurdity that we're going to go eight hours on this bill. But I will do it. And just so there's no misunderstanding, I don't want to go eight hours so that you can show people you can stand here for eight hours. And just again so there's no misunderstanding, I don't think anybody cares that you could stand here for eight hours or that I could stand here for eight hours. I think we're in the first week of floor debate and people are probably sick of both of us already this morning, which is a record for a session probably. So what I was trying to convey is that I'm not going to give up on this bill just because there's a headwind, even if there's an eight hour headwind, because I don't think this is silly. What I do think is silly is to stand here and say, yeah, it's prohibited by the police now that these people could be armed, but the police could suddenly authorize them to have howitzers and then they could all have howitzers on their yellow light cars, certainly. Omaha could also allow tow trucks to have anti-aircraft missiles on them if they wanted to, I suppose, and they would have amber lights and that would be a huge threat to aircraft patrolling the city. But I think we can trust Omaha not to authorize that. I think we can trust the Omaha police not to

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suddenly authorize citizen patrols to be armed and roving the neighborhood. Again, that was the common sense that I was hoping to bring back here, not because I was gone, but because no one was giving voice to it over the last few days it seemed. I mean, my gosh, folks, read the bill. The inclusive language at the end of the sentence that this is meant to take out probably refers to the State Patrol, which I can't imagine when they would really be authorizing Neighborhood Watches. Fine. Take it out. It doesn't detract. It doesn't add. It doesn't matter. It's not a fatal flaw to the bill. It's not important. Senator Schumacher is going to propose an amendment that says the county attorney has to approve this process. Fine. County attorneys will approve this because guess what? County attorneys understand fighting crime too. And they understand that these groups are not vigilantes and they understand they're not going to be armed and they understand that these are just cars with yellow lights patrolling neighborhoods. And there's no risk here and there's no danger here and it's just another measure of allowing citizens some controlling comfort in their own neighborhoods. And as I said last time in concluding my comments, and I'm not going to aid a filibuster by continuing to comment on this, we are through the looking glass here if we are going to talk eight hours about a bill that authorizes Neighborhood Watches that are authorized by local law enforcement and, if the amendment passes, approved by county attorneys, for crying out loud... [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR LAUTENBAUGH: ...to have amber lights on top of their cars like those other dangerous entities we have out there such as tow trucks and storm spotters. This was going to be consent calendar at one point. This was going to be rolled into a Transportation Christmas tree bill at one point. This was noncontroversial. Again, anything can be used for some discriminatory purpose if that's what you're looking for and if that's what's in your heart. And there's always a remedy for that whether in the courts or otherwise. We all know that. And if you don't like something just say I'm going to oppose this because I don't like it and I'm going to vote no. But I'm not going to give up and turn my back on these neighborhood associations just because there's opposition. And I apologize to all of you if this takes a lot of time, and I apologize to all of you if this seems inconsequential where you live, but it's not inconsequential where I live. [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Senator Brasch, you are recognized. [LB399]

SENATOR BRASCH: Thank you, Mr. Speaker, and thank you, colleagues. I did want to stand and rise in support of LB399. I serve on the Transportation Committee. And for

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those of you who have not pulled up the transcript and read the reasoning and the request for this legislation, to refresh my memory, I read through and it was the sheriff in Washington County, which I represent, and he gave an explanation of the purpose and the benefit of these citizens who patrol here for the safety. And the person that testified is Chris Costantakos. I'm not sure how to pronounce the last name, but he's the vice president of the Omaha Coalition of Citizens Patrol. And he said that the citizens are trained by law enforcement officers, a combination of police officers, OCCP trainers, and they become the eyes and ears for law enforcement. And what the purpose is, if they see suspicious activity, they will pick up their phone and they call 9-1-1 to report the suspicious activity and that the police will sort it out. So it's considered a soft deterrent to crime. And it has been effective. What they're trying to avoid is that when a citizen, an example would see a green car driving slowly through their neighborhood or parked at certain locations and there is no identification or a magnet that they can't see at night, the citizen can rest assured that it's someone there to watch them, an identifier. And it will avoid that citizen calling 9-1-1 and saying, hey, the same green car--and I'm quoting--has been driving by five times now. Many times we have mentioned that on the front door here of the Capitol it says: The watchfulness of the citizens is the salvation of the state. That applies to the work we do here and I believe it also applies to our communities. We need to recognize that the tools our community believe in their experience, and they have 20 years of experience in this, that this would be beneficial. It just so happens over 20 years ago I, too, am a graduate of a citizen's police academy. I spent weeks studying different sections of potential dangers, went to the shooting range with fake guns, went with officers and went through all their tools on a ride along. Most recently I went on a ride along with the State Patrol. They can't be everywhere. Our officers do work at high risk. And when the community can be watchful, which they should be, which that is their homes they are protecting, I believe that we need to listen and to be responsive to that as well. I am also very concerned about Senator Chambers calling out...and if I'm incorrect, he has a concern about people reporting crimes. Senator Chambers, would you please respond to a question? [LB399]

PRESIDENT HEIDEMANN: Senator Chambers, will you yield? [LB399]

SENATOR BRASCH: Or yield, thank you. [LB399]

SENATOR CHAMBERS: If she doesn't have her gun on her. [LB399]

SENATOR BRASCH: Senator Chambers, I am not armed. I do not have a concealed weapon. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR BRASCH: But my question is, are you encouraging citizens not to call in information, that they are snitches, or I don't know what words? But I know the Omaha

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and the media is reaching out for people to help identify those who may have been responsible for the shooting, unfortunate, tragic shooting that took place yesterday. They're asking people to step forward. Are you opposed to that? [LB399]

SENATOR CHAMBERS: If that's anything other than a rhetorical question it's unworthy of my answering. With all the things I've said on this floor even yesterday, for you to ask a question like that places it outside the realm... [LB399]

SENATOR BRASCH: Would you encouraged citizens to call in? [LB399]

SENATOR CHAMBERS: ...of rational discussion. [LB399]

SENATOR BRASCH: There's many people who watch this and hang on every word, and my concern is that I would like to encourage people... [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR BRASCH: Thank you. Thank you, Senator Chambers. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Brasch and Senator Chambers. Senator Chambers, you are next in the queue and are recognized. [LB399]

SENATOR CHAMBERS: Thank you. Now I would like to reciprocate. Senator Brasch, I'd like to ask you a question for clarification. [LB399]

PRESIDENT HEIDEMANN: Senator Brasch, will you yield? [LB399]

SENATOR BRASCH: I will yield. [LB399]

SENATOR CHAMBERS: You said that you were a graduate of the citizens watch program, is that correct? [LB399]

SENATOR BRASCH: It's called...it was called, it's been 20 years, the police academy where we did have a week-by-week training of how to solve problems. [LB399]

SENATOR CHAMBERS: But here's what I'm getting to. I don't want to make you answer more than I'm asking. [LB399]

SENATOR BRASCH: Alright. [LB399]

SENATOR CHAMBERS: Did it do similar things to what is being discussed here today? [LB399]

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SENATOR BRASCH: It was to benefit the communities where we... [LB399]

SENATOR CHAMBERS: But here's what I'm asking... [LB399]

SENATOR BRASCH: Yes. [LB399]

SENATOR CHAMBERS: ...because my time. Did it do the types of things that Senator Lautenbaugh is discussing here today that this citizens volunteer group will do? Did it...is that what was being done when you were involved? [LB399]

SENATOR BRASCH: That was the purpose. My... [LB399]

SENATOR CHAMBERS: Why did you go to the shooting range if this is the kind of thing you were doing? [LB399]

SENATOR BRASCH: They were helping us to see the type of...I was not shooting, it was to help us understand why we call law enforcement in to assist but we...so we can help identify dangerous situations. [LB399]

SENATOR CHAMBERS: Okay. Thank you. You gave an answer. Members of the Legislature, Senator Lautenbaugh is as nonsensical as anybody I have ever dealt with. He's the one who talked about common sense. He doesn't listen to the way I phrase questions. I asked about a firearm. So he jumps from a firearm to a howitzer, and anti-aircraft gun on the top of a tow truck. He thinks you all are stupid and he thinks he can play you like he plays games in court. But this is the floor of the Legislature and I'm going to keep discussing this issue. And remember the amendment that I have deals with language that Senator Lautenbaugh put into the bill and he doesn't know what it means. Then he's going to tell you all that when I use the term firearm, which is defined in the statute, that I'm somehow telling you all about howitzers and anti-aircraft guns that can menace aircraft. That is so silly. That is what's silly. That is what's simpleminded. That is what's lacking in common sense. And I will stay on this floor and I will not apologize to anybody for what I'm doing. I'm going to do it and do it and do it to death. And if he doesn't want to stay on the floor eight hours, it's within his power to see that that's not done. This is bad legislation. The very first amendment that I offer dealing with his language he doesn't know what the language means. I don't know whether you'll support the amendment or not. But that doesn't make any difference to me. If I left that language in, it would just make the bill more nonsensical. He has already told you he doesn't know any so-called or supposed applicable law enforcement agency. He doesn't even know what that applies to. But you all are going to go for it. He thinks I should just be quiet and let this bad stuff get into the statute. Do you all want to put into the statute language that you don't know what it means? I would like to ask Senator Lautenbaugh a question. [LB399]

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PRESIDENT HEIDEMANN: Senator Lautenbaugh, will you yield? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, did you attend the hearing on this bill, the public hearing on this bill? [LB399]

SENATOR LAUTENBAUGH: Honestly, it was last year and I specifically don't remember introducing this one or not. [LB399]

SENATOR CHAMBERS: Are you familiar with the name Chris Costantakos? [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Is that a man or a woman? [LB399]

SENATOR LAUTENBAUGH: It's a woman. [LB399]

SENATOR CHAMBERS: Thank you. I'd like to ask Senator Brasch a question. [LB399]

PRESIDENT HEIDEMANN: Senator Brasch, will you yield? [LB399]

SENATOR CHAMBERS: Senator Brasch, did you attend that hearing? [LB399]

SENATOR BRASCH: I did attend the hearing. I'm on the Transportation Committee. [LB399]

SENATOR CHAMBERS: Then why did you refer to Chris Costantakos in the masculine? You said he said and so forth. You didn't see this person actually testify? [LB399]

SENATOR BRASCH: I did not know that person. I saw that person and I used the transcript to refresh my memory. I do apologize to Ms. Chris. [LB399]

SENATOR CHAMBERS: That's all I wanted to know. Thank you. Here's all I'm doing. [LB399]

SENATOR BRASCH: Good point. [LB399]

SENATOR CHAMBERS: You have people supporting this bill and telling you what should be done. You have somebody quoting a person who was at the committee

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hearing. That person was a woman. I know the woman. I worked with her on issues before. She's a lawyer. She works in juvenile matters. [LB399]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Chambers. Senator Bloomfield, and then Senator Cook, Lathrop, and Chambers are back in the queue. Senator Bloomfield, you are recognized. [LB399]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, Senator Chambers was right when he said that I...most of us, and I guess I can only speak for me, I would have passed this bill without a second look. I think that line that he has questioned probably needs to come off of the bill. But the thing that has drawn my attention to it more is what Senator Bolz said. Any one of us or anybody in the public can go to Walmart and buy an amber light, stick it on your car. If you drive through the neighborhood, that green car that has now driven by your house five times may not necessarily carry someone with good intentions. It may carry somebody that is casing that house, and that gives me a little pause and I will continue to listen. But I have not made my mind up on the bill now that I would have earlier pretty much automatically voted for. Thank you. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield. Senator Cook, you are recognized. [LB399]

SENATOR COOK: Thank you, Mr. President, and good morning again, colleagues. I rise in support of FA163. And I would like to reinforce the ideas that I tried to communicate earlier about what I am observing as a resident and citizen in my district and in particular parts of my district. A couple of years ago many of you remember my little sports car that I came to the Legislature with, the Mini Cooper. Her name was Mini Me. One morning I woke up and looked outside and Mini Me's window was broken. And our parking lot had been victimized many, many times by what turned out to be a couple of young people, kids about 14 years old. What we did in our building was to observe, report, do our own patrolling. I remember coming home one night and seeing two young men looking in car windows in the dash behind the garbage dumpster. I did my part as a citizen with my cell phone. Certainly don't want to engage two young people at 2:00 in the morning about anything. So I think as a citizen legislators we should put ourselves in the position of a typical citizen or resident. We are not trained law enforcement officers, active or retired. I think that this legislation as it's drafted now takes us in the direction of deputizing people in kind of, it invokes for me images of Wild West justice. So...and that might be a little bit of a dramatic image, but I just wanted to paint that image and offer my personal perspective and my perspective as a legislator. I don't really think we need to offer this even as an option, Senator Lautenbaugh. I recognize now that it is a "may" provision for our citizen patrols at this time. With that, Mr. President, I would yield the balance of my time to Senator Chambers. [LB399]

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PRESIDENT HEIDEMANN: Senator Chambers, if you wish you have 2 minutes and 46 seconds. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Cook. And I'm going to continue hammering because Senator Lautenbaugh is the one who keeps wanting to dismiss what I'm doing as insignificant. You know why? He want's to deflect attention from the fact that the very first amendment I offered dealt with languages in his bill which he doesn't have a reason for putting in there because it has no meaning. Then Senator Brasch gives a strong agreement with the bill and yet what she was doing was going to the shooting range whether she shot or not. We're supposed to be talking about people who are not going to be armed. Be that as it may, she did not realize that a person who testified was a female and referred to that person as he. People need to watch what they say. I listen better than they think I do. And they're the ones who are leading you down this path. But I'm going to fight this bill. I don't care if it takes eight hours. Eight hours on this bill is another day gone from the sixty, and you think that makes me any difference. He said that you're sick of both of us. I tell him like that person in history said, speak for yourself, Senator Lautenbaugh. Speak for yourself. He sees things not as they are, but as he is. He has reason to think people are sick of him, and he might be right. But he wants to always draw somebody else into it. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR CHAMBERS: He says it's absurd to go eight hours on this bill, but he's prepared to be absurd. Then I own him. If what I'm doing is making us go eight hours and what I'm doing is creating absurdity, I force him to be absurd. I own him. Now he's going to say, he doesn't own me. But watch as the day progresses and you see since he brings it up that way, in that context, let us see who's in control here. Senator Lautenbaugh or Senator Chambers? And you just listen to the debate, listen to the issues that are raised. Anything that a sheriff says comprises one of these outfits is sanctioned by the statute without knowing what that sheriff will say. The same for any police chief. They write in their regulations and that becomes sanctioned by statute and it has the force of law. We don't delegate that kind of authority to anybody. And I think you need to consider what is being done here. If I warn you... [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Lathrop, you are recognized. [LB399]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I am...I stand in opposition to LB399 and I'd like to express my concerns for why. If we

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stop and think just for a second about what the point is of putting flashing lights on any car besides a police car, there's probably one of two reasons. One might be safety. Right? We do it for tow trucks. Tow trucks are on the side of the interstate. Cars are passing by. People need to be alerted to the fact that they're there. They're not expressing any authority of the state. Those flashing lights tell us that we must be careful, there's something going on that's unusual on the side of the road. The same is true with sand trucks and gravel trucks that move around during snow storms. The other reason though is to give some appearance of authority, some appearance of authority. So if we are going to allow citizen patrols to have a flashing light, is it because they are...is it a safety issue or is it to give them the appearance of some authority? I don't think we need to do this to make those folks more safe. In other words, I don't think the risk here or what we're trying to address with the bill is to make sure they're not rear ended as they move slowly through a neighborhood, but to give the appearance of authority. That's where I get a little concerned. I have, over the years, taken a lot of depositions and a lot of depositions of law enforcement. Right. Every time we start out with, tell us, officer, after you were accepted to the police force what training you've had. They all go out to Grand Island law enforcement academy and spend at least a month there. They spend a month there because somebody needs to train law enforcement about when they can pull somebody over, what they can do, what the limits of their authority are. But when you give a guy a flashing light, and by the way he may have a concealed carry permit, now he has the appearance of authority in the neighborhood. And we're probably imagining that that guy came from the same neighborhood, but that's not required. He may be a guy from western Douglas County who's decided to volunteer and patrol in eastern parts of Douglas County and Omaha. That should cause you a lot of concern. We have law enforcement officers trained who have experience and still fumble with the challenge of patrolling in Senator Chambers' district. Now if we had people that had a flashing yellow light and now they're going to give the appearance of some authority, perhaps have a concealed carry permit, and travel in an area that they're not familiar with, among people who they do not understand, that should cause us concern. The first thing I...I was listening to the debate and I thought I wonder if they're going to bring up Trayvon Martin. The guy got acquitted so I'm not going to try to say that that was the wrong thing to have happened, but it illustrates something. It illustrates something that when you give somebody some appearance of authority and they don't have the training that Omaha police have, that state troopers have, that the people that have the red and the blue lights on top of their car have, you're inviting a problem. If this bill doesn't pass, it won't stop these people from patrolling. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR LATHROP: They can go by your house. They can go do...they can do something. But they're not going to give the appearance of some authority. Right? So they're going to go around in a car after they've been through the training, and when

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something comes up, they're not going to get out of their car with a flashing yellow light and ask somebody to stop and answer a few questions. Right? When that persons thinks this guy has got a flashing yellow light, I'd better stop and answer his questions. Or maybe he says--I'm not going to do it--and now we've got a fight or a confrontation. These folks can still patrol without this bill. They can call the police when they see something, which is what we hope they do. And we avoid the appearance of giving them authority to do any law enforcement function that generally requires a month of training at the law enforcement academy. I'd really encourage you to think about those considerations and not support LB399. Thank you. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers...Senator Lathrop. Excuse me. Senator Chambers is up next. This is your last time and then you'll have an opportunity to close. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm glad that Senator Lathrop put into the record what he did, regardless of what happens to this bill. But the kinds of things he was bringing to you in a very measured, moderated tone and manner are the things that I've been trying to get across. I know you don't pay much attention, so I have to get your attention. But the words are what are important. Senator Bolz made her comment and Senator Bloomfield kind of tailgated, anybody can put this light on their car, anybody. There are people, which naive people on this floor will not believe the next thing I'm going to say, there are people right now who pose as police officers. Some have put flashing lights in their grill, because they won't put the cherries on top or put a bar with lights on top, but they'll pull up behind a car, and it invariably has a woman, and they'll flash these lights in the grill and pull her over. And they'll have a badge. Some even have something that looks like a police uniform. And bad things have happened to women because of people posing as police officers. There are restrictions on how these rent-a-cop cars can be decorated to keep them from being easily confused with a police car. There are people in law enforcement who are well aware of the wrongdoers out there. And to suggest that because I'm warning a person that you can set yourself up as a snitch is to jump from that to saying I don't think people ought to cooperate with law enforcement is irrational. It is a position that is totally unintelligible. But I cannot take my time swatting at every mosquito that buzzes. People recognize mosquitoes and they will accord sufficient weight to that mosquito and what it's doing. But what is before us, remember, is an amendment, and the amendment is to strike some words from this bill and those words are unknown to any statute in the world. Those words are "applicable law enforcement agency." Ask any police officer what that means. Ask anybody who is a certified or sworn officer of the law what "applicable law enforcement agency" means. It means nothing. It's a stranger to the statute. And now for the lecture. If you are introducing a new term totally unknown to the statutes and you think that that is the only term that will convey the message you want, then you say, "For purposes of this provision" or "this section" or "this law," if it's a comprehensive presentation, "this term means." Then you know. I don't know if Senator

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Lautenbaugh is the one who actually sat down and wrote this language, but as a lawyer, he knows that whatever a lawyer signs his name to, the lawyer is responsible for what is in that document. [LB399]

PRESIDENT HEIDEMANN: One minute. [LB399]

SENATOR CHAMBERS: The code of professional conduct uses the term "knows or should know or should have known," and that simply means that a prudent attorney will inform himself or herself of the facts and act accordingly. So even if the attorney has not done that, culpability will be attached to the lawyer if there is something that ought not to have been done but was done, and he cannot say, well, I didn't understand it because I didn't check it out. And Senator Lautenbaugh knows these things. He's got to be some kind of competent lawyer or he wouldn't be continuing to practice, and that's why I can go after him like I do. You all needn't feel sorry for him. And maybe some of you all will be deterred by him saying, when you said "firearm" in this limited context that you're talking about a howitzer on a utility truck and an antiaircraft gun... [LB399]

PRESIDENT HEIDEMANN: Time. [LB399]

SENATOR CHAMBERS: ...on a tow truck. Thank you, Mr. President. [LB399]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Brasch, you're recognized. [LB399]

SENATOR BRASCH: Thank you, Mr. Speaker and colleagues, for allowing me this opportunity to address the body again. And Senator Chambers has given us so many valuable lessons and information and tools that we can work with here as colleagues, and I am thankful to him for that fact. I did not remember the person that testified. I did not know that person. If Senator Chambers...he does know them, I'm just curious if he would have remembered everyone in his committee that comes before them, their genders, based on the last name alone. Senator Chambers, would you yield to a question? [LB399]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Senator Chambers, would you yield? [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR BRASCH: Last year, we had a...I brought a couple bills before Judiciary and you had a very long day. We were at the very end of the evening and we had several people testifying that evening. And can you clearly remember how many men and women came forward to testify after your committee hearings? [LB399]

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SENATOR CHAMBERS: If I raised the issue on the floor, I certainly would know how many. [LB399]

SENATOR BRASCH: You would know? Okay. A question I have is, you know, one of the people that came into the committee hearing, their last name was Wattermann. Can you tell me if that was a man or woman? [LB399]

SENATOR CHAMBERS: Say it again. [LB399]

SENATOR BRASCH: Wattermann. [LB399]

SENATOR CHAMBERS: Senator Brasch, I might sound like I'm patronizing. [LB399]

SENATOR BRASCH: No. No. [LB399]

SENATOR CHAMBERS: You brought up the woman's name; I didn't. [LB399]

SENATOR BRASCH: Okay. All right. [LB399]

SENATOR CHAMBERS: Nobody did. If I bring up somebody's name who testified before the committee, that person left an impression on me and I will know whether it was a man or a woman. And if I quoted that person, I could tell you more than just the name. I could tell you what that person said and probably even describe what they were wearing and how they combed their hair or even if they had hair. I actually draw portraits of people who make an impression on me while I'm at the committee hearing. [LB399]

SENATOR BRASCH: Thank you. And off the floor we'll...I'll try to ask for more of your methods to remember those who testify with us. But the words do have meaning and the people do have meaning. And I have read the transcript and details. Have you read the transcript and the explanation of why she believed it was so important? Did you read the transcript? [LB399]

SENATOR CHAMBERS: I don't read the transcript of all these bills that come before us. No, I didn't read this one. And you could ask me about any other bill that comes up and I'd tell you again, no, I didn't read it. I'm expecting the people who were on the committee to inform us, and that's what their job is. And if somebody hasn't told you that, I'm fulfilling the role of a mentor. You all are to bring information and inform us, because we cannot cover every bill and sit in on every hearing. [LB399]

SENATOR BRASCH: Thank you, Senator Chambers. And I just also wanted, because you have not read the transcript, is the value in what they are doing is immense. In here

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it also talks about they are, this group of people, they are called out on citywide searches to look for missing juveniles, children, missing vulnerable adults. And they perform an important role where there is not a violent crime being committed, but they're helping, and that there are over 300 individuals that are willing to take up of their evenings, days, their available time to help these individuals. And when they have come to us... [LB399]

SENATOR GLOOR: One minute. [LB399]

SENATOR BRASCH: ...asking for an ability that people may reasonably, you know, identify their vehicles to prevent more calls, this is what, you know, I believe we need to support in some way possible. I have no other comments or questions. And I do ask the body to, you know, pull up the transcript and see the compelling experience that has been brought to our committee. And the purpose, not frivolous, is for the benefit of everyone, not just those who volunteer to assist others. Thank you, colleagues. Thank you, Senator Chambers, for your suggestions. [LB399]

SENATOR GLOOR: Thank you, Senator Brasch and Senator Chambers. Chair recognizes Senator Smith. [LB399]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I am on the Transportation, Telecommunications Committee, so I just wanted to kind of talk a little bit about what my reasoning was and what I recall from that hearing. And I really do appreciate Senator Lathrop's remarks. I thought he brought up some good points in his time on the microphone, as has Senator Chambers and Senator Bloomfield and Senator Bolz. As we were listening to the testimony in that committee, I recall my concerns were that we had instances of vehicles moving through neighborhoods, repeatedly through neighborhoods, and moving slowly through neighborhoods, and that there were concerns by...possibly concerns by citizens that what the purpose of these vehicles moving through these neighborhoods were. And so...and I recall there was some questioning back and forth about identification of these individuals and their vehicles, and that the vehicles were identified by markings, but that sometimes after dark those markings could not be seen, and so the lights would somehow complement the identification of these folks as neighborhood patrol. It certainly was not my intent that these folks moving through the neighborhoods would exhibit any type of authority. I don't...we certainly don't want that and that was not the purpose, in my mind, of supporting this bill coming out of committee. And again, I appreciate my colleagues that have brought forward some questions about the bill. I do think that those need to be weighed based on their merits. And I just want to let everyone know my position on the bill and why I supported it coming out of committee, and how I viewed the use of those amber lights. Thank you, Mr. President. Thank you, colleagues. [LB399]

SENATOR GLOOR: Thank you, Senator Smith. There are no senators waiting to be

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recognized. Senator Chambers, you're recognized to close. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, it seems that Senator Brasch and I will have a few conversations. So if she is here, I would like to ask her a question. [LB399]

SENATOR GLOOR: Senator Brasch, would you yield to a question from Senator Chambers? [LB399]

SENATOR CHAMBERS: Senator Brasch,... [LB399]

SENATOR BRASCH: I yield. [LB399]

SENATOR CHAMBERS: Oh, you're there? [LB399]

SENATOR BRASCH: I yield. I am here. I was at the side. [LB399]

SENATOR CHAMBERS: Now when you were speaking and referring to the transcript, you mentioned various worthy activities that these people, in whatever group it was, was represented at the hearing, laid out. Here's the question that I ask you. Which one of those activities could they not do without these lights? Let me ask it a different way. If we don't pass this bill allowing them to put these lights on their cars, what are the activities they could no longer engage in? [LB399]

SENATOR BRASCH: They could engage in all of them, but it offers piece of mind to those who see their presence. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, this is unnecessary legislation, once again. Now how much time do you want to spend on me taking the time, based on a presumption that you'll pass this, to craft language that would tighten the absolute discretionary authority of sheriffs and chiefs of police to approve of these activities, these organizations, and how they operate and whether they can operate? Should they have to write all this out and submit it for approval to a committee of the Commission on Law Enforcement of the state? Should they have to submit it for approval to the head of the State Patrol? You don't have any idea, from listening to Senator Brasch or Senator Lautenbaugh, what these rules and regulations are that these sheriffs and police chiefs have put in place, any sheriff. And unless there is a sheriff serving more than one county, 93 sheriffs. I don't know how many police departments there are, but each one would have a chief. All of them could have different, even conflicting rules, regulations. There is no definition of anything. There are no criteria relative to any of the activities, and there is no statement of what the activities are, nothing. And the only reason we can be told that this should be done is so that people will see these lights and have a sense of comfort. What people? This bill, with

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what it's attempting to do, in no way enhances what these groups are doing now. Failure to put this into the statute is not going to hinder anything they do. But what is the downside? Senator Bolz brought it up. Anybody could put one of these or some of these lights or a light of this description on his or even her vehicle, and that is, as I said... [LB399]

SENATOR GLOOR: One minute. [LB399]

SENATOR CHAMBERS: ...and as Senator Lathrop said again, that appearance of authority. And there are people who misuse these types of things. And the person misusing it doesn't have to be a member of any of these Neighborhood Watches. Just go buy the light and stick it on your car and there you go and away you go. And if people have been conditioned to think that this is somebody who is their friend and the person comes out of the car and knocks on the door, why should the person in the house not answer the door? You have given the impression that this is somebody the police chief and the sheriff approve of; they're the eyes and the ears of the police. They probably are going to inform you to take precautions in your house because they may have seen something as suspicious and they want you to be on the alert. And this could be Jack the Ripper. This is not wise. Mr. President, I will ask for a call of the house. [LB399]

SENATOR GLOOR: Thank you, Senator Chambers. There's been a request to place the house under call. The question before us is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB399]

CLERK: 21 ayes, 0 nays, Mr. President, to place the house under call. [LB399]

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 Haar, Sullivan, Lathrop, Ken Haar, Conrad, Krist, Lautenbaugh, please return to the Chamber and record your presence. Senators Lathrop and Krist, please return to the Chamber and record your presence. Senator Krist, please return to the Chamber and record your presence. Senator Chambers, all members are accounted for. How would you like to proceed? [LB399]

SENATOR CHAMBERS: I'll take a machine vote. [LB399]

SENATOR GLOOR: Members, the question before us is the amendment to LB399. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB399]

CLERK: 30 ayes, 9 nays, Mr. President, on adoption of Senator Chambers' amendment.

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SENATOR GLOOR: The amendment is adopted. Mr. Clerk, items for the record? Raise the call. [LB399]

CLERK: Thank you, Mr. President, new bills. (Read LB939-947 by title for the first time, Legislative Journal pages 250-251.) [LB939 LB940 LB941 LB942 LB943 LB944 LB945 LB946 LB947]

Mr. President, the next amendment I have to LB399 is by Senator Schumacher, FA164. (Legislative Journal pages 251-252.) [LB399]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Schumacher, you're recognized to open on your amendment. [LB399]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Nebraska is a big state and there are various different communities and various different interests and various different forces that have to be weighed in how we effectively administer our laws. Senator Lautenbaugh introduced a bill, which was apparently promoted by people who are interested in law enforcement in some communities. Apparently sufficient interest in the allowing of the use of these amber lights existed that the Transportation Committee chose to advance it to us. So we have an interest in possibly using these lights to assist law enforcement. Senator Chambers, as he always does very aptly, pointed out the problems with the language, in fact, even with the concept, that it might really be a bad idea in some areas or maybe most areas. Senator Lathrop very eloquently laid out some of the policy concerns between public safety and between the appearance of authority when balanced against the possible other issues involved here. What this amendment tries to do is accommodate those particular positions, and I have to agree that if you have a situation where a sheriff or the police chief in one city authorizes it, is that vehicle authorized in the next city? Is there a pressure on the police chief in the other city to say, well, I got to do what the other guy did? So this is a simple attempt to solve this issue and maybe move us on today. And what it says is that the decision and the rules by which these lights are used and who is...what organizations are authorized to use them rests with a powerful elected official in our county whose responsibility it is to be the chief law enforcement officer of the county. I can think of no better place to put the discretion to use or not use these types of lights than in the county attorney's office. If I had to guess, based on my experience as county attorney, very few county attorneys will find this to be a valuable use for law enforcement, but some might. And that should be their decision, not the decision of those of us here trying to speak uniformly that this shall be or this shall not be. They may have some use some places. So this amendment says, "any motor vehicle when operated by,"--an iPad that just flipped off--"any motor vehicle when operated by a registered member of a public safety or crime prevention organization which has been authorized to use such

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light or lights under such terms and conditions and within such area as determined by the county attorney of the county where the use occurs." A registered volunteer member is a person approved by a majority of the membership of the organization--you just can't say I'm a member of that outfit--and who is registered with the county attorney. I think this is an effort--I throw it out here as an olive branch--an effort to accommodate the various needs and to make some sense out of where these lights might be used. This should be a question of whether or not this is a tool useful to law enforcement that is left in the hands of the chief law enforcement officer of the county, somebody trained in law, somebody knowing how to put restrictions on the use of these things if he or she should choose to authorize their use, and somebody with the authority and clout to pull the plug on something if it is being misused in any way possible. This is where it belongs. And if we're going to do this and if we're going to facilitate these things as a tool of law enforcement, this is...the county attorney's office is where this belongs. And I'm really sure that the county attorneys across the state really will appreciate this responsibility and power and probably really will like me for suggesting them for this job. Thank you very much. [LB399]

SENATOR GLOOR: Thank you, Senator Schumacher. Members, you've heard the opening on the amendment to LB399. We move to floor debate. Senator Brasch, you're recognized. [LB399]

SENATOR BRASCH: Thank you, Mr. Speaker, and thank you for your thoughtful amendment. I will review it. I did want to add a little clarity to who these volunteers are. They are issued an identification card by the police chief. It's described as being plastic, looking somewhat like a credit card. And this organization is also a part of the Citizen Corps, which is ultimately a part of the Homeland...Department of Homeland Security. They also have criminal background checks, for any senators believing there could be problems of impersonation. And each trained member, I stress the word "trained," does have an identification card and they have been trained as a citizen patroller. They also have an identifying T-shirt that they can choose to wear, but they must be trained. They must have a criminal background check. And they must be able to identify themselves. They have been very instrumental in many searches. There are 30 such of these citizen patrol organizations within the city of Omaha and have been proven to be very valuable in the assistance of law enforcement. I would like to yield my time to Senator Lautenbaugh. [LB399]

SENATOR GLOOR: Senator Lautenbaugh, 3 minutes 23 seconds. [LB399]

SENATOR LAUTENBAUGH: Thank you, Senator Brasch. And Senator Schumacher did bring me his amendment prior to introducing it, and I think it's a good, commonsense compromise. I trust the county attorneys to approve regulations for these people who would be so authorized just as surely as I trusted the police departments. I think we would come up with the same thing. And again, our experience in Omaha has been

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they have IDs. They have background checks before they're authorized to be part of these patrols. I want to address a misperception that one of the members brought to my attention. He thought that anybody can have amber lights now and this would just restrict it to neighborhood patrols. That's not the case. Right now you're prohibited from having amber lights on your vehicle unless you are in one of these classifications: storm spotters, tow truck drivers, home movers, that kind of thing. This would just add another group of possible authorized people, Neighborhood Watch people. Again, it does not mandate it. It does not mandate that any Neighborhood Watch use it. But again, going back to the amendment, I think Senator Schumacher has put forth a very reasonable compromise that would make this applicable statewide. And again, I'm familiar with Omaha. That's where I'm from. That's where this was brought to me from. That's where the Neighborhood Watch groups that I'm familiar with exist, same with Senator Mello. That's where this is coming from, from our perspective. Senator Schumacher has taken this and crafted an amendment that would give it more of a statewide feel to it and possible statewide applicability with a lot more clarity, I think, as far as the statewide elements to it. And we trust our county attorneys with life and death decisions, literally. I think we can probably trust them to come up with a rational program about who might have an amber light on top of his or her vehicle. I can't put it any plainer than that. I urge you to support this amendment. I urge you to support the underlying bill. Thank you, Mr. President. [LB399]

SENATOR GLOOR Thank you, Senator Lautenbaugh and Senator Brasch. Senator Ashford, you are recognized. [LB399]

SENATOR ASHFORD: Thank you, Mr. President and members. In my past life, I spent three years as executive director of the Omaha Housing Authority, and I had the unfortunate occasion from time to time to go to the scene of shootings and...after they happened, and to witness and observe the horrific nature of drive-by shootings and street shootings that occurred in some of the areas of OHA. On one occasion, I recall there was a shooting on 29th and Burdette at the Pleasantview public housing units, where a little girl was shot in her bed through the wall of the apartment. I understand this morning that Governor Heineman decided that he would--which is fine--criticize me for being soft on crime the day after the shooting of a five-year-old little girl in my community. Those kinds of comments in the public arena, when we are trying, all of us, to work together to do our best to keep the public of our state safe and safer, we'll have plenty of discussions and debates about policy on this issue, but that hit pretty close to home. And it's not me necessarily who should be concerned, but it's the entire, as I said the other day, the entire legislative body. When those kinds of misstatements are made in the context of a horrific event in our city, is certainly not helpful. It's beyond not helpful. It's time on this issue. And I realize everybody in this place has priorities and they're not all the same. And I'm sorry we've had to talk about this issue more than what would be normally done at this stage of the Legislature, but I am calling on the Governor to stop. He needs to stop. He has been in office now, I don't know, ten years. He needs

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to stop. He needs to allow this body to do what's right, to do what's appropriate, as we will, as we always did. As I told my good friend, Senator Adams, who is a very close friend of mine whom I didn't know eight years ago, we've come together. And many of us in this room have been here this entire seven years and some maybe for four or five years, we've had some tough issues to deal with. The pipeline issue with Mike, our good friend, Mike Flood, getting hammered around, back and forth, hither and yon, but we came out on top of that issue, in my view. It's personal to me when comments are made about me, certainly, as they are for everybody. But when they reflect on our process, as they do, as the general public who are, in our city and across the state, are horrified, as I was at OHA when that little girl was shot on 29th and Burdette. And I drove over there and talked to the family. And I remember there was an elderly woman who lived at Pleasantview homes at that time and she was 85 years old. And I went to visit her in her apartment because it was near the apartment that...where shooting had occurred, and she was out sweeping her little area, a porch outside of her apartment. [LB399]

SENATOR GLOOR: One minute. [LB399]

SENATOR ASHFORD: And I asked her if she was okay and did she want to be moved. And she said, no. She said, these are my people; this is my home; this is my family. She was sitting in a lounge chair the night of the shooting and there are bullet holes above her head. I understand, not like Senator Chambers, but I understand what happens when this violence occurs. I must implore the Governor to stop this now. Let's get to the issue and let's move this state forward. Thank you, Mr. President. [LB399]

SENATOR GLOOR: Thank you, Senator Ashford. Members in the queue: Lautenbaugh, Chambers, and Bloomfield. Senator Lautenbaugh waives. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, now that the county attorney is involved, this becomes a quasi-governmental operation. You're talking now about the chief law enforcement officer of the county, and I want Senator Lautenbaugh to listen. And I don't know if Senator Lathrop is anywhere on the premises, and Senator...I won't call his name, but he sits behind me, to my right, may want to listen. When the county takes this much authority and responsibility, it also assumes liability. Liability for what these outfits do now will rest with the county. When police officers misbehave, they will be sued, usually, but also the city, because the city is going to be the one with the deep pockets. And the liability issue draws in the city because the cop works for the city, was discharging his or her duties when whatever it was that occurred that forms the gravamen of the lawsuit. If the county attorney is the one who authorizes the lights, the county attorney establishes the terms and conditions, the county attorney lays out the area where this activity will be undertaken, the county attorney is not in a position to say that the county is not liable for what these people do or the harm they may cause or even the harm that comes to them. It's on the county

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attorney and, by extension or extrapolation, if you will, the county. It's no longer just a volunteer group of ragtag people, if you want to reduce it to its lowest element, it is now an adjunct to the county. And everything that occurs, occurs with and only with the complicity of the county attorney. How many of you who are on this floor will support this bill knowing that it can create liability for your county? If you've accepted what Senator Lautenbaugh and Senator Brasch have said, you don't have to worry about liability because these people are not going to do anything that's going to hurt anybody, hurt anybody's property, cause anybody to hurt anybody, or in any way be connected with anything that can generate liability on anybody. But if that person does, then it's on the county attorney. A person cannot even become a member of this operation without registering with the county attorney. How much more can you do to make the county liable? Maybe I ought to support it now and see which county attorney is going to be foolish enough to follow the foolishness of this Legislature, the foolishness of this Legislature. I can keep us on this until noon and I'm going to do it. Then I'm going to call Don Kleine in Douglas County... [LB399]

SENATOR GLOOR: One minute. [LB399]

SENATOR CHAMBERS: ...and I'm going to read this language to him and make my presentation to him and ask him is he prepared to assume this responsibility and bring the county along with him and the liability cannot be escaped. You hope nobody does wrong, but if somebody does, the public must be protected. And now the umbrella of the county and the deep pockets of the taxpayers will be available. Thank you, Mr. President. [LB399]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LB399]

SENATOR BLOOMFIELD: Thank you, Mr. President. I would like to ask Senator Lautenbaugh a question, if he would yield. [LB399]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB399]

SENATOR LAUTENBAUGH: Yes, I will. [LB399]

SENATOR BLOOMFIELD: Thank you, Senator Lautenbaugh. Senator Smith had said something earlier in passing about these cars the people are using are being identified. Do they or do they not have identifying markers on these vehicles? [LB399]

SENATOR LAUTENBAUGH: On the Neighborhood Watch vehicles themselves? [LB399]

SENATOR BLOOMFIELD: Yes. [LB399]

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SENATOR LAUTENBAUGH: I believe generally they do have placards on the sides of them, yes, I mean like the magnetic things and whatnot. I mean they're not painted up like police cars, certainly, but. [LB399]

SENATOR BLOOMFIELD: Right, but they, to the best of your understanding, they are identifiable... [LB399]

SENATOR LAUTENBAUGH: I believe so, yes. [LB399]

SENATOR BLOOMFIELD: ...as the Neighborhood Watch. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR BLOOMFIELD: Okay. Thank you. [LB399]

SENATOR GLOOR: Thank you, Senator Bloomfield, Senator Lautenbaugh. Senator Brasch, you're recognized. [LB399]

SENATOR BRASCH: Thank you, Mr. Speaker and colleagues. I do believe that considering all of the checks, requirements, identification, that these citizens are not necessarily a ragtag group of people, as I had just heard that being called. I believe that it's important that we recognize that it is the citizens of this state that built our state to be the best, better, keeping the good life growing. We have moved forward. We've survived so much nationally, and it's not because of what this body has done or is doing, but it's because of our communities. And perhaps because I serve three counties and see a lot of geography and my 36,000 people are not concentrated exclusively in one urban area, I am so impressed and amazed what I had just heard called ragtag, that they have built community centers not out of tax dollars or funding but through their own means, through sweat equity, through visions. And if there is a group, and right now it's Washington County that stepped forward to support Douglas County's efforts here, and I believe that we need to give people more credit and look at what they can do and not necessarily the liability. And through the training and the focus, I think we need to pay attention to what their testimony was, what their needs are, and hope to see the benefits. And crime is rising and in certain areas, you know, we do need to pay closer attention. And I know through the legislation that I supported for juvenile justice, and I'm looking at a community-based mediation bill for juveniles, you know, I think that together, and not just with 49, that this state can continue being the rising star, you know, across the Great Plains and across our nation. So, you know, the support, if it needs to be more government--you know, Senator Schumacher knows the legal world, as do the others here--if that is truly in the best interest and a necessity, you know, I will support that. But at the same time, think of what we've done without tax dollars, without legislation, one on one, as being good-natured, caring, kind people that we have. Right

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now, we're fighting to keep moving in that direction and not away from it. So as these people step forward, I ask that you stand behind them and not be so skeptical of what authority, power, and ability we have, you know, within ourselves. They've asked us for a tool. I see their need. I understand their answers. I still support LB399. If it needs the legal world's backing to make it work, you know, I am not fully qualified to answer that question. But I do ask you to think through LB399 and what individuals can do. Trust in, you know, the people and their judgment and their eyes and boots on the ground. Thank you. Thank you, colleagues. [LB399]

SENATOR GLOOR: Thank you, Senator Brasch. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. I like to quote from literature and, when I can, the best literature. There is a line in a poem. It's really the Visit from St. Nicholas, but it's known as The Night Before Christmas. And one part of it says a right jolly old elf, that I laughed when I saw him, in spite of myself. I'm having trouble restraining my delight with this amendment, and I'm going to show, since it irritates Senator Lautenbaugh so much to have me say I'm going to show that I can do something, I'm going to show that I can keep us on this until noon. I'm going to show everybody on this floor and I'll show you that I can keep us on this particular amendment beyond noon. And if the spirit moves me and it behooves me to stay on it for eight hours, that would pose a challenge. But I don't think it is insurmountable. But I want it to be crystal-clear that this idea of saying trust people, who are going to have some kind of authority or appearance of authority, is not wise. And since Senator Brasch...I'd like to ask her a question before I make any presumptions. [LB399]

SENATOR GLOOR: Senator Brasch, would you yield to a question from Senator Chambers? [LB399]

SENATOR BRASCH: I yield. [LB399]

SENATOR CHAMBERS: Senator Brasch, do you label yourself a conservative? [LB399]

SENATOR BRASCH: People tend to label me as a conservative. I label me as myself. [LB399]

SENATOR CHAMBERS: Do you reject the label "conservative"? [LB399]

SENATOR BRASCH: I don't... [LB399]

SENATOR CHAMBERS: That's not where I'm going to... [LB399]

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SENATOR BRASCH: ...I don't, I don't reject it. [LB399]

SENATOR CHAMBERS: Okay. [LB399]

SENATOR BRASCH: It's... [LB399]

SENATOR CHAMBERS: Well, if I refer to you as a conservative, would it insult you? [LB399]

SENATOR BRASCH: I would not be insulted. [LB399]

SENATOR CHAMBERS: Okay. Senator Brasch, as a conservative, did you view former President Ronald Reagan as being a conservative? [LB399]

SENATOR BRASCH: Did I view him as a conservative? I... [LB399]

SENATOR CHAMBERS: Yes. Did he identify himself as a conservative? [LB399]

SENATOR BRASCH: I believe he did label himself as a conservative. [LB399]

SENATOR CHAMBERS: Did you have respect for President...former-President Ronald Reagan? [LB399]

SENATOR BRASCH: I did. I love his quotes. Like you, he had many words of wisdom to share. [LB399]

SENATOR CHAMBERS: And when he uttered these words of wisdom, words that you would consider words of wisdom, you felt they would be words that somebody could live by, correct, if they indeed are words of wisdom? [LB399]

SENATOR BRASCH: Well,... [LB399]

SENATOR CHAMBERS: Either you did or you... [LB399]

SENATOR BRASCH: ...you tell me if this is wisdom. He also said that the best meetings took place with the family around the dinner table. I like that. [LB399]

SENATOR CHAMBERS: Okay. [LB399]

SENATOR BRASCH: Is that conservative? [LB399]

SENATOR CHAMBERS: I'm going to give you a statement he made and see if you agree with it. You said these are good people, they mean well, we shouldn't be so

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skeptical, we should trust them. Did Mr. Reagan say, "trust but verify"? [LB399]

SENATOR BRASCH: Exactly, yes, he did. [LB399]

SENATOR CHAMBERS: Do you think those are words of wisdom? [LB399]

SENATOR BRASCH: I do, and this group verifies. There's a criminal background check and (inaudible)... [LB399]

SENATOR CHAMBERS: No, that's not what I'm asking you. You're taking my time. [LB399]

SENATOR BRASCH: Yes. [LB399]

SENATOR CHAMBERS: That's all I need. Thank you. [LB399]

SENATOR BRASCH: I'm sorry. [LB399]

SENATOR CHAMBERS: Senator Brasch, in this situation, trusts these people, and I'm the verifier. This is not a realm where you trust people. When you put these individuals in the situations you're placing them, trust should have nothing to do with any of it. [LB399]

SENATOR GLOOR: One minute. [LB399]

SENATOR CHAMBERS: Anybody who uses, for purposes of identification, a placard of any kind that can be put onto a car or removed makes it very easy for somebody to either steal one of those, reproduce it, put something like it on the car, put an orange light, and that person becomes one of these members and nobody knows anything to the contrary. And if you think it would be hard to duplicate some little card, you consider how people duplicate driver's licenses and other things. There is no way to provide assurances. And this amendment by Senator, I'll call him, "Professor" Schumacher does not make the situation better. It throws some very important ramifications that must be considered. Thank you, Mr. President. [LB399]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Chambers, you are next in the queue and this is your third time, Senator. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm going to touch on again what I talked about earlier, but before I do, is Senator Schumacher on the premises? Oh, Senator Schumacher is making his way to his desk, and I will phrase the question so that the time can be well spent. But the first thing I'll do is ask, will he yield to a question or two? [LB399]

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SENATOR HOWARD: Senator Schumacher, will you yield? [LB399]

SENATOR SCHUMACHER: I certainly will. [LB399]

SENATOR CHAMBERS: Senator Schumacher, do you think that with this deep involvement of and by the county attorney that liability can attach to the county as a result of this deep involvement by the county attorney? [LB399]

SENATOR SCHUMACHER: I don't think it would be any greater liability than if you had the county sheriff do it or the city police chief do it. I would expect that if there were some terribly negligent action which involved somebody getting hurt, there could be liability. And that's why the county attorney's office is a proper place to put it, because they can make that judgment call whether this is all worth it or not. [LB399]

SENATOR CHAMBERS: But, Senator "Professor" Schumacher, there's nothing in here that says there must be recklessness, gross negligence, or any other standard in order for liability to attach. There's nothing referring to that in your amendment, is there? [LB399]

SENATOR SCHUMACHER: No, not any more...there's lots of things that the county attorneys and the police do that's governed by general tort law, and that's what would apply here and I don't think we need to get into specifics. Quite honestly, Senator, I don't think...I think you were accurate in your assessment that not many county attorneys would bite on this. [LB399]

SENATOR CHAMBERS: Back to my interrogation: The liability that might attach to something a sheriff would do under the general law that exists now, and the liability that would attach to a county attorney would not be the same, because they operate in different spheres doing different things. Is that true? [LB399]

SENATOR SCHUMACHER: Probably on this one it probably would be very, very close to the same. [LB399]

SENATOR CHAMBERS: So then you say that even if we don't have this, then by involving the chief of police the city can assume liability, and the county can assume liability if the sheriff is the one who has that involvement. [LB399]

SENATOR SCHUMACHER: I don't know if the word is "assume" liability. But could they be found liable in some set of circumstances by a jury? Certainly. [LB399]

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SENATOR CHAMBERS: They...let me say it like this. They expose the county and the city to the possibility of liability by their involvement in this activity described in this bill. [LB399]

SENATOR SCHUMACHER: Possibility, although probably very limited, is still a possibility. [LB399]

SENATOR CHAMBERS: Without their involvement, and let's get away from your amendment right now, as this bill is drafted, without the involvement of the chief and without the involvement of the sheriff, people can still have these amber lights but they...I meant they can still have their organization but they cannot have the amber lights. [LB399]

SENATOR SCHUMACHER: That's my understanding, amber...to have an amber light. Now they can fly a flag above their car. [LB399]

SENATOR CHAMBERS: Right. I'm just talking about with the car. [LB399]

SENATOR SCHUMACHER: But to have an amber light, you need to have the amber light statute say it's okay. [LB399]

SENATOR CHAMBERS: And terms and conditions, if you want to call it that, that govern the operation now, not just the use of the amber lights, but the operation of the organization is subject to what the chief or the sheriff says... [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: ...will govern the operation. Isn't that true? [LB399]

SENATOR SCHUMACHER: That...in the bill that's drafted,... [LB399]

SENATOR CHAMBERS: In the green... [LB399]

SENATOR SCHUMACHER: ...yes. Yes. [LB399]

SENATOR CHAMBERS: Did you say time, Madam President? [LB399]

SENATOR HOWARD: I said one minute, Senator Chambers. [LB399]

SENATOR CHAMBERS: Oh, thank you. Senator, nobody before this has mentioned anything about liability on the city or the county during our discussion. Is that true? [LB399]

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SENATOR SCHUMACHER: That's true, Senator. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, what the "Professor" did was force my hand before I was willing to show it. We haven't talked about liability, but it's clearly created. And the likelihood or possibility of liability is created by the terms of the statute, as drafted by the man who wants common sense to be here. These...the use of such light or lights... [LB399]

SENATOR HOWARD: Time. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. [LB399]

SENATOR HOWARD: Thank you, Senator Chambers and Senator Schumacher. Mr. Clerk. [LB399]

ASSISTANT CLERK: Madam President, I do have an amendment to Senator Schumacher's amendment from Senator Chambers, FA166. (Legislative Journal page 252.) [LB399]

SENATOR HOWARD: Senator Chambers, you are recognized to open on your amendment. [LB399]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I want to help clean up what the "Professor"...what Senator Schumacher has given us, and it's not critical and it does not change what he's trying to do. In line 1 of his amendment, and as I look around the Chamber, I don't see people scurrying to their gadgets to see what line 1 says, so for the record that line begins, "Strike the new language and in its place insert, 'or (h) any motor vehicle when operated by a.'" After the word "when," I want to insert, "lawfully"--when the vehicle is lawfully operated by a registered volunteer member. When you are setting out these kind of standards in a statute, unlike Senator Brasch, I'm not willing to leave things to trust and confidence. And if trust and confidence were to govern us, we wouldn't need any statutes of any kind at all. We would all be rubes. We would all be suckers of the kind that somebody said if you find one of them, thump his head. And one is born every second. So trust and confidence are not what we're talking about. I want to make this language as tight as possible if you're going to put it into the statute, and I hope you don't. But we'll know after eight hours, won't we, or more? What some people think is that the introducer of a bill must move for cloture after eight hours. That is not the ceiling; that's the floor. So we could go on for the rest of the session on this if it's left to a recalcitrant introducer of a bill who's not going to invoke cloture. However, even there we have a brake, b-r-a-k-e. In setting the agenda, the Speaker has discretion to determine whether or not something, which has been on the agenda for a good period of time, will be placed on the agenda in a continuous way, without break, hiatus, or interruption. But I sincerely

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believe that Senator Lautenbaugh thinks that I cannot discuss this bad bill for eight hours. Assume that I genuinely see this bill as being as bad as I think it is, who would expect me not to do everything I can to prevent it from taking effect? Here's where what Senator Bolz raised and Senator Bloomfield talked about will be given even more strength and cover. It will be made known, maybe through word of mouth, maybe through articles in the newspaper, that the county attorney is deeply involved in this. So when you see these orange...or these amber lights, that is something that designates a program which is approved by the county attorney. And it could not operate without the county attorney's approval. And nobody who is a member could be a member without the county attorney's approval. And nobody lawfully and legally could use those amber lights unless approved by the county attorney. But I don't see anything in the law that prohibits people from purchasing these amber lights. And merely saying that it would be an illegal display of lights is not going to deter somebody if they have a bad intention. And if all they have to do is give them cover, and perhaps access to people's homes, their confidence, and even their businesses, is to spend money for an amber light, and the biggest risk, unless they're caught in the act of doing something wrong, is a citation for improper display of lights. And I'm accepting what Senator Lautenbaugh represented to the best of his knowledge as being what is implicated if you use these types of lights which are prohibited by law from using except under certain specified circumstances. That's not a great investment that you have to make to gain entry into somebody's house. And you can easily have a card. Nobody knows what's to be on that card, nobody. Show them a card. A lot of these make-believe cops who are impersonating officers, they get one of those type wallets that flips open and they just put a badge on it, and they flip it open and the person assumes it's a police officer and they fall into bad circumstances. So I want to go one step farther in ensuring that everything is going to be done according to Hoyle. Now Hoyle was a fellow who knew a lot about cards. There was a guy named Phil Harris and he used to sing, and he had a somewhat deep voice, and he was singing about people who cheat in games. And there were these people sitting around and he told them, you're not playing this game according...he pronounced it Hoylee (phonetically); you're going to play this game according to me. So I want this done according to Hoyle or Hoylee (phonetically). The motor vehicle shall be lawfully operated. Now there's nothing in the statute that says that any of these other users of these lights have to be in a vehicle which is being operated lawfully. But there are so many things here that determine the circumstances under which the operation will occur that a state trooper, if it's on the interstate, can determine whether or not that vehicle is proceeding in a way that comports with the traffic laws. And the state trooper cannot stop a person without probable cause to believe that the person is violating a law which is to be enforced by the trooper. So if the speed limit is being complied with, if there are any distance requirements and they're being maintained, if you have that vehicle with the amber lights positioned where under the law it should be, the trooper has no probable cause to stop that vehicle and the trooper will not. We're not talking about operating on the highway. We're not talking about a vehicle which is towing cars. We're not talking about a vehicle which is moving houses or other buildings. We're not talking

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about a Civil Air Patrol vehicle. We're not talking about any of those which the statute describes and will refer you to other sections of statute for additional information. None of that are we talking about. We're talking about somebody--they don't have to have a placard on their car--somebody driving around in the neighborhood with the amber light. That places this in a category by itself, so there can be some explicit requirements imposed on these would-be cops, and that is that the vehicle must be operated lawfully. That's all my amendment says. And you may not accept it... [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: ...because it will be a part of my ongoing effort to do what I said I want to do. I've made it clear, I don't think in any form this activity should be sanctioned by the statutes. They already are doing these kind of things, and apparently doing them successfully. Why put something into the statute that is not needed? Why put something that would constitute an aberration when you lay it alongside all the others authorized to use these flashing lights? They're not like to be...not intended to be like ornaments or decorations on a Christmas tree. They are not for that purpose. And in the minds of the public at large, and I can't speak for every individual, that's why I say "at large" and I'll say "generally speaking," people... [LB399]

SENATOR HOWARD: Time. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. [LB399]

SENATOR HOWARD: Thank you, Senator Chambers. Members, you've heard the opening to the amendment. The floor is now open for debate. Senator Lautenbaugh, you are recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Madam President, members of the body. I do rise in opposition to the amendment because I believe that people have a duty to operate their vehicles lawfully no matter what, so that's implied. I don't see, under Senator Schumacher's underlying amendment, that this increases any threat to liability that does not theoretically exist now. Again, to focus on what we're talking about here in reality, these organizations exist. They are already authorized in Omaha. This would just allow them to have amber lights on tops of their vehicle. In all other respects, they already exist. So the underlying bill would simply allow them to also have amber lights. It is difficult for me to imagine how liability could flow from that simple addition. Under the Schumacher amendment, if you will, the county attorney is authorizing organizations to authorize registered members to have amber lights. It is similarly difficult for me to see how liability would flow to a county attorney for such a concern, for such a process. And this is how you fight a bill, I understand that. You say consider the liability that would flow, there's a risk involved. Well, there's a risk involved now with everything we do there's a risk involved theoretically, I suppose hypothetically. Anyone could go now

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and sue the police chief in Omaha and say, hey, you've authorized these Neighborhood Watch Associations, you've trained them, and they did something wrong. No one is aware of anything like that happening. I can't find an instance of that ever occurring, but we're talking about how it's hypothetically a situation for liability here if we somehow added amber lights. Again, focusing on what we're talking about here, these are citizens patrolling their neighborhoods to make their neighborhoods safer. That's something we supposedly care about. It's something we talk about. That's something sometimes we pound the podium about and pretend to be outraged about, and yet here we are talking about this and going through all sorts of gymnastics and gyrations to say, oh my gosh, think of the evils that could flow from vehicles with amber lights on top of them rolling around neighborhoods. And you are supposed to believe that someone with a black heart would go into a neighborhood and try to gain entry to a house posing as a member of a Neighborhood Watch Organization. Well, put yourself in that spot. If you were a homeowner and someone came to the door and said: I'm a member of your Neighborhood Watch, let me in; would you do it? If someone came to the door and said: I'm a tow truck driver, let me in; would you do it? If you were trying to impersonate someone to gain access to the house, would you go to position being a Neighborhood Watch member, or would you just buy the red lights and pretend to be a police officer, for the love of God? I mean we are really, really looking and reaching and grasping for reasons here to find a flaw with a very simple thing. And I'm sorry, folks, at some point you have to trust the common sense of the general public, I guess, and see that if you saw a car come by with amber lights you wouldn't necessarily let that person in your home even if they did say: I'm part of your Neighborhood Watch. The proper response is: So what? These people aren't vested with the authority to enter your homes or crawl around on your roofs or do anything like that. They drive around, they keep an eye on things, and they call the police; that's it. [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR LAUTENBAUGH: But the presence of the vehicles with the lights on top some neighborhoods have deemed to be enhancing towards their efforts to fight crime. Fine. Who are we to say it isn't? Instead, we're standing here saying, well, gee, it could increase the risk of something that we know isn't going to happen, something we can't find an example of ever happening, something the city could be liable for. We've dealt with things like this before. We've dealt with bills like this before where if you don't know what else to say it's, well, gee, the liability from this could be astronomical; I can't find a case on point, but, boy, it could surely happen. Keep your eye on the ball, folks. This is a simple concept, trying to help citizens help themselves. Please support...or please resist this floor amendment, please support the Schumacher amendment, please support the underlying bill. Thank you, Madam President. [LB399]

SENATOR HOWARD: Thank you, Senator Lautenbaugh. Senator Bloomfield, you are recognized. [LB399]

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SENATOR BLOOMFIELD: Thank you, Madam President. I'd like to ask Senator Schumacher a question, if I could. [LB399]

SENATOR HOWARD: Senator Schumacher, will you yield? [LB399]

SENATOR SCHUMACHER: Yes, I will. [LB399]

SENATOR BLOOMFIELD: Thank you, Senator Schumacher. I punched the light before Senator Lautenbaugh spoke. Yeah, I was wondering, I really wanted to ask you, do you concur that this does not increase liability over what we currently do? [LB399]

SENATOR SCHUMACHER: It probably...with reference to the proposed bill, I would say it probably reduces liability because you don't have someone uneducated in the law, like maybe a police chief, making a decision. It puts it in the hands of someone who's educated in the law and can weigh the pros and cons of liability versus public safety and make a decision, as the county attorney is. I think that Senator Lautenbaugh's analysis is correct that the liability issue, while there's always a lawsuit can be threatened by anybody for any thing, it is reasonably minimal. But the county attorney is the one to make that decision, because who knows? If there's a real rambunctious situation going on in a part of his county and this would really help, and, by gosh, the different between life and death is the amber light, he...it may actually decrease the county's liability to have...pool the resources together to put an end to a problem. But that's not a decision we can make here on the floor of the Legislature. The chief law enforcement officer of a county should have that responsibility. My guess is that they will say what we're doing now is just fine, we don't need the lights. But there might be a circumstance where, in his judgment, for the benefit of his county, in line with his professional responsibility to protect the county from liability, he might find that an amber light on a car is...with a limited organization is a good thing. [LB399]

SENATOR BLOOMFIELD: Okay. I'm going to go a step further. If we pass this with your amendment, do you think there's a danger that we will hamstring the people that are trying to do this job now without lights, and simply by passing an amendment that allows them to have lights cause there to be fewer of them? [LB399]

SENATOR SCHUMACHER: They wouldn't have to go ask for a light. They could do what they're doing now without a light if they chose, and most likely most of them will. Who's going to want to go have a light rubbing on the top of their car, making...chewing through the paint? I mean not too many people want to do that. [LB399]

SENATOR BLOOMFIELD: Yeah. I'm a little afraid with this amendment. I'm certainly not a lawyer and I didn't stay at a Holiday Inn last night, but I wonder, with the wording of this amendment, if we're not directing possible liability or possible hardships, without

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even going to apply for a light, that does not now exist. [LB399]

SENATOR SCHUMACHER: I mean, if they don't want to apply, they don't have to. I'm guessing most won't. [LB399]

SENATOR BLOOMFIELD: But does the current law we pass or the law, if we pass one or change this, as I read it, it kind of applies to everybody, whether they have the light or not, all of a sudden. And I don't think we (inaudible) enough damage. [LB399]

SENATOR SCHUMACHER: Well, if they don't put one on their car, they don't have one. If they don't put one on their car, they don't have one, and they don't have to put one on their car and life can go on without the issue of the lights. [LB399]

SENATOR BLOOMFIELD: I will discuss this with you a little off-mike here. [LB399]

SENATOR SCHUMACHER: Okay. [LB399]

SENATOR BLOOMFIELD: And whatever little time I have left, if you would like to use it to say how you feel about Senator Chambers' amendment, you have the rest of my time. [LB399]

SENATOR SCHUMACHER: As in usual the case of people of good intention, both Senator Lautenbaugh and Senator Chambers are correct. [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR SCHUMACHER: You have to operate lawfully already, but it doesn't hurt anything to say you have to operate lawfully. Maybe it's doubly lawfully. But Senator Chambers' amendment is fine with me. It's...to oppose it or support it is, I think, the kind of thing that whatever you feel. But I don't think it changes things much legally other than saying that we want people who are supposed to do things lawfully to do them lawfully. Thank you. [LB399]

SENATOR HOWARD: Thank you, Senators Bloomfield and Schumacher. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Madam President, once again I have to deal with what the man who likes to give the impression that he's the embodiment of common sense, and that's Senator Lautenbaugh. He says that this will not create a problem of liability, and he said that if somebody doesn't like a bill and can't think of anything else, they'll talk about astronomical liability. He's not talking about me. I didn't say "astronomical." But that's the hyperbole that lawyers, who come with more form than substance, will do. I see through it all. But let me tell you something here. The county attorney sets terms

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and conditions and specifies the area where this activity can be carried on. Now if you're a teacher and you tell this student: You are to go into the basement and you are to pick up a desk in the far corner and bring it back to this room, and the child carries out your orders, the steps are weak, they fall, the child falls down and has problems, then there's no way that the school system is not going to be held liable. And if Senator "Professor," I shouldn't call him by name but I will, Schumacher and Senator Lautenbaugh think that liability is not going to attach when an official is involved in activity that results in harm to somebody, then I say I disagree with them. You set the terms and conditions, designate the area, require these entities and individuals to register with you. And even if a majority of the people in the organization want so-and-so as a member, that person cannot be a member until the attorney, the county attorney, accepts the membership. And you're going to tell me that doesn't create a liability on the county? It doesn't take that much to lead to a legal conclusion that somebody in another state has the required contact with your state to be made subject to the jurisdiction of your state. They know that or they ought to know it. And I think it's not right for a lawyer to stand on this floor and deceive the body into thinking that all this involvement by the county attorney will not create any liability on the county. Have I tried to quantify the liability? That's done in court, and the one who alleges to have been harmed establishes that first. And then the measure of damages is argued out like everything else, and I would never put a dollar amount on what liability that is found to exist the person found guilty of that would have to pay. I haven't said that. He thinks fuzzily. He is careless and slipshod with language. He uses exaggeration and hyperbole. And I want you to know that what I say is not as ridiculous as what he says. He says those things, not I, and look at the transcripts. And I'm glad he's saying all this because I'll get the transcript... [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: ...and show how careless he has been. But we're back to this bad bill. They can do everything they're doing right now without this bill. We don't need to go through all of this. You're not hurting them. You're not restricting them in any way. But this amendment raises the issue of the liability that a county attorney, by participating, can bring to the county. And as I said, I'm going to call Don Kleine when we leave here and I finish my duties with the Reference Committee, and I'm going to see what he says about this, and I promise you, I will tell you. Thank you, Madam President. [LB399]

SENATOR HOWARD: Thank you, Senator Chambers. Mr. Clerk, items for the record? [LB399]

CLERK: I do, Madam President, some bills, new bills. (Read LB948-958 by title for the first time.) Other items, new resolutions: LR408 by Senator Schilz; that will be laid over. An announcement: The Health and Human Services Committee will meet in Executive Session at 12:45; Health and Human Services Committee, 12:45 in Room 1510.

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Reference Committee meets upon recess. Name adds: Senator Mello to LB867, LB932; Senator Watermeier, LB845; Senator Hadley, LB829; Senators Ashford and Cook, LB932. (Legislative Journal pages 252-254.) [LB948 LB949 LB950 LB951 LB952 LB953 LB954 LB955 LB956 LB957 LB958 LR408 LB867 LB932 LB845 LB829]

Madam President, a priority motion: Senator Adams would move to recess the body until 1:30 p.m.

SENATOR HOWARD: Thank you, Mr. Clerk. Members, you've heard the priority motion. All those in favor say aye. We are at recess. Thank you.

RECESS

SENATOR HOWARD PRESIDING

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

CLERK: I have a quorum present.

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

CLERK: One item. Reference report referring LB902-LB932. That's all that I have, Madam President. (Legislative Journal page 255.)

SENATOR HOWARD: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda.

CLERK: Madam President, back to consideration of LB399, Senator Schumacher has pending AM...or excuse me, FA164. Senator Chambers, FA1...I'm sorry, Senator Chambers, FA164 pending to Senator Schumacher's...FA166 pending to FA164; Senator Chambers amendment to Senator Schumacher's amendment. That's pending, Madam President. [LB399]

SENATOR HOWARD: Thank you, Mr. Clerk. Is there any further discussion on the amendment? Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: And Madam President, in order that I can get reoriented, how many times have I spoken on this amendment? [LB399]

SENATOR HOWARD: On this amendment, you have spoken once. [LB399]

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SENATOR CHAMBERS: Okay, so this is my second time on this...on my amendment? [LB399]

SENATOR HOWARD: You've opened and you've spoken once. [LB399]

SENATOR CHAMBERS: Okay, thank you. Members of the Legislature, I did call county attorney Don Kleine's office, Douglas County Attorney. He was away, but I left a message and I'm not going to indicate anything about the conversation I had with the person taking the message. I'm going to go into my discussion of what we're doing, but there was a lady who sent me...she's from the other side of the state. People watch what we do here. This article she sent to me is from the January 7th newspaper and it's the Star Herald. Cheyenne County authorities investigating report of police imposter is the headline. The Cheyenne County Sheriff's Office is investigating a report of a possible police imposter according to on-line reports. According to a posting on the Sidney Police Department facebook, the Cheyenne County Sheriff's Office is investigating a report of a man who allegedly stopped a vehicle east of Sidney, Sunday night. In another post being circulated on facebook, a Sidney woman says that her daughter was stopped four miles east of Sidney on Highway 30 and a man approached her car acting as if he were an officer before leaving the scene after she questioned him. The driver of that car is reported to have had flashing lights coming from the dashboard of his car and was driving an unmarked car. In its posting, the Sidney Police Department advises that driver's questioning the validity of a traffic stop should call 911 and ask a dispatcher if an officer is in the area. Drivers are advised to slow down but not stop if they are unsure of the validity of a stop. If an officer is not confirmed to be in the area, the department advises drivers should drive to the police department or the sheriff's department. Then it says if you want more information on these suspicious stops, contact the Sidney Police Department at 308-264...I believe, or 254...264-5615 of the Cheyenne County Sheriff's Department, or the Sheriff's Department at 308-254-2922. These are the kind of things that do happen now, and people on this floor know that but they like to pretend that they don't. And the more opportunities you create in statute, the easier it is for people to tailgate on that. Senator Lautenbaugh asked, why would somebody just pretend to be one of these people in the Neighborhood Watch organization instead of getting a red light and saying they're police officer? Obviously, he doesn't know how things go on the street. You do...or how things go in court. You do the least that's necessary to get what you want. Courts will use as little as necessary to resolve an issue. If ten counts are alleged, but they can resolve the whole thing by dealing with the first one, they don't even talk about the other nine. If somebody alleges that a constitutional violation is involved... [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: ...but the matter can be handled through statutory interpretation or application, the constitutional issue is not touched. Why would

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somebody pretend to be a cop when all you have to do is come up with this amber light? And what a lot of people want is not that you let them in the house, you open the door. That's the thing, you open the door, you come to the door and you open the door and there are older people who have done that, and if Senator Lautenbaugh had some time to watch television, he'd see where people have individuals coming to their house pretending to be from the phone company, from the utility company, and some people will actually open the door and talk to these people. Fortunately, they were not the kind who would knock the old person aside and come on in anyway, but I don't want anybody to get the impression from what Senator Lautenbaugh said is that they're not people who...they're not people who try under false pretenses to get people to open their doors. [LB399]

SENATOR HOWARD: Time, Senator. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. [LB399]

SENATOR HOWARD: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. This is really the one time I plan to speak this afternoon on this topic. We've heard back from the County Attorneys Association. They are fine with this bill, as amended by Senator Schumacher. So I'm assuming they don't see the risk of burgeoning criminality that's going to come from allowing Neighborhood Watch associations to have amber lights, if requested, on the tops of their vehicles. And maybe they understand that people who are bent on criminality will just put the lights on their cars now and pretend to be police officers or meter men or tow truck drivers or whatever it takes to get in the house, if they're criminals now. And that they're probably not waiting, lying in wait, for us to pass a bill about Neighborhood Watch associations also being authorized to have amber lights before the floodgates of criminality will be open and these people will go out and buy amber lights and put them on tops of their cars because they...it hasn't occurred to them to pose as meter readers, which they have, hasn't occurred to them to pose as police, hasn't occurred to them to pose in any other official capacity, but, ah ha, once they could possibly pose as Neighborhood Watch people, well, then the floodgates will be open. That doesn't make a lot of sense to me, folks. Apparently the county attorneys don't see that as a concern. At least the association tells me they're fine with this amendment. Apparently, they don't see the liability concern either. I don't see the liability concern. Senator Schumacher doesn't see the liability concern. I'll be happy to answer any questions anyone might have. If you support this bill, I would ask you to not aid the filibuster by continuing to speak. If we have to go to cloture, the eight hours will run in the morning, by my count. So I'm assuming that's when I will file the motion for cloture, but frankly, I'm done talking about this. It is what it is. It's simple. We've checked with the county attorneys. I have tried to satisfy every legitimate concern I've heard. You

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can only do so much. Thank you, Madam President. [LB399]

SENATOR HOWARD: Thank you, Senator Lautenbaugh. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. Senator Lautenbaugh, I'd like to ask you some questions if you will yield. [LB399]

SENATOR HOWARD: Senator Lautenbaugh, will you yield? [LB399]

SENATOR LAUTENBAUGH: I will. [LB399]

SENATOR CHAMBERS: Did the County Attorneys Association call a meeting on this issue today? [LB399]

SENATOR LAUTENBAUGH: I would assume not. [LB399]

SENATOR CHAMBERS: You said you talked to the County Attorneys Association. The association comprises the members. With whom did you talk? [LB399]

SENATOR LAUTENBAUGH: I spoke to their representative. [LB399]

SENATOR CHAMBERS: Is the representative a county attorney? [LB399]

SENATOR LAUTENBAUGH: I believe not. [LB399]

SENATOR CHAMBERS: So you didn't talk to any county attorney? [LB399]

SENATOR LAUTENBAUGH: Not from... [LB399]

SENATOR HOWARD: Senator Chambers, I apologize. This is your closing. [LB399]

SENATOR CHAMBERS: Well, I'm not prepared to close right now. Is nobody else... [LB399]

SENATOR HOWARD: No, sir. [LB399]

SENATOR CHAMBERS: Okay. Well, I'll close. The next time...and I'm not bothering you, but I'd like to know if it is my closing. Senator Lautenbaugh, you talked to a layperson who represents the county attorneys. Is this person a lobbyist that you talked to? Is the person you talked to a lobbyist? [LB399]

SENATOR LAUTENBAUGH: May I be recognized? [LB399]

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SENATOR CHAMBERS: Oh. [LB399]

SENATOR HOWARD: Senator Lautenbaugh, you are recognized. [LB399]

SENATOR LAUTENBAUGH: Could I give my time to Senator Chambers? [LB399]

SENATOR HOWARD: Would Senator Lautenbaugh yield to a Chambers' question? [LB399]

SENATOR LAUTENBAUGH: Yes, I will. I'm sorry, I didn't want to take your closing for a question. [LB399]

SENATOR CHAMBERS: That's all right. We'll try to work our way around this, but I'm serious about what I'm doing. And I want to know where I stand, but I will make sure that I have another opportunity to speak. If not on this, more times, and I will keep track myself of where I am. Senator Lautenbaugh, was this person that you talked to a lobbyist? [LB399]

SENATOR LAUTENBAUGH: I don't know if he...I know he represents the association. I don't believe as an attorney. He represented to me he checked with the association. I don't know if he's a registered lobbyist. I don't believe he's an attorney. [LB399]

SENATOR CHAMBERS: Is he authorized to speak for the county attorneys when they haven't had a meeting on an issue? [LB399]

SENATOR LAUTENBAUGH: That's been my experience, but I don't know their by-laws so I can't say how they operate. [LB399]

SENATOR CHAMBERS: When did you speak to this person? [LB399]

SENATOR LAUTENBAUGH: Before lunch. [LB399]

SENATOR CHAMBERS: And you said based on talking to somebody who is not a county attorney, he has not met with the county attorneys, they've had no meeting. Did he say he talked to a county attorney? [LB399]

SENATOR LAUTENBAUGH: That was my impression, yes. [LB399]

SENATOR CHAMBERS: Did he say which county attorney he talked to? [LB399]

SENATOR LAUTENBAUGH: He did not. [LB399]

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SENATOR CHAMBERS: And so, we're to take what you said this person told you to mean that the county attorneys in general are okay with this bill and they don't see any liability issues? [LB399]

SENATOR LAUTENBAUGH: My understanding was the association was fine with it was the message that was conveyed to me. I took them at their word. [LB399]

SENATOR CHAMBERS: Thank you. I won't run out all my time. Members of the Legislature, this is why I take time. He did not talk to the County Attorneys Association. He did not talk to a county attorney. No county attorney has told him there's no problem with liability. Senator Schumacher didn't say, there's no problem with liability. He even explained how the liability can attach and I'll let him speak for himself. But all these breezy denials and comments that are assertions without qualification have to be shown for what they are. And that's what I will do. And now we put this thing on a different footing. Now, we're being shown that there are people who will say something that is not accurately reflected by the words used. I'm sure everybody here who heard him speak, took it like I did. He talked to some county attorneys. He made it plural. He didn't talk to one. And I think is a misrepresentation of fact to this body. We are engaged in a discussion which I'm taking very seriously and the issue is serious. And I'm not going to apologize for what I'm doing. In fact, I'm energized now to do everything I can to stop this bill. And maybe Senator Schumacher will go along with Senator Lautenbaugh and confirm that the county attorneys see no problem. I'm being facetious. Senator Schumacher is more than capable of speaking for himself. In fact, he's the architect of this monstrosity that we're discussing now. [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: And if you know when and how to look, you'll see a very mischievous little smile dancing around the corners of his mouth. He'll probably try to conceal it now. But we're going to stay on this and I will. And if the Speaker wants to keep you all here to midnight, I don't care. And you need to be shown that I will deliver on what I say I will do. You think it will be hard for me find something to talk about for eight hours? Let us see. Do you think at my age I can last that long? Let us see. And we will. And we're going to discuss this amendment again that I'm offering. But so you know what it is, it just adds the word "lawfully" to show that people operating these automobiles must be doing so lawfully. [LB399]

SENATOR HOWARD: Time, Senator. [LB399]

SENATOR CHAMBERS: And I will ask Madam President for a call of the house. [LB399]

SENATOR HOWARD: There has been a request to place the house under call. The

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question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB399]

CLERK: 26 ayes, 0 nays to place the house under call, Madam President. [LB399]

SENATOR HOWARD The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Chambers, all members are present and accounted for. How would you like to proceed? [LB399]

SENATOR CHAMBERS: Machine vote. [LB399]

SENATOR HOWARD: There has been a request for a machine vote. The question is, shall the amendment to the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to? Record, Mr. Clerk. [LB399]

CLERK: 6 ayes, 21 nays, Madam President, on adoption of the amendment to the amendment. [LB399]

SENATOR HOWARD: The amendment fails. [LB399]

CLERK: Madam President, Senator Chambers would move to reconsider the vote just taken with respect to FA166. [LB399]

SENATOR HOWARD: Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you. Madam Chairman, members of the Legislature, since you don't think that these cars ought to be operated lawfully, my next amendment will be that they be operated unlawfully. That's the way we're going to proceed today. And if when time comes for a cloture vote, you vote cloture, that's your choice. [LB399]

SENATOR HOWARD: Senator Chambers, excuse me. I raise the call of the house. [LB399]

SENATOR CHAMBERS: Yes. If you throw a rock into a placid pool of water, there are ripples that spread outward from that rock. Now you all are going to be here with me and Senator Lautenbaugh is not. He puts you all out there to do things. He undertakes to do something that somebody else doesn't want to do. Then he gets in a tight spot and he bails out and says, I'm not going to talk about it any more. He brought it here. And the reason that Senator Schumacher is trying to help him, and the reason Senator Lautenbaugh doesn't want to talk, is because he got embarrassed when the green copy of the bill that he presented to us contained language which he did not know about in

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terms of understanding why it was there, or even what it meant. And he's a lawyer. And you all follow along behind him like lemmings. We're going to have plenty of other bills and issues before us, and I'm observing very well who the followers are. And there will come a point when you're going to awaken. You'll have an epiphany. You begin to understand how things are done. You'll find out who is serious about what's being done and you'll find out who makes a lot of noise, stirs the pot, and then bails out. Some of you know that already. But regardless of what this body does, I'm going to do what I think is right. I didn't say that I talked to Don Kleine. I said I called his office and he was not there. That's the report I give you. I'm not going to overstate anything. If anything, I'll understate it. And somebody might say, well, you should have told me just how much there was here going for this issue. And I'd say, well, if you'd listened, you would have figured it out for yourself. But I'm not your father and I'm not going to take you by the hand and lead you around as though you're a child, even though when you behave childishly, maybe that's the way you ought to be treated. But when it comes to what happens in this Legislature, I'm going to do what I think needs to be done to preserve the integrity of this body to indicate that not everybody in here is vacuous between the ears. That not every member of this Legislature is going to be tricked into something as my good friend, Senator Mello, was, and I don't see him now. They get caught up in the moment. They feel emotionally good about something and they jump into it, then they are not big enough to say, I made a mistake. I did that the other day after speaking for what I thought was a good bill. Then I had to admit--and I wasn't ashamed of that--that I listened to things my colleagues raised in the form of questions and how that bill impacted. Based on their opinion on the areas where they live, and the way elections are conducted and what these various things mean to people, and I got up as soon as I was recognized and said, I had second thoughts. I thought it was a straightforward simple bill. I found out it was not. The discussion that they engaged in...now, I mean my colleagues who are of a contrary opinion, I listen to. I wasn't interested in trying to find things to support what my view was. I was listening for information to inform me of what my view ought to be based on the realities of the situation. So I changed the position that I stood up and advocated for. But I didn't do it in secret. I stood on the floor and acknowledged it. And some of you are, first of all, going to have to learn how to say no. Senator Lautenbaugh should have known how to say no on this. And maybe some people made him think it would be easy sledding and everybody would go for it. And maybe the majority of you will. But that is not the way it ought to be done, and it's not the way that, as long as I'm on this floor, it's going to be done. Remember, my friends, enemies, and neutrals, I voted against the rules. I voted against the rules. But I'm complying with the rules. And Senator Lautenbaugh is the one who got on his hobby horse last session continuing to tell why he had the right, and others did, to talk as long as they wanted to, to make any motions they wanted to, and on and on and on, and even though I thought his position was wrong on the underlying question, I backed up everything he said about all these other prerogatives of the senators. Because I knew he'd do like he does. He switches. He flip-flops. Then he makes a lot of noise and treats you like he's Perry Mason and you're Hamilton Burger. That's his name, but for short,

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it's Ham Burger. Erle Stanley Gardner, I guess, was having fun, but the name of the prosecutor is Hamilton Burger and you know that whoever he files charges against is innocent. You know that. And you also know that the guilty person is always going to jump up and say, I did it. One time a guy was...he came running into the courtroom, he was sweating and he was puffing and panting, and they asked, what is going on here? And the judge told the bailiff, stop that man. He said, your honor, may I be allowed to address the court. He said, yes, you may. He said, I was driving by the courthouse on a bus and I hit the button because I wanted to get off but he got three blocks past the courthouse, but when he finally let me out, I ran here as fast as I could. And the judge said, why? He said, your honor, I did it, I'm guilty. That's the way Perry Mason always ends. Or somebody will jump up in the back of the room and say, I'm guilty. Or somebody will say, I had to kill him. Well, this isn't Perry Mason. And not everybody in here is supine. And the easiest way out is to say, I'm not going to talk about it any more, so there. I'm going to start it, then I'm going to get out of it and leave it for you to handle, so there. I'm above it all. That's not what that is. That's a easy way out. I know he's...however much he didn't know about this bill that he brought, he does know enough to be embarrassed about presenting to you all this piece of legislation with language that shouldn't have been there. He didn't even know what it meant. He didn't even know what it referred to because it didn't refer to anything. That's what your leader brought you. And he is your leader. He's Senator Crawford's leader, Senator Scheer's leader, Senator Kintner's leader. He's you guys leader. And when I look at the leader, I'll be like Darth Vader when he was chasing Luke Skywalker through the outer reaches of space. And there were all these little fast-flying spacecraft and Darth Vader told him, stay on the leader. That's what Darth Vader said. And Darth Vader became Star Wars. And Darth Vader meant dark father. [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: But Darth Vader became so popular that those who made the film had to show people that although he has the voice of James Earl Jones, he's really not a black man. So they took him out from under his breathing apparatus. I didn't see that particular movie but people told me that he...they took him out of that apparatus and then he told Luke Skywalker, Luke, I am your father. Strange. But you see things about a society, and the people who comprise that society, based on the movies they make and the things they feel they have to put in those movies. Thank you, Madam President. [LB399]

SENATOR HOWARD: Thank you, Senator Chambers. Members, you've heard the opening on the motion to reconsider. Debate will now commence. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. There's more about Star Wars that I would mention that impressed me when I first saw it and it will have a bearing on

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what we're doing here today. Some people were sitting around a table, it was along time ago that I saw it. I think they were on a space craft. They were discussing some very important leaders. And one guy was looking as though he didn't take seriously what was being said. Darth Vader did something and this guy's face began to swell out and he started rising from the floor. And this other guy who was sitting at the table, who was some kind of leader, I guess, he said, release him, Vader. And Vader looked at him and said, as you wish. And magically he released him, the guy collapsed on the floor and could breathe again. Then there was another phrase: Feeling a disturbance in the force without ever knowing really what the force was, but it wasn't good to have a disturbance in the force. That's what we're having in the Legislature. And as I said the other day, the Legislature is the branch of government that represents the people. When an issue dealing with voting was brought before the U.S. Supreme Court, they discussed in detail the nature of a legislature, the work that had been done by legislatures throughout the history of this country and currently. They explained why the concept of one person, one vote, must be observed when the legislative elections are involved. They didn't have multimember districts. All the ways that people who wanted to corrupt the process were attempting to do it. One person, one vote. And what that meant is that you could not have districts with widely disparate numbers of people in them. If you had one district with 100 people and another district with 1,000 people, then the people in the district with only 100 people had more than their share of the electoral power because the district with 1,000 people would still only have one individual they would send to that assembly. So you had to have districts relatively equal in number. They had to be compact, contiguous, and relatively even in population. Some people don't know where the term "Gerrymander" came from. That's when they draw lines and make them follow no particular geographic feature. But it's drawn in such a way as to include certain people in, and exclude other people out, so that you could tilt the election by having that as one district, and it would comprise people in the vast majority who would go the way those who were drawing the district wanted. There was a fellow named Elbridge Gary, Gerry, actually, G-e-r-r-y. I like to pronounce it Gary to see if people are listening. And the first time that that type of district... [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: ...was really discussed, they said it looked like a salamander. And since Gerry had something to do with it, they called it not a salamander, but a Gerrymander. And that's where the term came from. And now you've learned something. And I'm not misleading you. And now when the court sees that kind of irregular district drawn, then it does not smile on that. They don't enforce to the extent I should, I think they should, the way these districts ought to be drawn. And with the court that's there now, they're constantly granting concessions to what is called the conservative or middle-aged...middle ages point of view. I think of Supreme Court Chief Justice John Roberts... [LB399]

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SENATOR HOWARD: Time, Senator. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. [LB399]

SENATOR HOWARD: Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Chief Justice John Roberts, who is a Catholic, reminds me of the reincarnation of Roger B. Taney, who was also a Roman Catholic, and the Chief Justice, who made the infamous declaration that black men have no rights that a white man is bound to respect. And Chief Justice Roberts has made it his bound and duty to gut as many laws as he can that were designed to do away with some of the racial discrimination that has existed in this country, exists in this country, and in my view, always will exist in this country. They do not have these conservatives...the forthrightness of George C. Wallace, George Corley Wallace of the sovereign state of Alabama. And I've quoted for you what he said when he was sworn in as governor: Segregation today, segregation tomorrow, segregation forever. But then as times began to change, George Wallace had an epiphany and he said, I was wrong. I never should have said that, but I said it, and I can't unsay it, but I can say, I'm sorry. George Wallace's daughter never got over that, and when she endorsed Barack Obama for president, people questioned her about what her daddy had said and the time he stood in the schoolhouse door to keep the black students from entering. And she said, around the table, we never talked about it. Those issues were not raised for discussion in our household. He embarrassed and humiliated his family for political purposes and that attitude carried him very far in the back waters of the political system where he lived. He knew those people, he told them what they wanted to hear, and he tried, to the extent that he could deliver, to carry out what he said knowing that he couldn't. He had even made deals on how he would be forced to take a position, which he knew ought to be taken but he couldn't take it on his own, because of what his constituents would say. I know the words "constituents." So these kind of politicians I'm very familiar with. I've read a lot of history, I've kept up with current events, and I've participated in some of those events. And people in this country don't get in the education system what they need to have. They are not taught what we call civics. Some people don't even know how many states there are in the United States of America. Some people don't know how many branches of government there are that comprise the American system of government. And it's difficult to discuss issues with people when they cannot accept the fundamental premises on which the discussion is based, and you have to argue to persuade them that these are facts and we start our discussion from here. Well, if they deny those facts, then you don't even need to participate in a discussion. It is a great waste of time. So in situations of the kind we have here today, I'd say the wisest thing Senator Lautenbaugh did... [LB399]

SENATOR HOWARD: One minute. [LB399]

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SENATOR CHAMBERS: ...was to bail out and say, he's not going to talk about the bill any more. He brought it here. He said, now, I'm turning it over to the "peanut gallery," and they will carry it. And right now, "Professor" Schumacher has presented to us an amendment which he says is going to solve the problem. And "Professor" Schumacher knows that this does not solve the problem that the people who wanted this bill perceived. And as we proceed, I may give my comments on "Professor" Schumacher's effort and what I think he knows, but he will be the one to speak for himself. Madam Chairperson, was that my closing? [LB399]

SENATOR HOWARD: No, sir. Your closing is next. [LB399]

SENATOR CHAMBERS: You're forgiven for that other incident, but my time is up on this time that I am speaking, correct? [LB399]

SENATOR HOWARD: Yes, sir. [LB399]

SENATOR CHAMBERS: So, I'm going to turn on my light. This will be my closing now. [LB399]

SENATOR HOWARD: Senator Chambers, you are recognized to close. [LB399]

SENATOR CHAMBERS: Thank you, ma'am. Members, as I stated, the amendment that you're reconsidering, and I didn't watch to see how "Professor" Schumacher, who took the baton from Senator Lautenbaugh and is promising to run this thing across the finish line, said he didn't have any problem with my amendment. You ought to operate your car lawfully. And that's all that I was saying. But since you don't want to do it that way, I'll do it your way. And I know my time is going on. Sometimes you have to multitask, but you have to be careful that you do it right. These pauses are for dramatic effect for those who are listening. They're to give me the opportunity to write down what I need to write down in my upcoming amendment. See, on the floor of the Legislature, when you're recognized to speak you have five minutes and you can just contemplate if you want to and try to think of what you ought to say next, but you really don't have to think at all, just stand there. And I'm going to show you all what can be done under the rules that you all voted for. I'm operating within the rules, but I'll tell you what, if I brought a bill and it was to make a point, I would tell you that and I would tell you the point that I'm trying to make because there would be no point in me bringing it if you didn't understand why I was doing it. When they brought an asinine amendment proposal to amend the Nebraska constitution to put "protect fishing, hunting, and trapping" on the ballot, I might say after the word "trapping," put "moonbeams." Then the right to trap moonbeams will never be abolished. Hunting, hunt for the wreckage of Amelia Earhart's airplane and each one of those amendments gave me the opportunity to enlighten my colleagues on things that I knew they did not know. And you know why I know they did not know that, they don't even know the basics of this job they got people to vote for them so they

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could come here. Any of you who have been here any length of time know that because a person is on a certain committee that has a certain name, it does not mean that person has expertise in the subject matter of that committee. But the nature of a legislature is such that qualification has nothing to do with anything. It has to do with what somebody who wants something can do to get what he or she wants. Sometimes, wiliness is what it takes; sometimes, cunning; sometimes outright dishonesty, deception, and double-dealing. There was a senator here named Terry Carpenter. They called him "Terrible Terry." And he and I got along famously. At first we clashed because he heard things about me and what I allegedly did while I was in north Omaha... [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: ...a bomb thrower and an arsonist and things like that and he was going to put me to the test like a youngster here wants to do. But after he found out what I really am, he didn't see that much difference between him and me, except a lot of years. And we worked on a lot of issues together, and I had a profound respect for him. And they asked him about politics, he said, I think it's a dirty, double-crossing, back stabbing racket and that's why I love it. That's what Terry said. And when people criticized him, he said, I don't care what they write about me, just so they spell my name right, because he knows people don't keep things in their head very long. They will read a name and don't even know what they read that name in connection with. And with the way they do things with the computer now, some people cannot even carry on a decent conversation because they're losing that ability. [LB399]

SENATOR HOWARD: Time, Senator. [LB399]

SENATOR CHAMBERS: Thank you, Madam President, and I'll ask for a call of house. [LB399]

SENATOR HOWARD: Thank you, Senator Chambers. Members, there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB399]

CLERK: 25 ayes, 0 nays, Madam President, to place the house under call. [LB399]

SENATOR HOWARD: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Wightman, please record your presence. Senator Wightman, please return to the Chamber. All members are present and accounted for. Senator Chambers, how would you like to proceed? [LB399]

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SENATOR CHAMBERS: Roll call vote. [LB399]

SENATOR HOWARD: There's been a request for a roll call vote. Mr. Clerk, call the roll. [LB399]

CLERK: (Roll call vote taken, Legislative Journal page 256) 11 ayes, 34 nays, Madam President, on the motion to reconsider. [LB399]

SENATOR HOWARD: The motion to reconsider fails. I raise the call. [LB399]

CLERK: Madam President, Senator Chambers would move to amend Senator Schumacher's amendment with FA167. [LB399]

SENATOR HOWARD: Senator Chambers, you're recognized to open on your amendment. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. This is a very straightforward amendment. I have been informed by your last vote that you did not like to require people to operate vehicles lawfully. So if you can choose between (a) and (b) and you don't like (a), then you'll like (b). So what this amendment says is that after the word "operated" in line one, you insert the word "unlawfully." Then it reads: Any motor vehicle when operated unlawfully by one of these people, they can then have these amber lights. And see, these two ideas, now that I think about it, go together like cold ham and potato salad, like peanut butter and jelly, like police officers and donuts. Here's why they go together. If somebody is operating the vehicle unlawfully, he or she might be suspected of being a danger, a hazard. And what is an amber light other than a warning. So, I'm certain that those who could not accept requiring that a vehicle be operated lawfully will agree that it should be operated unlawfully. When you take a logic course, one of the first principles you learn, depending on who the main philosopher is that the course is built upon: A thing cannot be and not be at the same time. It either is or it isn't. It exists or it doesn't. A thing cannot be and not be, a thing cannot be and not be at the same time. So, using logic, if a thing cannot be and not be at the same time, if it's not raining, then it is raining. That's logic. I'd like to ask "Professor" Schumacher a question. [LB399]

SENATOR HOWARD: Senator Schumacher, will you yield? [LB399]

SENATOR SCHUMACHER: I sure will. [LB399]

SENATOR CHAMBERS: Senator Schumacher, do you agree that a thing cannot be and not be at the same time? [LB399]

SENATOR SCHUMACHER: What was that? Cannot be and not be or can be and not

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be? [LB399]

SENATOR CHAMBERS: It cannot be and not be at the same time. [LB399]

SENATOR SCHUMACHER: No, I do not agree with that. [LB399]

SENATOR CHAMBERS: So you think something can be and not be at the same time?
[LB399]

SENATOR SCHUMACHER: Yes, I do. [LB399]

SENATOR CHAMBERS: Can...give me an example. [LB399]

SENATOR SCHUMACHER: There is a phenomena in quantum physics and it's
described by Schrodinger's cat. [LB399]

SENATOR CHAMBERS: Okay. [LB399]

SENATOR SCHUMACHER: And Schrodinger's cat can be alive and not alive at the
same time, but it is only after you open the box in which Schrodinger's cat is, that
Schrodinger's cat becomes whatever it is. [LB399]

SENATOR CHAMBERS: And I was going to cut him off and say, this is trickery. That is
not a matter of something being and not being at the same time. It's a matter of
something being, but you don't know what it is. [LB399]

SENATOR SCHUMACHER: No, no, no, no, no, no. The essence of quantum physics in
this area is that it is both at the same time and that's what enables the phenomena of
quantum computing. [LB399]

SENATOR CHAMBERS: And here's how "Professor" Schumacher expects to win this
argument. As soon as he threw the term "quantum physics" out there, everybody else
just tuned it out. Then, I'm going to ask him a question. Senator..."Professor", if we
started out at the back of that...this Chamber... [LB399]

SENATOR SCHUMACHER: Yes. [LB399]

SENATOR CHAMBERS: ...and moved forward, and each time we moved, we covered
half the distance between where we are and where we're going. Would we ever reach
that other wall? [LB399]

SENATOR SCHUMACHER: Well, that's the same explanation as the arrow moving the
old Greek puzzle. But, if we were moving at the speed of light, Senator, we may never

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catch ourselves. [LB399]

SENATOR CHAMBERS: I'm going to ask the question again and use the elements of the question that I propounded. If we are moving toward the wall in the front of the Chamber, and we start at the wall at the back of the Chamber, and each time we moved we covered half the distance between where we are and that wall. Will we ever reach that wall? [LB399]

SENATOR SCHUMACHER: If you only cover half of the distance each time, you have never arrived at the goal. [LB399]

SENATOR CHAMBERS: You're right. I thought you were going to throw some other trickery in here. [LB399]

SENATOR SCHUMACHER: Well, let's keep on with this. This is the best thing we've had all day. [LB399]

SENATOR CHAMBERS: All right. Have you ever heard of William of Occam? [LB399]

SENATOR SCHUMACHER: Now, you're getting out of my league. [LB399]

SENATOR CHAMBERS: Okay, we'll forget him. Have you ever heard of Occam's razor? [LB399]

SENATOR SCHUMACHER: No, but I'm afraid I'm going to learn about Occam's razor. [LB399]

SENATOR CHAMBERS: It's very simple and the word simple is the key. To make it very simple, William of Occam was actually a person. If there are multiple, possible solutions to an issue, you should try the simplest one first. That's simple, right? [LB399]

SENATOR SCHUMACHER: Well, but you're not doing that today, Senator. You're trying some of the harder ones first. We had a simple answer to begin with, a vote no, but now we're going through all this. [LB399]

SENATOR CHAMBERS: But "Professor" Schumacher, I did not say I would employ Occam's razor. I asked, what is it? [LB399]

SENATOR SCHUMACHER: Okay. [LB399]

SENATOR CHAMBERS: Now that I've told you what it is, are there circumstances when you think that may not necessarily be the most desirable course to take depending on what your intention is? [LB399]

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SENATOR SCHUMACHER: Absolutely. [LB399]

SENATOR CHAMBERS: Now, you are not using Occam's razor with this amendment that you presented to us, are you? Take all the time you want to, to think it over. [LB399]

SENATOR SCHUMACHER: I, I...no, because I think we're drawing ourselves into a discussion that's an important discussion. It may be getting a lot longer than we want it to be and it may at this point not be...have lost its educational value, but I think what this is doing is focusing the issues of authority, focusing the things of doing our jobs to use proper language here. The bill as it started out had, as you amply pointed out, lots and lots of problems and I would not sleep well at night if we passed it the way it was. This way if we journey our way through this and pass this amendment, it won't make me a hill of beans difference one way or the other whether it passes. [LB399]

SENATOR CHAMBERS: Would you sleep well tonight as a result of this amendment that you presented being adopted and the proposal being enacted into law? [LB399]

SENATOR SCHUMACHER: Yeah, I wouldn't care one way or the other because it doesn't do anything one way or the other except possibly giving a county attorney some authority he might want, but probably will never use if he has any brains. [LB399]

SENATOR CHAMBERS: I couldn't understand a word you said. I think you might have been standing close to the mike. [LB399]

SENATOR SCHUMACHER: Oh. [LB399]

SENATOR CHAMBERS: Did you say that you would sleep better? [LB399]

SENATOR SCHUMACHER: If this amendment is passed... [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR SCHUMACHER: ...it would be a better sleep than if the original bill had passed. [LB399]

SENATOR CHAMBERS: It would be a better sleep, but would it be...let me put it like this. Would it be a sound sleep, the sleep of the righteous? Is that the kind of sleep it would be? [LB399]

SENATOR SCHUMACHER: It would be one that wouldn't bother me one bit, righteous or evil. This issue is not a burning issue if we take out of it, as this amendment does, the...putting society in a position of trying to have various little town police chiefs or

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something like that, determine who gets to wear an amber light or not. [LB399]

SENATOR CHAMBERS: This could be like a goo gah or pee-wee kind of bill in the broader context of what we do as a Legislature. [LB399]

SENATOR SCHUMACHER: This is the kind of bill that we really shouldn't be here talking about, but it's here, so let's get through it. [LB399]

SENATOR CHAMBERS: So why don't you help me kill it and we do that which is best for the Republic and the institution itself? [LB399]

SENATOR SCHUMACHER: Because there isn't the votes to kill it, so we're going to sit here for eight hours and... [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR SCHUMACHER: ...we're going to go through it and that's why. I mean, I'd like to see this amendment pass and then I could vanish for a few minutes to do some things I was hoping to do and I think I've been taught not to be in the middle of these fights. (Laugh) [LB399]

SENATOR CHAMBERS: If this were adopted, would you then support it? Because it becomes the bill, would you support it all the way to passage, or are you trying to make a thing less bad and more palatable for others? [LB399]

SENATOR SCHUMACHER: I'm not trying to make it less bad. I am trying to make it something that will do no harm if passed or if not passed. [LB399]

SENATOR CHAMBERS: And I think my time may be up on this time, Madam President. [LB399]

SENATOR HOWARD: You have 14 seconds. [LB399]

SENATOR CHAMBERS: Long enough to say, thank you. [LB399]

SENATOR HOWARD: Thank you, Senator Chambers and Senator Schumacher. Members, you've heard the opening to the amendment to the amendment. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, when I came down here, I don't know if I told you this or not, but I'm going to tell you now. We're here for 60 legislative days. We're going to be talking about something all of those days. I don't mind talking about this all of those days, but we won't. So every time

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one of these bad bills comes up, I'm going to be right in the middle of it trying to stop it. Senator Mello did not learn his lesson from that other bill that he was trying to support, the horse-betting bill. He winds up on this one also. But he's taking a powder. I don't know whether he and Senator Lautenbaugh are...having a meeting someplace but they're certainly not here. And it's their bill. They brought it here. They said how good it is. And that's what I want to highlight. I stay here. I struggle. I will try to protect the integrity of the Legislature. And some of you are going to come to me before the session is over and ask me to help you when you're caught in a ringer. Why would you think that I would help you? I'll tell you why. Because you believe me despite the fact that you wish you didn't. You need me even though you wish you didn't. But when the chips are down, I may be the only one you can find whom you can trust and if you don't know it now, you're going to find out, but some of you know it already. And you won't work. This is your Legislature, and I have to try to maintain its integrity. But this is not hard work for me. You couldn't...let me start by invoking the words of a very famous and great American: You cannot deal with the truth. Senator Ashford could probably tell you where that came from. Can't handle the truth. And when I watch the trifling things that upset these senators that throw their train off the track, they could not survive the kind of life that they would live if they lived it in my skin, in this society, and they lived it around all these people who as long as they're the same color, they get along very well. But I'm going to tell you what John F. Kennedy said. Those of you all who want to tell the Negro--that's the word they used when he was around--that he ought to wait and that everything is wonderful. Which of you, being white, would be willing right this minute to trade places with that black man who you say ought to wait and that everything is fine. You know you wouldn't. And you know the problems that I'm describing exist because you're a part of them and you know what you think and how you feel. And I know how you are and I know what happens in this country. I read the parts of the history you don't read. [LB399]

SENATOR HOWARD: One minute. [LB399]

SENATOR CHAMBERS: Many of you now know that George Washington was a slaveholder; Patrick Henry, a slaveholder; Thomas Jefferson; the so-called Founding Fathers; the vast majority of those who signed the U.S. Constitution were slaveholders. This was a slavocracy and it's like that tune, the song is ended but the melody lingers on. They talk about the glow, the afterglow. The math and the aftermath. That's what this country is about. It has slavery longer than it has been without slavery. Have you ever thought about that? The majority of this country's history was one of slavery protected by the constitution. [LB399]

SENATOR HOWARD: Time, Senator. Is there any further discussion on the amendment to the amendment? Seeing no members in the queue, Senator Chambers you're welcome to close on your amendment. [LB399]

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SENATOR CHAMBERS: Thank you. These are the times not to try men's souls. Do you all know who said that? Do you know who said that? You've heard it. The white guy. His name was Thomas Paine, P-a-i-n-e. Have you heard the term Common Sense applied to a pamphlet? Thomas Paine wrote, these are the times that try men's souls. And you know what made him say that? Did you know the term Jersey once was plural, the Jerseys. And the Army being led by George Washington was in that area and they were stepping fast, fast, fast with the British hot on their heels. And you all think George Washington was a great general. Read the military history of this country. They suffered some ignominious defeats, and you think these Americans were such patriots. When the army of George Washington was traveling on its belly, as they say, the infantry did, or does, farmers, American farmers were jacking up the price of the goods that they were selling the members of the Continental Army, they exploited that situation. You don't read about that in history. You read about all these heroes and all these patriots. That's BS, because they want to condition you and brainwash you to look at things a certain way. And that's why if you go to another country and want to talk to them about American history, they laugh at you because they know more about American history than you know in this country. Children who take tests on American history when they're from other countries, do better on it than the students who take history in America. Because if the teachers don't know, how can they teach you? And if there are things they had better not teach you and their job means so much to them, they're not going to teach you. And then people like me have to deal with all of that ignorance and listen to ignorant people talk about America has got the best legal system in the world. They don't know that. The best judicial system in the world. They don't know that. You don't understand your own judicial system in Nebraska. You don't know about the judicial system in Iowa. How are you going to talk about comparing America's judicial system with that in another country when you don't understand the one in your own state. But you say that and you hear people say it and you will say it, mindlessly: America's got the greatest judicial system in the world. And in the city of Chicago, the state of Illinois, the governor cleaned out death row because, based on DNA findings, more than half the people on death row in Illinois were absolutely innocent. Not some legal technicality, as they call it. But they call it a legal technicality only when something comes forth to show that the law was misapplied and an inappropriate judgment was rendered. Then they say, well, that's a technicality. But if it goes their way it's not a technicality; that's the law. And if it's justified by the law, if it's underwritten by the law--the law as it should be applied--and a decision is overturned, that's not overturning it on a technicality. But that's the way they teach you in America. How, when they tell you that the trials are fair and that these individuals on death row had numerous appeals, numerous judges ruled against them, some of them had more than one trial and the jurors ruled against them, and can all these people be wrong? Heavens yes, and they were. [LB399]

SENATOR HOWARD: One minute [LB399]

SENATOR CHAMBERS: And DNA established it. So this governor cleaned out death

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row. And he didn't release the people; their sentences were commuted to life. And they could continue fighting in the court system to try to have the underlying conviction overturned if there was evidence to do that. And the fact that they had been convicted on bogus evidence, withheld evidence, lying witnesses, manufactured evidence, in most of the cases they wouldn't even have a retrial because they didn't have anything they could use, since everything was false that they utilized. And people walked free who had been on death row, sent there under the best judicial system in the world. People in this society do not look at reality. Reality for them is what somebody tells them. [LB399]

SENATOR HOWARD: Time, Senator. [LB399]

SENATOR CHAMBERS: Thank you, Madam President. [LB399]

SENATOR HOWARD: Members, you've heard the closing to the amendment to the amendment. The question is, shall the Chambers amendment advance to the Schumacher amendment? All those in favor vote aye; all those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB399]

CLERK: 25 ayes, 1 nay to place the house under call. [LB399]

SENATOR HOWARD: 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 Conrad, Burke Harr, Bolz, and Lautenbaugh, please return to the Chamber. Senator Harr, please return to the Chamber. The house is under call. Senator Chambers, all members are present and accounted for. How would you like to proceed? [LB399]

SENATOR CHAMBERS: Roll call vote. [LB399]

SENATOR HOWARD: Mr. Clerk, call the roll. [LB399]

CLERK: (Roll call vote taken, Legislative Journal page 257.) 0 ayes, 32 nays, Madam President, on the amendment. [LB399]

SENATOR HOWARD: The amendment fails. I raise the call. Items for the record, Mr. Clerk. [LB399]

ASSISTANT CLERK: Madam President, new bills. (Read LB959-964 by title for the first time, Legislative Journal pages 257-258.) Madam President, that's all that I have at this time. [LB959 LB960 LB961 LB962 LB963 LB964]

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SENATOR KRIST PRESIDING

SENATOR KRIST: Mr. Clerk. [LB399]

CLERK: Mr. President, Senator Schumacher, I understand at this time you wish to withdraw your amendment. [LB399]

SENATOR SCHUMACHER: Yes, I do. [LB399]

SENATOR KRIST: Withdrawn. [LB399]

CLERK: Mr. President, in that case the next amendment I have to the bill, Senator Chambers, I now have FA165, Senator. You gave that to me earlier this morning. (Legislative Journal page 258.) [LB399]

SENATOR KRIST: Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I doubt that that amendment would fit with the green copy. So I want to take a second to make sure, because if it doesn't, then I won't initiate a discussion on it. [LB399]

CLERK: Senator, if I can read it to you? It's on page 3, line 2, and I think this is to the bill. This was drafted before Senator Schumacher offered his amendment, I think. Or maybe it was drafted about the same time his came up. So it's on page 3, line 2, after the comma insert the word "or." [LB399]

SENATOR CHAMBERS: Yeah. I will take that up. [LB399]

CLERK: Okay. [LB399]

SENATOR KRIST: You are recognized, Senator Chambers. [LB399]

SENATOR CHAMBERS: Yes. Mr. President and members of the Legislature, this is a small amendment in every sense of the word. It is the word "or." And here's why we need to put the word there. You did adopt an amendment to the green copy which struck those unnecessary words referring to applicable law enforcement agency. That was a good deed you did. It was a good amendment that I offered and you recognized it. But then that made the remaining language...even though I disagree with it, I'm offering this amendment. It is not a series comprising three elements now but only two. When there were three elements, you gave the first one, comma; the second one, comma; and joined the third one with "or." Well, now since we only have two elements, those two elements must be joined with the word "or," so that it reads--we're talking

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about terms and conditions--"as determined by the sheriff." We then insert "or the police department." If you don't adopt this amendment, it says "determined by the sheriff, the police department." And a person could wonder if the police department modifies sheriff, meaning that the sheriff constitutes the police department. Now I'm going to take all the time that I have to discuss this, but it is an amendment that is essential for grammatical purposes and clarity. Therefore, I'm offering the amendment. But in order that you may understand what it is I'm doing...I don't see Senator Mello, but Senator Lautenbaugh is still here so I'm going to ask him because he said he'd answer questions. Will Senator Lautenbaugh yield to a question? [LB399]

SENATOR LAUTENBAUGH: Yes, I will. [LB399]

SENATOR KRIST: Will you yield to a question, Senator Lautenbaugh? [LB399]

SENATOR LAUTENBAUGH: Yes, I will. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, when that amendment was adopted removing that last word about the applicable law enforcement agency, we now have not three elements but only two: "As determined by the sheriff, the police department." That's the way it reads now. What my amendment would do is strike the comma after sheriff and insert the word "or," so it says "the sheriff or the police department." That's all this amendment does. And I at least want the language to be grammatically correct before I launch into the rest that I'm going to do. So let me ask this first question: Do you agree that "or"...if they're going to do this, "or" should separate sheriff from police department? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Thank you. This is an amendment, members of the Legislature, which has no trickery involved at all, and I'm doing it because of the horrendous possibility that this may move, and I hope it doesn't. But that is what the amendment does. Now I don't have to spend a lot of time on it. But I'll tell you this, if I were going to offer a bill like this, which I wouldn't, I would offer it by writing it differently. And I will tell you what I would do. I would write it in such a way that it would not constitute an unlawful or unconstitutional delegation of legislative authority. Is Senator Seiler in the Chamber? If he is, I would like to ask if he would yield to a question or two. [LB399]

SENATOR KRIST: Senator Seiler, would you yield to a question, please? [LB399]

SENATOR SEILER: I will. [LB399]

SENATOR CHAMBERS: Senator Seiler, you're familiar with the term "unconstitutional

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delegation of legislative authority," aren't you? [LB399]

SENATOR SEILER: That's true. [LB399]

SENATOR CHAMBERS: And that means...this is oversimplification, but just to get the concept out there that the Legislature enacts a law granting to some entity other than itself the power to act in a way that constitutes legislating. And because only the Legislature can legislate, that kind of authority cannot be granted by the Legislature to another, even if it chose to do so. [LB399]

SENATOR SEILER: That is correct. [LB399]

SENATOR CHAMBERS: As a simple statement. Okay. Now...oh. [LB399]

SENATOR SEILER: That usually happens with agencies. [LB399]

SENATOR CHAMBERS: Would you say it again? [LB399]

SENATOR SEILER: It usually happens with agencies. [LB399]

SENATOR CHAMBERS: Right. And that's what I was getting to next. When an agency by a law is accorded a duty by the Legislature to do certain things and it sets a goal to be reached, which is legitimate to be reached, and an agency is the one equipped to reach it, if the Legislature is not going to fill in all the gaps, it must give sufficient direction and limitation so that what the agency does can be considered merely carrying out the will of the Legislature rather than substituting its will for the will of the Legislature--and thereby legislating itself. Is that basically correct? [LB399]

SENATOR SEILER: That is. [LB399]

SENATOR CHAMBERS: Now if you look at the language in this bill that we're dealing with, it's granting to the sheriff and the police department the authority to establish terms and conditions and an area where utilization of these lights are to be allowed. It does not give any direction to the sheriff or the police department to determine what these organizations should consist of, what it is they ought to do, and no guidelines as to what kind of terms and conditions they may establish. Depending on what they do, could they do something that could be determined to be an unconstitutional delegation of legislative authority; or would you rather not venture into that water with what we have here before us? [LB399]

SENATOR SEILER: (Inaudible) and over in the Supreme Court decide that. [LB399]

SENATOR CHAMBERS: Say it again. [LB399]

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SENATOR SEILER: I'll let my brethren over in the Supreme Court decide that. [LB399]

SENATOR CHAMBERS: Well, I know that's who's going to make the ultimate decision. [LB399]

SENATOR SEILER: Right. [LB399]

SENATOR CHAMBERS: Let me ask you a question. Have you heard...no, have you read Supreme Court decisions where they say, "It is our duty to apply the law as it is written. We are not to read anything into the law that's not there. We're not to read anything out of the law that is there." Have you read that language in various Supreme Court decisions? [LB399]

SENATOR SEILER: I have. And then the very next sentence they do just the opposite. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR SEILER: (Laugh) [LB399]

SENATOR CHAMBERS: He's quicker than Jimmy John. He won't let me ask my question before he answers it. What he said, for those who may not have caught it: They will do exactly what they just said they wouldn't do; they will do that in the very next sentence. So we have to sometimes speculate about how the Supreme Court may behave in a given set of circumstances. And if we want to be a prudent Legislature, we should err on the side of caution. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. No. Senator Lautenbaugh. Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Thank you then. I will speak on behalf of myself. It's started to become fun for me again because now Senator Schumacher can really be called by me, "Professor," without there being any sarcasm in it. This piece of legislation goes too far in what it does. Senator Lautenbaugh is not going to talk so I'm not going to ask him a question on this. But I, frankly, don't believe Senator Lautenbaugh wrote this language. Senator Lautenbaugh wouldn't write language like this. I will tell people this: I know Senator Lautenbaugh. Senator Lautenbaugh may not be my friend but this was not written by Senator Lautenbaugh. This was not even written by a lawyer. And when I say lawyer, I'm not talking about somebody who bears that title just because he or she is a member of the bar association, but lawyer in the sense of one learned in the law. A lawyer knows that words have meaning, and in a legal context they have very precise meaning. But as Senator Seiler pointed out, the ultimate decider of what those words or

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that word means, or will mean, are the people down the hall and around the corner in the Supreme Court. And nobody is in a position to gainsay or deny what they say, unless they are construing a statute. And if the Legislature disagrees with that construction, the Legislature can modify the statute and override their decision. But if on an essential issue the court rules that what the Legislature did is unconstitutional, there's no way the Legislature can clean that up. I did get a bill enacted that would allow the senators to have a pension program, and the Supreme Court struck it down as unconstitutional. So the Legislature can enact a bill like that again. There being different members of the court, these judges may rule differently. But if they follow the precedent set by the first one, they will strike it down. They stated, and they're correct in their reasoning, the constitution sets the compensation for legislators. It sets a maximum. In some cases, it's written to mean that it sets the precise amount. But be that as it may, the Legislature cannot enact any legislation that would provide to the senators more than that amount which is contained in the constitution. Since pensions are viewed as deferred compensation, it would put the senators in excess of what the constitution says that they can receive, so that effort I put forth to help the senators failed. But the other one that I fought to get, and overrode a Governor's veto on, said that senators can receive expenses while we're in session. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: The Attorney General had stated that only between sessions could we receive expenses, not while we're in session. And when I brought that law he said, if you are not careful, we may have to rule that you can't get expenses even between sessions. [LB399]

SENATOR KRIST: Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Thank you. But I read the law and I discussed it with people, including our present Clerk of the Legislature. The conclusion was reached, and it was a decision for me to make, that we're going to shoot the works. Either we're entitled to have expenses beyond one trip to and from the Legislature, either that's all we would be able to have, or we'd be able to have what my bill said. And I told the senators I'm going for what I think we should have. So the Attorney General did not want to file a lawsuit, and I said I'm going to force a lawsuit. So I filed vouchers for expense reimbursement during the session. And when that was turned down, then the basis for a lawsuit was there. The lawsuit was prosecuted. The Attorney General lost. And as all these senators now know, the ones who can't stand the sight of me, they get, some of them, more money while we're in session from their expense reimbursement than they get from their salary. Now, see, they like it when I read the law carefully like that, when I analyze the constitution like that, and when I say the Attorney General is just one guy who gave an opinion and his opinion is wrong. They like it when I push forward then and not be intimidated or deterred. And they are happy now that they can claim expenses during

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session. Money talks. But it doesn't apparently speak in my behalf. I don't want any of their money. But in terms of recognizing and understanding that I think a lot of this institution, I knew the senators were not going to get a raise anytime soon. I knew there were senators going into their own pockets to pay the costs of being in the Legislature. And that talk about, well, you knew what the salary was when you came here; that did not even enter the equation as far as I'm concerned, because I don't know any of the people who gave that statement or argument against senators receiving a salary increase would accept it in their own case where you'd say, you knew what the salary was when you went to work; you don't get any raises. And I didn't like all the senators who were here. In fact, I didn't like most of them. In fact, I disliked most of them. But I was beyond them. I was dealing with principle, and when I say principle I mean it. And if my enemies benefit from me vindicating a principle that I believe in, that's the way it's supposed to be. And by the way, that Jesus you all pray to all the time, said if you do good to those who do good to you, what thank have you; the worst of people do that. But you do like Old Chambers: Do something for all of them that they couldn't do for themselves; didn't know how to do it if they wanted to. And they hated the fact that he did it but they loved from the bottom of their heart what he did. And that's why you all get expenses. The Attorney General said it was unconstitutional. I don't accept what the white men say. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: They've got to show me...you know why I always put white in front of it? Because everybody I contest with is white and every time, before Senator Cook came down here, every time these white papers put an article in the paper or an editorial, they were the ones who said "the only black senator in the Legislature"; the "only African-American." And then they want to say a black person uses the race card? As long as I've been in the Legislature, everybody knew what my race is. But that's what the white people wrote every single time and I can show you the articles and you've read them. And I'm supposed to let them do any kind of thing they want to and not stand up. That's not the kind of man that I am and you all ought to be glad about it. Every time you cash that expense check you just remember where it came from and how you got it. Not out of my pocket. Because if that's the way it was, you wouldn't have gotten a penny. (Laugh) But at any rate, this is an amendment that even... [LB399]

SENATOR KRIST: Time, Senator [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I said

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I wasn't going to speak again but I thought I would at least explain what was going on or what is going on. Frankly, I did not know that Senator Schumacher was going to pull his amendment that I got everyone to deal to...or agree to, I should say. And so I feel obligated to reinstate that amendment and go forward with it, because I think it makes sense and everyone seemed comfortable with it. So I am going to be doing just that. In the interim I filed a couple of amendments to keep this going myself to get this done, since that is the language that seemed to have broad approval. So for that purpose, I will be going ahead and getting that amendment on file. If you see that I have filed a couple amendments, don't think I'm going back on my promise not to speak. I guess I am, in a way, but that's why. So if you see a couple of amendments in the hopper, don't think much of them because, well, frankly, I don't. There's a better one coming, so; and it's one you've seen before, so. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Seeing no one else in the queue, Senator Chambers, you're recognized to close. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, since Senator Lautenbaugh introduced a subject, I'd like to ask him a question. [LB399]

SENATOR KRIST: Senator Lautenbaugh, will you yield? [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, is it exactly the same amendment that Senator Schumacher had offered, or did you modify it in any way? [LB399]

SENATOR LAUTENBAUGH: It won't be exactly the same, probably. I want to clarify the language about who the members of the organization are that are authorized in the last line. But generally, the same content. [LB399]

SENATOR CHAMBERS: May I ask you what you did in the last line so I can make mine accord with it? [LB399]

SENATOR LAUTENBAUGH: I have not filed it yet so I haven't done it yet. [LB399]

SENATOR CHAMBERS: Did you know I had offered an amendment that would have dealt with that? And it would have put a period after "organization" and struck "and who registers with the county attorney." [LB399]

SENATOR LAUTENBAUGH: I have not seen that amendment, no. [LB399]

SENATOR CHAMBERS: You probably would have thought that was okay, though, huh? [LB399]

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SENATOR LAUTENBAUGH: I don't have (inaudible). [LB399]

SENATOR CHAMBERS: Because why...and for my part, since we're talking now, why should somebody, if a majority of the membership approves, why should that person not be a member unless he or she registers with the county attorney? So one of my amendments, I don't know if it made it to the desk or not, but it was going to deal with that. But I'll see what yours will do. But this much would be correct: It strikes everything from the green copy, all the new language from the green copy. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: And replaces it with a version of Senator Schumacher's amendment. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Okay. [LB399]

SENATOR LAUTENBAUGH: And my concern was more not so much about the registration with the county attorney but about determining the majority of the membership of these organizations and how they voted. [LB399]

SENATOR CHAMBERS: Okay. And I was trying to do on that one as little modifying of his amendment as I could because it was his. But that's all that I wanted to ask you. [LB399]

SENATOR LAUTENBAUGH: Thank you. [LB399]

SENATOR CHAMBERS: Mr. President, I know I don't have much time left. And in keeping with my view that we ought not do in the legislative process that which has no consequence, I'm not going to take this amendment to a vote. All that it would do is insert the word "or." But since this language is going to go away, I will not put you through a vote either yea or nay, and I'm not softening or modifying my stance in any way. But this now is a nonexistent element. How much time do I have left, Mr. President? [LB399]

SENATOR KRIST: Two minutes and 10 seconds. [LB399]

SENATOR CHAMBERS: Thank you. I will go ahead and use it. We're back...we're going to be back to what we have spent a good amount of time discussing. I wonder if Senator Schumacher has fled the premises entirely. But if he hasn't, I think he should be here, and one of the reasons he might have bowed out by pulling that amendment is

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because he knew that it was not sound. He knew that it should not be enacted into law. He may have hoped that it would be rejected. I have to speculate because he's not here. Excuse me a moment. Mr. President, something was just brought to my attention. In case Senator Lautenbaugh's amendment fails, we're back to the green copy. So I will take this vote. Then I don't have to offer it again in case we wind up back to the green copy. All that this does... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: ...is put the word "or" where it belongs. And Senator Lautenbaugh agreed that that is something that we ought to do if we're going to have the green copy. It's just a grammatical matter. It changes nothing as far as the meaning, the intended meaning. But if it's not there, it creates an ambiguity by making it seem that police department modifies sheriff's office, which is not anybody's intention. So I'm going to ask for a call of the house and I'll take a machine vote on this particular one. And I was instructed by one of my colleagues, and he instructed me because he knows that I listen. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. 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. Please record, Mr. Clerk. [LB399]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB399]

SENATOR KRIST: 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 Conrad, Karpisek, Janssen, Senator Lathrop, Senator Kintner, Senator Davis, Schumacher, and Avery, please return to the Chamber. The house is under call. Senator Schumacher, please return to the Chamber. The house is under call. Senator Chambers, everyone is accounted for. I understand you would like to have a machine vote. [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR KRIST: Thank you. The question is, shall the amendment FA165 be adopted? All those in favor vote aye; opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB399]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB399]

SENATOR KRIST: The motion is adopted. I raise the call. And items for the record,

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please. [LB399]

SENATOR CLERK: Thank you, Mr. President. Very quickly, new bills. (Read LB965-968 by title for the first time.) Mr. President, I also have new resolutions: LR409 by Senator Carlson, LR410 by Senator Carlson. Those both will be laid over. Senator Karpisek offers LR411CA. It's a proposed amendment to Article VI (sic), Section 11, of the Nebraska Constitution...Article XI. And I have a hearing notice from the Revenue Committee, that is signed by Senator Hadley as Chair of the committee. (Legislative Journal pages 257-262.) [LB965 LB966 LB967 LB968 LR409 LR410 LR411CA]

Mr. President, the next amendment I have with respect to LB399, Senator Lautenbaugh, I have FA170, Senator. (Legislative Journal page 262.) [LB399]

SENATOR KRIST: Senator Lautenbaugh, you are recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I hope the amendment is up on your gadget by now. It's a relatively simple amendment. It strikes the word "such" on page 3. I think the word is probably surplusage. I think we could probably get by without it, and I hope you'll look favorably upon this amendment over time. And thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Brasch, you are recognized. [LB399]

SENATOR BRASCH: Thank you, Mr. President, and good afternoon, colleagues. I have been listening closely because again this was brought to Senator Lautenbaugh originally from Washington County sheriff to the Omaha-based group bringing it forward on the bill. I thought it was very interesting that Senator Chambers knows the quotes of Ronald Reagan so well. That's impressive. And he understands and quotes the Bible even though the pronunciation of it is not what most people would consider. But I would like to know if Senator Chambers would please yield to a question. [LB399]

SENATOR KRIST: Senator Chambers, will you yield? [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR BRASCH: Are you familiar with a quote from Ronald Reagan that says, "Government exists to protect us from each other; where government has gone beyond its limits is in deciding to protect us from ourselves." Are you familiar with that quote? [LB399]

SENATOR CHAMBERS: I am now. [LB399]

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SENATOR BRASCH: What do you think Ronald Reagan meant when he is concerned that government has gone beyond its limits in deciding to protect us from ourselves? [LB399]

SENATOR CHAMBERS: I think he meant that if a woman is pregnant and she wants to have an abortion, it should be her decision and her doctor's, and not for the government to stick its nose into her business and say what she ought to do with her own body. That's what I think Ronald Reagan made; and on that score I agree with him. [LB399]

SENATOR BRASCH: I thank you for your view on that. But because you were...you yourself were born by a pregnant woman, I would like to thank that pregnant woman that you were born and hope that there's other pregnant women that also understand, you know, that life is just an amazing thing and there are always children and people without...couples without children who would love to adopt a child. But that is an interesting view on that. I was curious if you think that sometimes throwing in county attorneys and all of the legal protections, do you think they're necessary? Would you yield to that question, Senator Chambers? [LB399]

SENATOR CHAMBERS: Ask me again because I think I understand what you're asking; but ask it again, because some of the words I missed. Are you asking me do I think putting the county attorney in the middle of this is...that's what the...ask me the question again. [LB399]

SENATOR BRASCH: I'm curious, and maybe it's just been too long, but you feel it is vital for this legislation, for these volunteers to have county attorneys provide clarity on liability. Is that the purpose of your amendments? [LB399]

SENATOR CHAMBERS: My view is that the county attorney should not be involved in this at all, and it's doubtful that a county attorney in a county such as Douglas would want to get involved with this registering people, setting up terms and conditions of these organizations, deciding who may or may not really be a member, deciding which parts of the city they may operate in. With all that the county attorney has to do... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: ...that was not something that I think the county attorney would do. So to me it seems like this is not what people...well, I'll just give my opinion which I gave. [LB399]

SENATOR BRASCH: Okay. Why I'm asking is looking back again at the notes and seeing this organization has had a strong success story for over 20 years, has assisted in so many searches and have been a benefit to their neighborhoods, why we are

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questioning their good judgment on the need for the amber light on their vehicles? And if we are amending, you know, into county attorneys and other places for their protection, that's a good thing, if there is a need to protect those who are trying to protect us. But I appreciate, you know, all the concern you have on this... [LB399]

SENATOR KRIST: Time, Senators. [LB399]

SENATOR BRASCH: ...and our constituents, neighbors to Douglas County,... [LB399]

SENATOR KRIST: Time. [LB399]

SENATOR BRASCH: ...are also very aware. Thank you, colleagues. Thank you, Senator Chambers. [LB399]

SENATOR KRIST: Thank you, Senator Brasch, Senator Chambers. Senator Schilz, you are recognized. [LB399]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good afternoon. It's...wow, the day goes by fast when you're getting a lot of work done, huh? I'm just going to sit here. I appreciate Senator Lautenbaugh bringing the bill. I support what he's trying to do. I understand what he's trying to do. I want to give him a little time here so he can get done what he needs to, so. You know, I came to work this morning. I got here about 7 a.m. And the sun is not even up at 7 a.m. around these parts. Back where I'm from, where real time, Mountain Time, the sun comes up a little later. Oh, never mind. That's not true. We just count the clock a little later. But we've got to figure that out. I will say that I've sat here and listened to all the talk that's gone on, and you know, when you're in the middle of a filibuster and people have, you know, pretty high emotions on both sides as to what this is and it gets down and it starts to become personal and some of those things, a lot of times it helps just to take a step back and try to understand that everybody here is working for the good that they know of and for constituents and folks that bring things to us because they truly see a need, and in the course of the process, as we sit here and we go over things, and we learn what those concerns are and what happens to that and we talk about it on the floor, and this group as a body decides which way we're going to go. We're in the first week of debate, aren't we? It feels like it's been about six weeks so far, in my opinion. But I'm hoping we can start to move past some of this and start to get to a little bit of a place where either...or...well, like Senator Chambers said, we can talk about anything we want to as long as we're making sense as far as the procedure and things like that. And sometimes that's what we do. You know, everybody talked to me earlier as I was coming into session. They said, what do you expect to get done? And I said, well, I don't know; we've got a lot of contentious issues. I didn't realize that every issue was going to be contentious though; and it seems that that's where we're at. That's the way it goes some days. You just...you've got to take the good with the bad and you've got to sit and

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understand that a lot of times there's reasons for things happening like this; sometimes there's not. But that's the way it goes. And I just am amazed that we've sat here for, well, jeez, by the end of the day about six hours talking about this subject. But we'll all still be here. We'll do what we need to do and put in our time, if nothing else, and be ready to move on. And the last thing is that I hope that Senator Lautenbaugh gets his amendment done quick because I'm not very good as this extemporaneous stuff. It doesn't fit my...it doesn't fit my...me, I guess. (Laugh) But I do what I can, right? He asked me to so here I am. But I'm just going to be quiet now and turn this back over to somebody that maybe is a little better at it than I am. Thank you, Mr. President. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR SCHILZ: I see a light on so I'll let somebody else go. Thank you. [LB399]

SENATOR KRIST: Thank you, Senator Schilz. Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I actually enjoyed listening to Senator Schilz. I take seriously whatever is put before us, so I'm going to ask Senator Lautenbaugh a question, now that he's here. And I know this is just a placeholder; but the version that I saw of the amendment that's in front of us, it says, on page 3, line 2, strike "such." Is that all that it does? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR KRIST: Senator Lautenbaugh, will you yield? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Are you saying you'll yield or you're answering the question? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: (Laugh) His "naam is Brad" (phonetic). Thank you, Senator Lautenbaugh. Now I want to read the way the language will be when we adopt this amendment: conditions and within area as determined by the sheriff. This is one time I disagree with Senator Lautenbaugh. I think "such" is needed. Such is a very good word. It serves many functions. Here it is like a definite article. It is giving specificity to the word that follows by joining it to what went before. So in this case "such" should remain. However, it's Senator Lautenbaugh's bill and as long as his amendments don't relate to moving it forward, give him what he asks for if you have a mind to. But I'm not of a mind to do that just yet. I would like to ask him a question. [LB399]

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SENATOR KRIST: Senator Lautenbaugh, will you yield? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, I think we both know why we're doing this at this particular time. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Would you agree to allow me to substitute the word "the" for "such"? Or "an"; or substitute "an" for "such"? Since you just want to get rid of "such." [LB399]

SENATOR LAUTENBAUGH: Well, Senator, since I heard that you thought it was a bad idea, I'm actually turning around my whole way of thinking about this amendment. So actually I'm probably going to pull it when I have the first chance. So, no, I really don't...I'm kind of a huge fan of "such" now. [LB399]

SENATOR CHAMBERS: So you want to keep "such"? [LB399]

SENATOR LAUTENBAUGH: I would rather be...well, I won't go that far. Yeah, there's no way I would part with the word "such" at this point. [LB399]

SENATOR CHAMBERS: That is such a good answer that I'm pleased. Do you all see how people who seem like they're foes, irreconcilably, can come together on something such as this? All you have to do is believe in such things, but while we're waiting for a different amendment to come before us, we don't want to spend the time in silence. And I appreciated watching Senator Schilz attempt to fill five minutes. You know why? Because people say that what I do is easy, anybody could do it. Somebody mentioned we've been here three hours or whatever, however many hours they said, and I took most of that time. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: Other people have trouble filling five minutes. I have failed thus far because some of what I do should rub off on my colleagues. There must develop in each one of us the ability to pass time; and while passing it, say something. Eventually we're going to get to those issues that people think are important. Everything that needs to be done by the Legislature this session shall be done, everything that needs to be done. We'll build a budget. We'll fund the programs that should be funded if certain other things are done. If those certain other things are not done, then we may come back in a special session, which is all right with me. And maybe the Governor

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would like to go out in a blaze of glory. But unlike what he said, he cannot hold us in special session until we do what he wants. He can call us; we come that day. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

SENATOR CHAMBERS: And as soon as we get through, we adjourn sine die. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And at this time I'd like to withdraw this amendment. [LB399]

SENATOR KRIST: The amendment is withdrawn. Mr. Clerk. [LB399]

CLERK: Senator, then I have your next...FA169. That was what I think of as a second placeholder. I don't know. Do you... [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

CLERK: FA169, Senator. (Legislative Journal page 262.) [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. FA169 makes a change to page 3 of the green copy, by deleting the word "such" from a different line than the last amendment deleted the word "such" from. And whereas before, in the last one, I wanted to take out the word "such," and then upon consideration I decided the word "such" was integral to that other line and went from loathing the word "such" to being married to the word "such", and needing the word "such" to stay to keep the bill afloat in this other line right below, or above, I don't remember which order the amendments are in. The word "such" is an offense to the bill and clearly has to go. So I would hope that you'll look favorably upon this amendment, and the word "such" here clearly must be taken out. And I'm not sure what it would take to change my mind. I'm always willing to listen or I'm willing to wait for another amendment to be printed off, whichever comes first. But something will surely come along that will persuade me that maybe this amendment isn't such a good idea, but in the meantime...I don't know. Senator Chambers, will you yield to a question? [LB399]

SENATOR KRIST: Senator Chambers, will you yield? [LB399]

SENATOR CHAMBERS: Yes, I will. [LB399]

SENATOR LAUTENBAUGH: Senator, you've had a chance to review both of these

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amendments. [LB399]

SENATOR CHAMBERS: No, this one I haven't had a chance. You said it's above...it would be in line 1? [LB399]

SENATOR LAUTENBAUGH: It may be line 3. [LB399]

SENATOR CHAMBERS: What word are you taking out of line 3? [LB399]

SENATOR LAUTENBAUGH: I'm sorry. The word "such" in line 1. [LB399]

SENATOR CHAMBERS: Okay, there are two suches. So which one do you want to jettison and which one do you want to keep? [LB399]

SENATOR LAUTENBAUGH: I would say the second one. [LB399]

SENATOR CHAMBERS: You might could still have the semblance of logic if you took away the second one, because it would say "under terms and conditions and within..." So you could sacrifice that one and still have a semblance of an acceptable sentence structure. And if you take this "such," my only response to that would be, in view of the fact of how I feel about the word, "such is life." [LB399]

SENATOR LAUTENBAUGH: Thank you, Senator Chambers. That said, I'm probably persuaded that this one is unnecessary at this time and probably will be pulled in relatively short order. In any event, there's good news for those of you who follow such things. I introduced my charter school bill today, and it's a newer version of the one I introduced last year that I hope addressed some of the concerns that some of you had from last year. So I didn't do a press release but I did one, August of last year, that promised to do it again, new and improved, and it is. And it's an important topic to me. I think we've talked about it before. I know I've talked about it before. And we remain one of, I think, eight states that doesn't currently have charter schools, and that's been kind of a tragedy for us, as a matter of fact, because we've seen that as this experiment has gone forward they've become part of the fabric of education throughout the nation. And just as surely as there have been good public schools and bad public schools, there have been good charters and bad charters. But the good news is, we've learned how to do good charters and do them well. And those charters have found a particularized niche in poverty stricken areas and minority areas. And they've found a particular amount of success in those areas where traditional schools might not be doing so well. And so this bill is meant to target just that in the Omaha area. And again, it's a topic that is very near and dear to my heart and I hope we'll have a longer discussion of it, like...actually I can promise one way or another we'll have a longer discussion of it as the session goes on, because it's important and I'm thrilled with the progress that the Omaha school board has made. But sometimes progress is painful and we're going to

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be hearing more from the board...we've been hearing more from the board as they've come out with their sort of post-evaluation report and what they've found and what they need to do and what they need to address. And it's daunting. It's disheartening in a lot of ways. The district, it seems to me, has been adrift for a couple of decades, literally adrift. And actually...that was an imprecise use of the word "literally," and adrift might have been better in some cases than what has actually happened. Hundreds of millions of dollars are going to be needed to bring OPS up to snuff. I'm hoping you're hearing me when I say this: hundreds of millions of dollars. And we're talking about technological problems, infrastructure problems, lack of investment in facilities over the years, some schools that haven't been touched in decades. And it's throughout the system. There's not a geographic nexus or locus to it. It's everywhere throughout OPS. We have huge problems in the city of Omaha in the largest school district in the state. And we all want the best for the kids in that district, and I've been...one of the other bills I've introduced talks about comparing, looking for performance, rating schools, grading schools, that kind of thing. That presupposes that the schools have the same tools; and at this point OPS does not have the same tools. And some of you are thinking, well, whose fault is that? And if we had a time machine we could go back and probably fix some things earlier than we have. There is fault there, heaven knows. But the problem is we don't have a time machine. We can't go back and keep things from going awry. What we have now are a bunch of kids that we have to deal with; a bunch of kids that we have to educate somehow; a bunch of kids that we have an obligation to, in the largest district in the state with the most severe problems in the state. And we did the right thing last year when we shrunk the board and had to do elections, because this board has been aggressive in evaluating where they are. And we would not know what we know and what we're finding out but for what they've done. They've been aggressive in evaluating where they are so they know where they need to go. And it's been sobering, shocking, disheartening, eye-opening. Pick a way to describe it. And there's more to come. And you may be thinking, well, then why on earth would you introduce charter schools at a time like this? Because just as surely as we want new leadership at the top and we want to give them the tools to perform from within, I believe we also need to have competition from the outside in education to show that if others can do it, they can do it too; and some old excuses aren't applicable anymore. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President. There's no one answer. I think the state of Florida has shown there's no one way to get better results. You have to do multiple things. But OPS needs a lot of help and they're making tremendous strides. The new superintendent is a good man and he's doing a great job; the new board is making great strides. But my gosh, they've got a lot to do. And with that, Mr. President, I would withdraw this amendment. [LB399]

SENATOR KRIST: The amendment is withdrawn. Mr. Clerk. [LB399]

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CLERK: Mr. President, if I may read some things before we proceed to the next amendment. New bills. (Read LB969-971 by title for the first time.) In addition, Mr. President, I have a new resolution, LR412, by Senator Hansen; that will be laid over. And an amendment to be printed by Senator Schilz to LB215. (Legislative Journal pages 262-264.) [LB969 LB970 LB971 LR412 LB215]

Mr. President, Senator Lautenbaugh would move to amend LB399 with FA171. (Legislative Journal page 264.) [LB399]

SENATOR KRIST: Senator Lautenbaugh, you are recognized. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'm sorry for the delay. I didn't know the prior version of this amendment was going away, so we had to kind of recreate it. This is basically the amendment we've been talking about all day, striking all the language and saying that the county attorneys will be given the authority where these entities exist to authorize volunteer members of public safety or crime prevention organizations to display these amber lights. The significant change from the Schumacher amendment is the last line where it simply states "Such volunteer members shall be registered and authorized by the county attorney, in the county where the use occurs, before they are allowed to display such lights." I wanted to avoid any issue in the prior language regarding determining that a majority of the membership of these Neighborhood Watches had somehow authorized these people. I think we can entrust it to the discretion of the county attorneys office to approve these members to display the lights. There should be some record as to who's doing it for public safety's sake. I think that's just prudent. So this is essentially the same concept we had from Senator Schumacher, the county attorneys approving the program and the groups and the people displaying the lights. And I'd ask you to look favorably upon it. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Lautenbaugh. You've heard the opening on FA171. Senator Chambers, you are recognized. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this is an example of that song which I rendered the other day, but I won't do it again today, by Herman's Hermits: second verse, same as the first. So here we go again. And is Senator Brasch here? [LB399]

SENATOR KRIST: Senator Brasch, will you yield to a question from Senator Chambers? [LB399]

SENATOR BRASCH: I will yield. Thank you. [LB399]

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SENATOR CHAMBERS: Senator Brasch, are you familiar with the comment, "there you go again"? Are you familiar with that comment? [LB399]

SENATOR BRASCH: I am now. [LB399]

SENATOR CHAMBERS: Who made that comment, other than me? [LB399]

SENATOR BRASCH: Who? Ronald Reagan. [LB399]

SENATOR CHAMBERS: Bingo. Senator Brasch, I'm kind of surprised that you are so familiar with so many comments made by Ronald Reagan. Why do you have this knowledge, if you don't mind sharing it with me? [LB399]

SENATOR BRASCH: When you quoted him this morning, I decided to go to my gadget and see what else Ronald Reagan had to say that was astounding, inspirational, and motivating. [LB399]

SENATOR CHAMBERS: Do you remember the circumstances in which he made the comment that I rendered? [LB399]

SENATOR BRASCH: Please refresh my memory. [LB399]

SENATOR CHAMBERS: "There you go again." [LB399]

SENATOR BRASCH: Thank you. That's refreshing. [LB399]

SENATOR CHAMBERS: Now do you remember the circumstances in which that statement was made? [LB399]

SENATOR BRASCH: If you would please remind me. I was talking with who you referred to as "Professor" Schumacher when you had beckoned me to yield to a question. So I have lost out on a few minutes of this dialogue here. Why are you asking me? May I ask why? [LB399]

SENATOR CHAMBERS: No, I ask the questions and you answer. But really, that's all I will ask you. I was just wondering if you are familiar with that particular statement. And thank you for your help. And members of the Legislature, tailgating on the comments between me and Senator Brasch, here we go again. Really? So I can renew everything that I had done earlier. And you know what you're going to have to say? Not "what to my wondering eyes should appear," but "what to my skeptical mind is revealed." Senator Chambers was able to keep us here all day. Something that I did not believe in my most "visualicious" mind that an old guy like him could do, starting at 9:00 in the morning, when I myself am a much younger man and I'm tired already and I'm going to

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go somewhere and take a break and rest. And here he goes, just like Old Man River, he just keeps rolling along. And in the same way that what we were talking about led Senator Lautenbaugh to bring up his bill about charter schools, I want to say something in behalf of the word "old." When people reach my age, speaking for myself, don't call me "senior." I'm old. You go through some things to reach the point in life where you qualify that term. You don't say Senior Man River, do you? You say Old Man River. You don't say "seniors but goodies." [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: You say oldies but goodies. You don't say the senior days, the "good senior days"; the good old days. Nothing wrong with old. Senior is a term that people think is a euphemism that will make old people feel better. Well, I am old and I came by it honestly. And I want my title untarnished, unmitigated, undiluted. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. And you are recognized again. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh said he knows at some point in the discussion he knows what's going on, and he does. I'm doing everything I can to defeat this bill. And unlike some people, I have not enlisted the aid of others and said, "Now, when I get tired and run out of gas, I want you to do something." I cooperated without being asked by him and keeping a discussion going until he had an opportunity to have drafted the amendment that we have now, to have the opportunity to put it into the form that he wanted. When I'm dealing with the downtrodden. The downtrodden needn't request my assistance. I look out there and I see it. When I see somebody foundering, and I mean foundering--not floundering; foundering--then something in me just says, extend a hand to that foundering brother, "For no man is an island entire unto itself; each is a part of the main." I don't know why people quote things like that but they do. And when somebody quotes it, it's supposed to have a profound effect on whoever is listening, because they've been persuaded that it's profound. What it is suggesting, though, is that everybody is a part of the human race. Of one blood are made all the nations of the earth. And since you are a part of humankind and it's one large amorphous entity, any diminution of that entity by the severing of one part, however small, diminishes you. Because the you-ness of you is provided by the totality of that of which you're a part. And when that of which you are a part is diminished, you are diminished also. And that's why the guy could go on to say every man's death--and he should have said every woman's death, but he had been better to say every person's death--diminishes me. Therefore, Senator Howard, send not to know for whom the bell tolls, for it tolls for Senator Lautenbaugh. And he was not here to hear it. But if there could be serious consideration given to those difficult people who have what genuinely are profound thoughts, if they could be prevailed on then to present them in a simpler,

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more readily obtainable masterable form, more people would be informed. But they may have the same contrariness of nature. If you are trying to get something that is valuable, it's valuable because it's in short supply. If it were on top of the earth in abundance, gold would be of no greater value than sand. So it's hidden, deep within the earth in some places, not quite so deep in others. But where it's not as deep in the earth, there's enough to tantalize you and tempt you so you'll dig, you will mine. Deep into the earth you may find something, you may not. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: But you pray that you may find what's known as the mother lode. And when something is genuinely considered good, it usually is expressed by way of the female gender. A ship is she. The nation is she. The flag defames women by saying "long may she wave," so I don't apply that she to the flag, the she you're talking about. And it says long may she wave, means she's waving bye-bye to that flag and saying do what it deserves to have done with it; and it should be converted into an accelerant so that we can have a nice warm fire, and in that sense and context it will do something of value. Thank you, Mr. President. [LB399]

SENATOR KRIST: Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. I'm appreciative of the opportunity Senator Lautenbaugh presented us with so that we can close out the day. I have something I want to say about a bill that I drafted. I wish everybody were here, but there will be some listening. And there are people watching this debate who have a great interest in my bill to do away with the authority of Game and Parks to have a hunting season for mountain lions or cougars or catamounts or panthers or leopards or painters or whatever people want to use to designate that regal creature. My bill is drafted in such a way that it strikes existing language from the law. That existing language stated simply allows people to kill one of these animals if necessary to protect human life, livestock, and maybe a couple of other things. I drafted the bill to strike that and it has caused a great amount of interest in the bill and people are wondering why I did that. I also have had an amendment drafted to reinstate all of that language. It will not be stricken from the law, but I did it because my colleagues are lazy. My colleagues are often trifling. So by putting it in the green copy, I don't have to have any of them say, well, Senator Chambers, you say that we can do that; how do I know it's in the law? Well, I'll say you know it's in the law if you turn to page 2 of the green copy and look at that language which is being stricken. That is what is in the law and that tells you what rights and under what circumstances you have to take the life of one of these animals. And if you paid attention, you saw that there was a committee amendment that reinstated that language. But I put it there so it would be right in front of you and you can read for yourself, without going to the statute books, exactly what you're allowed to do in terms of taking the life of one of these animals. And there you have it. And some

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will say, by god, Chambers, I guess you got me there; I didn't know it was there. I say I know you didn't know it was there. My job is to educate you and to make the educating process as easy on you as possible. Now you see what the law allows. There is no basis to kill these animals. Game and Parks has been saying there are 22. There are now 19; two were killed and one was killed in a trap and that one was a female. Game and Parks had said as soon as a female is taken, the hunting season is over. And that female was taken before these two guys went out and killed these two others. But because Game and Parks wants to use that as an illegitimate means to raise revenue--and that's what it's for--they wanted the guy who paid \$13,500 to be able to use dogs to run one of these animals until it's exhausted and terrified, taking refuge in a tree where that God that created it told it to go when it's endangered or frightened. Then this man could come and shoot it out of the tree, the great white hunter. Then the kid, who I think was fixed to win the lottery, could go out there and use dogs to do the same thing, and kill one, when a female had already been taken. By the Game and Parks Commission's own rules there should have been no more hunting. But they are dishonest, they are untrustworthy, they are deceptive. And I am going after them in regard to other things too. But here's what I'm getting to. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: Although they let these two people use dogs, because they know that these pumas, mountain lions, are called ghost cats, phantom cats. There are people who lived in rural areas and have never seen one in their life, and these people wouldn't have been able to find one. So they let them use dogs to track the animal. And if they are doing this to manage the population, let everybody use dogs, shouldn't they? But they don't do it. You're dealing with some dishonest people and I've got their number. And I explained why that bill of mine is drafted in the way that it is, because I believe in full disclosure. And my full disclosure now is I'm going to do everything I can to stop Senator Lautenbaugh's bill from going forward. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. Seeing no one else in the queue, Senator Lautenbaugh, you are recognized to close on your floor amendment. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And just to be clear, this is the amendment that was previously introduced earlier in the day that we've been talking about all day, the one we ran past the County Attorneys Association representative apparently, provides that the county attorney would be the one in the respective counties authorizing these entities and these individuals to display these amber lights. I think this does become the bill essentially. I think this is an important amendment. I think this remains an important bill. And, you know, I have to be honest and I may have alluded to this earlier, when we started down this road I did not...when I first introduced the bill it was never going to be what I would call a priority

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until I heard other members coming to me and say, I'm hearing from neighborhood associations that this is an important thing to do. So we are where we are and I've listened and I believe that to be the case. So I would urge your support of this amendment. I would ask for a call of the house, Mr. President. [LB399]

SENATOR KRIST: 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. Please record, Mr. Clerk. [LB399]

CLERK: 24 ayes, 0 nays, Mr. President, to place the house under call. [LB399]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Wightman, Senator Conrad, Senator Karpisek, Senator Lathrop, Ashford, Dubas, Crawford, Senator Kintner, Senator Bolz, Davis, Murante, McCoy, and Avery, please return to the Chamber. The house is under call. Senator Wightman, Senator Conrad, Senator Lathrop, Senator McCoy, Senator Murante, Davis, and Schilz, please return to the Chamber. The house is under call. Senator Davis, could you hit your button, please? Thank you. Everyone is present or accounted for. Senator Lautenbaugh, how would you like us to proceed? [LB399]

SENATOR LAUTENBAUGH: Roll call vote. [LB399]

SENATOR KRIST: Regular order? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR KRIST: There has been a request for a roll call vote, regular order, Mr. Clerk. [LB399]

CLERK: (Roll call vote taken, Legislative Journal pages 264-265.) 34 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB399]

SENATOR KRIST: Floor amendment is adopted and lift the call, please. Mr. Clerk. [LB399]

CLERK: Mr. President, a priority motion. Senator Chambers would move to reconsider the vote just taken with respect to Senator Lautenbaugh's amendment. [LB399]

SENATOR KRIST: Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this

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is the third verse, same as the first. Nothing has changed from this morning. I am still unalterably opposed to this bill. And the fact that all these people voted for it means nothing to me in terms of my determination to fight it. I think this comprises an unconstitutional delegation of legislative authority. I would like to ask Senator Lautenbaugh a question or two. [LB399]

SENATOR KRIST: Senator Lautenbaugh, will you yield? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, under the language of this amendment which "Professor" Schumacher originated, terms and conditions have...I'm going to take it as a unit. It is not defined, is it? [LB399]

SENATOR LAUTENBAUGH: No. [LB399]

SENATOR CHAMBERS: So the county attorney can impose any terms and conditions he or she pleases. [LB399]

SENATOR LAUTENBAUGH: Yes, or not do it at all. [LB399]

SENATOR CHAMBERS: Right. And the county attorney can select any area to allow this to occur without giving any reason or explanation why. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: And can refuse to allow it in selected areas without explaining why. [LB399]

SENATOR LAUTENBAUGH: Probably at his or her peril but, yes. [LB399]

SENATOR CHAMBERS: And if a county attorney should refuse to...let me use the word "certify" even though that's not in the bill for the ease of discussion only. If the county attorney should refuse to certify an area for this activity, people in that area who want to do it have no recourse under the language of this bill, do they? [LB399]

SENATOR LAUTENBAUGH: Not under the specific language of the bill, no. [LB399]

SENATOR CHAMBERS: So the county attorney can deprive an area of what people have said is a very worthwhile activity without giving those people the right to appeal or a hearing of any kind. There is not any language in this statute that directs the county attorney to do that, is there? [LB399]

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SENATOR LAUTENBAUGH: Directs him to deprive them of this? [LB399]

SENATOR CHAMBERS: That directs the county attorney to allow an appeal or a hearing before a denial or an appeal after the denial. [LB399]

SENATOR LAUTENBAUGH: No. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, here's why I want that into the record: This that you're talking about should not be exclusive in the sense of a privilege to be granted or withheld on the whim of a county attorney. And people can say if they want to, well, no county attorney will do that. Well, who'd have thought Senator Council would steal campaign funds and take it down to gamble and be convicted of felony wire fraud? Who thought that? So I don't even want to hear that kind of stuff. We're talking about what the law says and what the law allows. You are not giving any guidance or direction to the county attorney in the exercise of this power which can be exercised arbitrarily without violating anything in this statute. You can say, certain parts of the city are going to be allowed to do this and other parts are not and I will not tell you why and I don't have to tell you why and I'm not in violation of any law by doing this. So you'd have to go to general law and you'd bring a lawsuit, and I'm not above doing that. Omaha put in place an ordinance to allow red light cameras. I read the constitution. I read the law. And the judge ruled their ordinance to be unconstitutional. I knew it was. They didn't think it was. The city attorney said it would withstand all of my arguments, but it didn't. I think this is invalid legislation. You have complicated a situation now. Nobody would be punished by the court. All it would do is strike down this whole thing and say it's an unconstitutional delegation of authority, therefore, it's void. And what would that mean? That these groups are right back where they are now. They can do everything they want to do. They just can't put the lights up there and pretend that they're semicops. They cannot have that bogus symbol or appearance of official authority. That's all. And you all can disregard what I'm saying, which I expect you to do. And it's why when I come here early in the morning to deal with a bill like this I'm prepared to stay all day, all day. How many times have I sat down? How many times, Senator Bloomfield, to your knowledge? I'd like to ask Senator Bloomfield a question. Mr. Speaker, Mr. Chair, may I ask Senator Bloomfield a question? [LB399]

SENATOR KRIST: Senator Bloomfield, will you yield? [LB399]

SENATOR BLOOMFIELD: Yes, I will. [LB399]

SENATOR CHAMBERS: Senator Bloomfield, have you been in the Chamber every minute that we've been in session here today? [LB399]

SENATOR BLOOMFIELD: I have not. [LB399]

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SENATOR CHAMBERS: Oh, okay, well, to the best of your knowledge, based on when you've been here, how many times have I sat down? [LB399]

SENATOR BLOOMFIELD: I have not noticed you to sit down, Senator Chambers, but... [LB399]

SENATOR CHAMBERS: Thank you. [LB399]

SENATOR BLOOMFIELD: And I have not been in here 100 percent of the time. [LB399]

SENATOR CHAMBERS: That's why I only wanted to deal with that. Now, is it any surprise to you, having been here with me for the number of months and days you have, does it surprise you that I don't sit down? [LB399]

SENATOR BLOOMFIELD: Not anymore. I don't really understand it but, no, it doesn't surprise me. [LB399]

SENATOR BLOOMFIELD: Why might it have surprised you at the outset? And remember, I don't mind being called old because I am old. [LB399]

SENATOR BLOOMFIELD: Well, it has nothing to do with the age. I guess I've just never understood your reason to continue to stand up. I sit more than most people in here because my back bothers me if I stand too long. I don't know if you have a reverse affliction to that or whether you just enjoy standing. [LB399]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Members of the Legislature, I will stand every minute of the 60-day session and I will argue and discuss and debate all of the issues in which I have an interest. Some things are going to come across this floor which fit what I call the Loran Schmit maxim: It doesn't help anybody; it doesn't hurt anybody; it doesn't cost anything; it doesn't do anything. Then you can have it, unless it's something that would demean the integrity of the Legislature by enacting something that is totally without merit. But some things will have merit, they just are not controversial. I don't know if they still offer that bill routinely which allows banks in the state, or credit unions, to do all of the things that U.S. banks...whatever it is, it's just routinely done. Sometimes they'll bring a bill to change a reference in the statute to the IRS Code to update which version of the code the language will be referring to in the statute when it mentions the IRS Code. Things such as that don't require any discussion on my part, but on occasion I might ask a question or two if there are other matters implicated. So not everything that comes before us will I discuss. Not everything that I oppose will I go to the mat on. But when there is something which is a matter of principle to me, I don't care how many people start out saying,... [LB399]

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SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: ...we're against that and you're not going to win. I'll say, this is not a matter of winning as you reckon the term "winning." If that's all it was, you all have won everything from the beginning because there are more of you than there are of me. But in my lexicon for me, words mean what they mean to me. Nobody can define "me" for me. I don't need anybody's affirmation, approval, or anything else. I'm going to do while I'm on this floor what I think I ought to do and I assure you that it will always be done within the rules which I voted against. And I will play by those rules and I'll do my best to play within those rules and succeed better than most of you will do. And in this instance I think as long as I'm just able to go on and on... [LB399]

SENATOR KRIST: Time, Senator. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LB399]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Chambers, it may be somewhat fitting that your last words there were, I go on and on. (Laughter) But I regress and I'm going to regress a little further. Being as we are dealing with time here and it looks like we're going to do a full share of time, I've learned as a youth that if you have time to kill you should work it to death. I've learned in the last couple of years down here that we talk it to death. I hope at some point we get to more serious bills, one of which is my bill to remove the requirement of motorcyclists to wear helmets. Senator Wallman has told me he's going to put an amendment on that bill and I'd like to ask Senator Wallman a question at this point. [LB399]

SENATOR KRIST: Senator Wallman, will you yield? [LB399]

SENATOR WALLMAN: Yes, I will. [LB399]

SENATOR BLOOMFIELD: Senator Wallman, will you please tell me that your amendment to my bill will not be to require an amber light on a motorcycle? [LB399]

SENATOR WALLMAN: (Laugh) It will not. [LB399]

SENATOR BLOOMFIELD: Thank you, sir. (Laughter) [LB399]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Wallman, I think. Senator Schumacher, you're recognized. [LB399]

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SENATOR SCHUMACHER: Thank you, Mr. President. This indeed is an amazing process. And in contemplating and thinking about a lot of things we now have the proposal before us which was an idea that originally I cooked up--and then withdrew because I had some other things to do downstairs and figured Senator Lautenbaugh will reintroduce it--that puts discretion in the county attorney as to whether or not somebody is going to get a ticket or whatnot for having an amber light. And Senator Chambers just talked about a little bit about what happens if the county attorney misuses this discretion and it occurred to me, you know, we have come full circle because in this state, subject only to the Attorney General who I would hope has the common sense not to be worrying about amber lights, the county attorney has absolute discretion whether to prosecute anybody for any crime in a state offense in the county. Absolute, no appeal, no mandamus, no nothing, he has absolute discretion. And so many county attorneys, for example, will tell law enforcement, don't bring me a speeding ticket in a 60-mile zone if it's for less than 65 miles an hour, or to look the other way on bookmaking or illegal slot machines or whatever else is going on in their jurisdiction. It is within the discretion of the county attorney to say, you know, technically those guys running around with an amber light are breaking the amber light law but I'm not going to be bothered with it and I'm not going to prosecute them, which is exactly where, at the bottom end of things, we end up today with this. And, in fact, there is a bunch of other confusing things and I haven't had time to thoroughly research this, but there's this little gem at 60-6,219 that says it'll be unlawful for any owner or operator of any motor vehicle to operate such a vehicle upon a highway unless, get this, if equipped with a cowl or a fender light, there are no more than two such lights and each such cowl or fender light emits amber or white light. So it looks like you've got to have an amber light. This is the kind of thing, folks, that we probably shouldn't have been spending all this time on. And it looks like it's unnecessary if up in Washington County or someplace the law enforcement...the county attorney who we're putting this burden on right now, if we were to pass this, says, you know, I think those guys are local firemen and they're good "Joes" and if they want to have an amber light on their car and a purple badge on their forehead, let them do it, they're doing a service to the public. And he's got that power already. He just says, I'm not prosecuting amber lights, and he can choose if he prosecutes an amber light by people who are wearing a blue hat or a red hat or an amber hat because that's his discretion and his right. And the system is really wired pretty good, because it puts common sense in the system at various points. And if the county attorney is arbitrary and he brings somebody to court for an amber light and that the judge feels that he misbehaved, then the judge can let him go. We have a presumption of innocence and a presumption against those things. But as a practical matter, if amber lights are a problem in Washington County, talk to the Washington County attorney. And if he agrees, guess what? Don't worry about having your amber light on in Washington County. Thank you. [LB399]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Chambers, you're recognized. [LB399]

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SENATOR CHAMBERS: Thank you, Mr. President. And thank you, "Professor" Schumacher. But he overstated. A prosecutor does not have absolute discretion. There are prosecutors who themselves have been brought up on charges for failing to prosecute when they ought to have, because a pattern of nonprosecution establishes an abuse of the authority of a prosecutor and he or she has a scheme or an agenda which goes against the duty of a prosecutor to uphold the law. And a public prosecutor, as the representative of the sovereign--and this is language from codes that regulate lawyers wherever they have public prosecutors--is the lawyer of and for the sovereign and as such has a higher responsibility and duty to see that justice is done. That lawyer is not supposed to seek only to win a case, but to dismiss charges that are improvidently brought. If a case is proceeding and that lawyer determines that there is not enough evidence, that lawyer is to dismiss the charge. Prosecutors don't do that under this system which supposedly is the best in the world, but they do it in Europe. They don't have a prosecutorial form of...I meant adversarial. It's not you against me. It's people seeking justice and judges will inject themselves and interject what they have to say in the proceedings and sometimes take over the interrogation. And he will not let the prosecutor be the interlocutor; the judge becomes the interlocutor. So there are a lot of things that go on in the legal profession and sometimes because things have been done a certain way for a long period of time people think that is legal. It just takes somebody to upset that apple cart. I've mentioned this before: It was not a lawyer nor a judge who said that ignorance of the law is no excuse. It was a literary man in the 1600s. He said: It is not that every man knows the law, but it is a plea that every man will make and which no man can overcome. In other words, all you have to do is say, I didn't know. And they had a song based on that. (Singing) I didn't know the gun was loaded and I'm so sorry, my friend, I didn't know--and he looks at the judge hangdog like a bulldog or a bloodhound--the gun was loaded and I'll never, never do it again. And the judge looks at him. He says, you know that rendering was so much like Johnny Cash, as I look at the one it happened to, he might have had it coming, so go home, son, and don't let it happen again. And the guy, if he's Senator Bloomfield, he says, (singing) so long, it's been good to know you. And he's got to be traveling along and he probably won't do it again. There are so many vagaries in the legal system, so many contradictions, so much make-believe that they have what is acknowledged at law as legal fictions. These are constructs of the law to make it possible to set standards for judging where you have no factual basis. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: One of them is the ordinary, reasonable, and prudent--they say--man. There may not be such a creature. So the judges make a determination that this is what an ordinary, reasonable, prudent person would do, but it's really what the judge would do. So it's not a standard at all, it's a fiction, but everybody accepts it, everybody knows that's the rule of the game. And if you know this judge you know that

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this judge is going to say certain things are reasonable, certain things are not, and any facts to the contrary notwithstanding. Was that my third time, Mr. President? [LB399]

SENATOR KRIST: You have one more left and closing. [LB399]

SENATOR CHAMBERS: Oh, thank you. [LB399]

SENATOR KRIST: And you are recognized again. [LB399]

SENATOR CHAMBERS: Thank you. You know, I've got to pull an Abraham Lincoln now. Who will...which one never told the lie? And they...he...lying through his teeth when he said it? Oh, George Washington, he never told the lie, okay. But he probably did state a hyperbole every now and then which happens to everybody. This has been one of the hardest days of my life. I have...it has been one moment of struggle after the other. I'm like somebody trying to climb a mountain and it's hard to know whether I'm going to be able to put my right foot in front of my left. So only by a tremendous act of will can I summon all the strength that I have. I force every nerve, every muscle, every sinew to work in concert just to lift that left foot far enough off the ground to slide it forward and plop it down in front of the right foot. Then I must pause. But I don't have the luxury of being in a private location where nobody sees me, so I have to stand here and pretend that I'm not in the agony that I've been in all day, Senator Bloomfield. My tongue is even starting to fail me. It's a condition that creeps all the way up through my frame, through the ankle bone which is connected to the leg bone; the leg bone is connected to the knee bone; the knee bone connected to the thigh bone. And that's the way it works its way right on up. But what you have to do is forget about that and press on. And all that is said to bring us back to where we started this morning. Senator Lautenbaugh said he didn't want to do eight hours but he would. He said it would be absurd to do eight hours. His coat is there, but he's not. But he's somewhere. But I'm still here and I will be here. Sometimes it's good at the beginning to set a tone so we all know what it is we're dealing with. Are we those who do a lot of posturing, a lot of exaggerating, a lot of pontificating and then don't deliver? Or are we those who say what we mean and mean what we say? I say what I mean unless it's in my best interest not to reveal everything in the beginning. But when I say something it's something that I mean. I either mean it seriously, I mean it humorously, I mean it sarcastically. And sometimes if a person asks, in which sense do you mean it, that's when you become smart-alecky and say, it's for me to know and for you to find out. Just like if somebody puts a pistol up to your head and cocks it and you say, now, if I pull this trigger there may be a bullet where that hammer is going to fall and there may not be, you want to make a wager with me as to whether there is one? And if we make a wager, I want to tell you how it can be described: You bet your life. Are you willing to do it? And most people will say no, not because they know what's in that gun... [LB399]

SENATOR KRIST: One minute. [LB399]

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SENATOR CHAMBERS: ...just like not everybody knows all of the law. But they know what could be there. Little children are afraid in a darkened room not because they've ever seen a ghost or a goblin or a witch or a "long-leggedy" beastie or thing that goes bump in the night, but it could be there and they are taught to fear what they don't know and that goes with people throughout their life. But when you deal with me on the floor of this Legislature, you can decide whether I'm dealing with blanks, smoke and mirrors, whether, as Senator Larson said who's probably bailed out a long time ago, I walk the walk, I talk the talk but I don't walk the walk. Silliness, they think that saying something makes it so. But if the king of the earth said that the world is flat, that would not make it flat. And the king of the earth could say... [LB399]

SENATOR KRIST: Time, Senator. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. [LB399]

SENATOR KRIST: Senator Chambers, there is no one else in the queue and you're recognized to close. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I think you know I was speaking facetiously. Actually, I've enjoyed myself immensely today. I've enjoyed every minute of our time here together. I've enjoyed the time when Senator Lautenbaugh chose to be with us. I enjoyed the fact that he was here, just knowing that he was here not liking what was going on, knowing he's here just waiting for me to collapse. I enjoyed that. I enjoy depriving my enemy of what my enemy wants. But even my enemy I would not deprive of life. If my enemy were on death row I would do what I could to have his life spared. And as I've stated, true power resides in the one who can grant clemency and extend mercy. Anybody can be put in a position to sentence somebody to die. But the one with the powers, the one who can overrule all of that and say, this person is not going to die, that's where the power is ultimately. This might sound arrogant. On the floor of the Legislature I don't know who has the power to say that a bill shall live or a bill shall die. The most that can be said is that there is at least one person who could put a bill through excruciating agony, and it may wish for death, but we will see how that develops as we go along. I'd like to ask Senator Bloomfield a question. [LB399]

SENATOR KRIST: Senator Bloomfield, will you yield? [LB399]

SENATOR BLOOMFIELD: Yes, I will. [LB399]

SENATOR CHAMBERS: Senator Bloomfield, what's the number of your bill that you were talking about? [LB399]

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SENATOR BLOOMFIELD: The motorcycle helmet bill, I cannot recite you that number right now but I will certainly get it to you. [LB399]

SENATOR CHAMBERS: And what would your bill do? [LB399]

SENATOR BLOOMFIELD: It would allow anyone over the age of 21 to decide whether or not they wish to wear a helmet when riding their motorcycle in the state of Nebraska. [LB399]

SENATOR CHAMBERS: Senator Bloomfield, I will not be the one to take a lot of time speaking against your bill. [LB399]

SENATOR BLOOMFIELD: I assumed that off of your past voting record and I appreciate that fact. [LB399]

SENATOR CHAMBERS: Now are there others you think, without calling any names, are there others you think may go to great lengths to defeat your bill? [LB399]

SENATOR BLOOMFIELD: I have been told that we will go the full eight hours and then probably some. [LB399]

SENATOR CHAMBERS: So I'm kind of putting you in training today, am I not? [LB399]

SENATOR BLOOMFIELD: I can truthfully stand here, Senator Chambers, and tell you that you have been putting me in training for the last year and seven days. [LB399]

SENATOR CHAMBERS: Now let me ask you this. [LB399]

SENATOR BLOOMFIELD: And for the most part I appreciate it; some days, it's aggravating. [LB399]

SENATOR CHAMBERS: Do you think there will be one person who can stand up against your bill for the full eight hours? Do you think there is one person on this floor? And I'll tell you, I'm not going to be that person. Who else on this floor could or would do that? [LB399]

SENATOR BLOOMFIELD: I think there will be a group, a combined effort, as there has been in the past to (inaudible)... [LB399]

SENATOR CHAMBERS: So they will have to herd, clump, mob, and gang up together on your bill. That's the way they do it? [LB399]

SENATOR BLOOMFIELD: I believe the term you use is perhaps a "clique" or a "claque"

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or...and, yes, Senator, I do listen. [LB399]

SENATOR CHAMBERS: That's all I have of Senator Bloomfield. How much time do I have, Mr. Speaker, Mr. President? [LB399]

SENATOR KRIST: One minute 30 seconds. [LB399]

SENATOR CHAMBERS: What I'm going to do, because you all may not support what it is I'm trying to do, but for the sake of those who may not have enjoyed this scintillating debate, what is before us? While I still have a little time, what will we be voting on? [LB399]

SENATOR KRIST: The reconsider motion. [LB399]

SENATOR CHAMBERS: Yes. Thank you. And so everybody knows, I can look up there on the board and see it. It's always up there on the board for us but people often ask. So there might be somebody in their office who would choose to duck under the table, the desk, and play like they're not here since they know what we're voting on and just stay out of the picture. And a nonvote is the same as a no vote on an issue such as this. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. You have heard the closing on the reconsider motion, Senator Chambers' reconsider motion. The question is, shall the motion to LB399 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB399]

CLERK: 2 ayes, 20 nays, Mr. President, on the motion to reconsider. [LB399]

SENATOR KRIST: The motion fails. Items for the record? [LB399]

CLERK: I do have some, Mr. President. I have a hearing notice from the Health and Human Services Committee that's offered by Senator Campbell as Chair of the committee. Health and Human Services Committee reports LB427 to General File with amendments. I have name adds: Senator Watermeier to LB826; Senator Smith to LR410; Senator Brasch to LB945. (Legislative Journal pages 265-66.) [LB427 LB826 LR410 LB945]

I have a priority motion, Mr. President. Senator Sullivan would move to adjourn the body until Friday morning, January 17, at 9:00 a.m.

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. We are adjourned.