

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
May 22, 2007

[LB57 LB82 LB142 LB177 LB221 LB247 LB247A LB265 LB299 LB321 LB334 LB351A
LB351 LB475 LB482 LB482A LB504 LB516 LB516A LB528 LB530 LB542 LB551
LB570 LB573 LB641 LB641A LB646 LB653 LB653A LR154 LR214 LR215]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, Senators. Due to some technical difficulties with the machines this morning, we will have a delayed start at this time until 9:15 a.m.

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Members, please report to the Chamber as we intend to start momentarily. Although the technical difficulties shall persist, we will proceed regardless. Members, please proceed to the Chamber immediately. Take your seats. Members, please take your seats. Members, please find your seats. Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-fifth day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Dierks. Please rise.

SENATOR DIERKS: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Dierks. I call to order the eighty-fifth day of the One Hundredth Legislature, First Session. Senators, due to a computer malfunction we will be unable to record your presence electronically. For that reason I would ask each senator and member to sit in your chair, quietly (laughter), and we will count those that are present before we ask the Clerk to determine if there is a quorum. Senators, please be seated at this time. Mr. Clerk, when the senators arrive in the Chamber, please secure the same. Mr. Clerk, is a quorum present?

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

SPEAKER FLOOD: Senators, as we proceed...we will proceed on our agenda. All votes will be taken by roll call due to the computer malfunction, although it is General File. It is the ruling of the Chair that we shall have every member remain in their seats until the computer malfunction has been remedied. Senator Avery, please return to your seat. Mr. Clerk, for this reason I would ask you to have the Sergeant at Arms secure the Chamber.

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: The first item under file, Mr. Clerk.

CLERK: Mr. President, the first bill this morning, LB247A, by Senator Johnson. (Read

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

title.) [LB247A]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open on LB247. [LB247A]

SENATOR JOHNSON: Thank you, Mr. President. Members of the body, you might recall that LB247 was a group of bills that were clustered. Now, with that having been the case, the good news this morning is that the grand sum total fiscal note is \$6,000 for LB247. And this all is because of one bill that was included, and that was Senator Nantkes' bill to require children enrolled in day cares to be vaccinated with for pneumococcal disease. This is the Medicaid matching funds to anticipate the cost for these vaccinations. So that's the sum total of the fiscal note for LB247A. With that I would ask that it be advanced. Thank you. [LB247A LB247]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the opening to LB247A. The floor is now open for discussion. I would ask if you have a wish to speak that you would raise your hand. Seeing no hands, Senator Johnson, you're recognized to close. Senator Johnson waives closing. We will be doing a roll call vote. The question before the body is, shall LB247A advance? Mr. Clerk. [LB247A]

CLERK: (Roll call vote taken, Legislative Journal page 1725.) 43 ayes, 0 nays, Mr. President, on the advancement of LB247A. [LB247A]

PRESIDENT SHEEHY: LB247A does advance. Next item, Mr. Clerk. [LB247A]

CLERK: Mr. President, LB653A, the next bill, Senator Raikes. (Read title.) [LB653A]

PRESIDENT SHEEHY: Senator Raikes, you are recognized to open on LB653A. [LB653A]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. LB653 is the work we did on the bill that deals with testing the STAR system and modifications to that. The fiscal note, or the A bill that goes with that, calls for an expenditure of \$70,000 in the first year of the upcoming biennium, and \$170,000 in the second year. These amounts reflect the cost of obtaining individualized student test results from the norm-referenced national test that would be then put into the student information database. So that's what the A bill calls for. I urge your support. Thank you. [LB653A LB653]

PRESIDENT SHEEHY: Thank you, Senator Raikes. You've heard the opening to LB653A. The floor is now open for discussion. Anyone wishing to speak on this item, raise your hand. Seeing none, Senator Raikes, you're recognized to close on LB653A. Senator Raikes waives closing. The question before the body is, shall LB653A

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

advance? Mr. Clerk, please read the roll. [LB653A]

CLERK: (Roll call vote taken, Legislative Journal page 1726.) 35 ayes, 3 nays, Mr. President, on the advancement of LB653A. [LB653A]

PRESIDENT SHEEHY: LB653A does advance. Mr. Clerk, do you have announcements on your desk? [LB653A]

CLERK: I do, Mr. President. Enrollment and Review reports LB641A to Select File and LB265 to Select File, and that's all that I have at this time, Mr. President. (Legislative Journal pages 1725-1726.) [LB641A LB265]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the first item, LB641A under Select File. [LB641A]

CLERK: Senator McGill, I have no amendments pending to LB641A. [LB641A]

PRESIDENT SHEEHY: Senator McGill. [LB641A]

SENATOR MCGILL: Mr. President, I move LB614A (sic--LB641A) to E&R for engrossing. [LB641A]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed nay. Yes, Mr. Speaker. [LB641A]

SPEAKER FLOOD: I believe that Senator McGill's motion was LB614A. I think the appropriate motion is...LB614A is what she said; it's LB641A. [LB641A]

PRESIDENT SHEEHY: LB641A. [LB641A]

SPEAKER FLOOD: Yes. [LB641A]

PRESIDENT SHEEHY: Correct. Senator McGill. [LB641A]

SENATOR MCGILL: Mr. President, I move LB641A to E&R for engrossing. [LB641A]

PRESIDENT SHEEHY: Thank you, Senator McGill. You have all heard the motion. All those in favor say aye. Opposed nay. LB641A is advanced. Mr. Clerk, we will move to Final Reading. Mr. Clerk, the first bill is LB221. [LB641A LB221]

CLERK: (Read LB221 on Final Reading.) [LB221]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. All provisions of the law relative to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

procedure having been complied with, the question is, shall LB221 pass? Mr. Clerk, would you please call the roll? [LB221]

CLERK: (Roll call vote read, Legislative Journal pages 1726-1727.) 45 ayes, 4 excused and not voting, on the passage of LB221, Mr. President. [LB221]

PRESIDENT SHEEHY: LB221 does pass. We are going to skip over LB299 at this time because of an amendment which has been filed, and in consultation with the Speaker we will move that below LB542E as far as the agenda goes. So at this time we will be moving to LB334E. Mr. Clerk, the first vote is to dispense with the at-large reading. [LB221 LB334]

CLERK: (Roll call vote taken, Legislative Journal page 1727.) 41 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB334]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB334]

CLERK: (Read title of LB334.) [LB334]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB334E pass with the emergency clause attached? All those in favor will vote aye; all those opposed, nay. Please call the roll, Mr. Clerk. [LB334]

CLERK: (Roll call vote taken, Legislative Journal pages 1727-1728.) 38 ayes, 4 nays, 3 present and not voting, 4 excused and not voting, on the final passage of LB334, Mr. President. [LB334]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB334]

CLERK: 34 ayes...excuse me, Mr. President. 38 ayes, 4 nays, on the final passage of LB334. [LB334]

PRESIDENT SHEEHY: LB334E passes with the emergency clause attached. We will now proceed to LB482, Mr. Clerk. [LB334 LB482]

CLERK: (Read LB482 on Final Reading.) [LB482]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB482E pass with the emergency clause attached? All those in favor will vote aye; all those opposed will vote nay. Please call the roll, Mr. Clerk. [LB482]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

CLERK: (Roll call vote taken, Legislative Journal pages 1728-1729.) 44 ayes, 1 nay, 4 excused and not voting, on the final passage with the emergency clause attached. [LB482]

PRESIDENT SHEEHY: LB482E passes with the emergency clause attached. We will now move to LB482AE. [LB482 LB482A]

CLERK: (Read LB482A on Final Reading.) [LB482A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB482AE pass with the emergency clause attached? All those in favor will vote aye; opposed, nay. Please call the roll, Mr. Clerk. [LB482A]

CLERK: (Roll call vote taken, Legislative Journal pages 1729-1730.) 44 ayes, 1 nay, 4 excused and not voting, Mr. President, on the final passage of LB482A with the emergency clause attached. [LB482A]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB482AE passes with the emergency clause attached. I do have one announcement. (Doctor of the day introduced.) [LB482A]

We will now proceed to LB504. [LB504]

ASSISTANT CLERK: (Read LB504 on Final Reading.) [LB504]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB504 pass? All those in favor will vote aye; all those opposed, nay. Please call the roll, Mr. Clerk. [LB504]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1730.) The vote is 45 ayes, 4 excused and not voting, Mr. President. [LB504]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB504 passes. We will now proceed with LB516E. [LB504 LB516]

ASSISTANT CLERK: (Reading LB516 on Final Reading.) [LB516]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB516E pass with the emergency clause attached? All those in favor will vote aye; all those opposed will vote nay. Please call the roll, Mr. Clerk. [LB516]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1731.) The vote is 45 ayes, 1 present and not voting, 3 excused and not voting, Mr. President. [LB516]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: LB516E does pass with the emergency clause. We will now move to LB516AE. [LB516 LB516A]

ASSISTANT CLERK: (Read LB516A on Final Reading.) [LB516A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB516A pass with the emergency clause attached? All those in favor will vote aye; all those opposed will vote nay. Please call the roll, Mr. Clerk. [LB516A]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 1731-1732.) The vote is 45 ayes, 1 present and not voting, 3 excused and not voting, Mr. President. [LB516A]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB516A does pass with the emergency clause attached. We will now move to LB542. [LB516A LB542]

ASSISTANT CLERK: (Read LB542 on Final Reading.) [LB542]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB542 pass with the emergency clause attached? All those in favor will vote aye; all those opposed will vote nay. Please call the roll, Mr. Clerk. [LB542]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 1732-1733.) The vote is 46 ayes, 3 excused and not voting, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB542 passes with the emergency clause attached. As we move back to LB299, Speaker Flood, you're recognized. [LB542 LB299]

SPEAKER FLOOD: Thank you, Mr. President and members. Since we are having technical difficulties with our machinery voting system, this is how we're going to proceed on LB299, and then I'm going to talk about how we're going to proceed on General File. There has been a motion filed by Senator Christensen to return LB299 to Select File for a specific amendment. That will be taken up at this time. If you wish to speak, you need to go and see Kara at the front desk next to our Lieutenant Governor, and put your name on the list to speak. And after that, after you speak, then you'll have to go back up again and do it again; three times still apply. And then, of course, we'll require everybody to be sitting in their seats on every vote today because of the system that we have. It is going to feel like Final Reading all day when we vote. You can move around on Select File until we vote, and then we'll proceed to General File beginning

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

with Senator Nelson's LB646. Same deal--if you're going to get excused you need to see the Clerk's desk there and let them know you're going to be gone, because we need to know if we need to track you down with the Sergeant at Arms if you haven't received an excuse, but you'll be able to move around the Chamber except when we vote. It's going to feel like Final Reading again because we're going to require all members to sit in their seats. Also, the process to speak on LB646 will be very similar, where you go up and see Kara and put your name on a list. That's the process that we're going to use. We're going to have our presiding officer give you as much information as possible. The problem is being worked on right now, but there is no time line as to when it will be fixed. If anybody has any questions, please see me or the Clerk and we will work through those, but I think we have a process in place to begin. Thank you, Mr. President. [LB299 LB646]

PRESIDENT SHEEHY: Thank you, Speaker Flood. Before we proceed, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB221, LB334, LB482, LB482A, LB504, LB516, LB516A, LB542. Also I intend to sign LR154. [LB221 LB334 LB482 LB482A LB504 LB516 LB516A LB542 LR154]

We will now return to LB299. Mr. Clerk, you have an amendment on file. [LB299]

ASSISTANT CLERK: Mr. President, Senator Christensen would move to return LB299 to Select File for a specific amendment. That amendment is AM1432. Copies have been distributed. (Legislative Journal page 1733.) [LB299]

PRESIDENT SHEEHY: Senator Christensen, you are recognized to open on your amendment to return it. [LB299]

SENATOR CHRISTENSEN: Thank you, Mr. President, fellow colleagues. I offer this AM1432 just...which strictly says that you cannot hunt in the road ditches within three miles of town. Set a limit on all the road ditches to trapping...I should say trapping instead of hunting...just limit it to the areas that are at most risk for people that take out their dogs to walk, that take their kids out to walk, because this come out to be a safety issue that everybody was dealing with, and yet we're penalizing the trappers. This was an illegal trap that set off this discussion in committee and this bill, and so we're penalizing the innocent people for the "uninnocent" people, but yet there is a safety issue that I understand that Senator Hudkins brought forth. So what I'm proposing is that we just adapt within three miles of town that they can't trap, and leave it that they can trap in the other areas, so that way when you get away from the populated areas where you've got the concern of the animals running and you have concerns of possibly kids walking with adults and things, that we take care of those safety issues. I know out there on my farm quite often I see people walk a mile from town, but I agreed to use the three miles with Senator Hudkins when I visited with her yesterday, to provide that extra

Floor Debate
May 22, 2007

safety cushion. So I'm going to ask you guys, please consider bringing this back to Select and adding this amendment on, and so that we can still allow trappers to go after them unwanted predators along the roadsides. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You have heard the opening for the amendment to recommit to Select. Senator Hudkins. [LB299]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. Senator Christensen did talk to me about this yesterday or...it must have been yesterday...and I told him that I was not in favor of it. The new language says that there won't be any roadside trapping within three miles outside the corporate limits of any city or village. What that means is if you are three miles and two feet, then you can trap in the roadside ditches. Well, you know what? There are people that live outside the three-mile corporate limit. Two housing developments that I am very familiar with, one happens to be in Seward County and right across the road is another one in Lancaster County, they are definitely more than three miles from any corporate limit. But, my gosh, there are probably 20 kids in those two developments and there are probably that many dogs, and these kids are on their bikes, on their tricycles, they're out with their dogs. Their parents are with them if they are youngsters. The county people are also saying we have employees that are out and about, trimming trees in the roadside ditches. We are fortunate enough in our part of the county to have the county come out and mow our roadside ditches. If there are traps in those areas, that is a hazard. And I appreciate the fact that this would maybe take care of most of the people. I'm sorry, Senator Christensen, but there are people outside the corporate limits, three miles outside, that also deserve this safety. I would not be in support of this amendment. This is a safety issue. I was contacted by a gentleman from Hooper who was with the Fur Harvesters Association--very nice. We had a very cordial conversation, and I told him why I had put this forward. He said, well, you know, this is going to really harm our fur harvesters harvesting. And I said, you know, all you have to do is move that trap a foot and you'll be perfectly legal and you'll be fine. He invited me to come out to the Fur Harvesters convention in early October in Broken Bow, and depending upon what happens on this bill I just might go, because I told him that let's pass this the way it is. If you can show me proof of an extreme hardship to the fur harvesters, we can look at this again next year. I asked him about live traps, and he said, well, yeah, but...and he wasn't really enthused about live traps either. But as I said, he was very cordial, very nice, and we parted company on very good terms. But he understood that, no, I would not withdraw the part of the amendment which would have prohibited this trapping. Senator Christensen has done that instead of myself, and I think that this is not the way to go. We do have people outside the three-mile limits that deserve the protection just as much as those within the three miles. Yes, this would help, but it is not the way we should go, and so I would very much appreciate your not returning this to Select File. Thank you, Mr. President. [LB299]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Thank you, Senator Hudkins. Next wishing to speak is Senator Chambers, followed by Senator Stuthman, Senator Carlson, Senator Hansen, Senator Pedersen, Senator Christensen, Senator Nantkes. Senator Chambers. [LB299]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I like the way we're operating this morning. We're not doing anything in a heat and a rush, "Parson." We're taking a leisurely stroll, not only down memory lane but down any lane we choose, and nobody need become excited or overwrought because in the early days, as Senator Friend pointed out, when I was first here, everything was written in longhand. We wouldn't have even known what these kind of things were. And many of the senators could not read and that's why on Final Reading we read every word of every bill. But so many of the senators being unable to read, the Clerk could inject things if he didn't like a particular bill, and turn some of the senators off that bill because they thought what he was reading was really there but it wasn't. So it became necessary, or as the "Parson" would say, and it came to pass in those days, that somebody said verily, verily, I say unto you, it would be beneficial if all those who served in government knew how to read. So we think we're going to try to construct a common system of schools so that every child can go to school. Not every child went, not every child who attended learned what he or she ought to, but enough did so that a few of the senators would be sprinkled around the Chamber and they were able to read. And in those days there were two houses, House A and House B. One was the house of righteousness, the other was the house of ill repute. I'll let you determine which was which. But nevertheless, in those days everything was much more leisurely in the way it progressed. Sometimes it's of value to just stop, look around, and whether there are any roses to smell or not, imagine how it would be if there were roses, if there were gardenias, if there were petunias. Why, Senator Wightman would become so nostalgic in his mind he would picture that petunia, think of his best girl when she was in grade school, and pin it on her, and he would have all of those glowing memories. Everybody would feel better. There would be no wars, there would be no rumors of wars; everybody is everybody's brother, everybody's sister; and the millennium would be here. But that is not going to happen, so let me get to this amendment that Senator Christensen is offering to us. I think it is impractical. I think it would make a mockery of the law itself. When the public is given the understanding that there are not going to be traps in these roadside ditches along these county roads, they should not have to get a plat or a map that will let them know. Once you get, as Senator Hudkins said, two feet beyond the three-mile limit, then there might be traps. So is each city, is each village, going to have to mark somehow the three-mile limit so that when you proceed beyond that point you do so at your own peril? Now, not everybody would pay attention to the markings. At one point, "Parson," out on the grass, there was a sign that said, Keep Off the Grass. Well, I have to take Nicole for her midmorning constitutional every day, and when I was on the grass somebody said, can't you read? I said, yes, I can, but Nicole cannot,... [LB299]

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: One minute. [LB299]

SENATOR CHAMBERS: ...and I went where she led me because she knows my order is, my standing order is, where you lead me I will follow; I'll go with you all the way. So I think in the same way that we're not going to require villages and cities to post these signs, we as a Legislature should call a halt to what Senator Christensen, well-intentioned though it be, is trying to get us to do this morning. Thank you, Mr. President. Oh, and how you've changed! I've never seen you looking so good. (Laughter) [LB299]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Stuthman. [LB299]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I do not support bringing this back for this amendment. I think what we have done the other day and passed it, was the thing that we needed to get done. When we were talking about three miles outside the corporate limits of a city or a village, you know, when you look in the communities, about how far apart are a lot of the communities? They are about seven miles apart, so you could go from one community...you could have...they could trap for three miles, and then there would be one mile that you couldn't trap in the highway right-of-way, in the road right-of-way, and then the next three miles you couldn't trap...you could trap again. So I think it's really confusing, and like Senator Chambers said, you know, is there going to be a line or is there going to be flags or something like that, that's going to say, trapping permitted in this road right-of-way and then trapping not permitted for that one mile? It's just disturbing to me. I think we should go with what we have put in there. Now I want to talk a little bit about what I did mention when we were discussing the bill about, you know, the road kill that's on the roads. And Monday morning when I came down, I decided that I would try to take inventory as far as what I saw on the highway in the 85 miles of traveling from home to Lincoln, and I'll give you a little bit of an update as to what I did find on the road: One deer, ten raccoons, three possums, and then there were ten that I couldn't identify. If I would have stopped I maybe could have seen, you know, what the pelt really looked like, but they were so flat and smeared on the road that as I was hastily driving by I could not really recognize their image as to what they were. There were three cats--farm cats--and two rabbits. So within them 85 miles, there was 29--29 animals on the road. You know, that's quite a few. But I think we should do something with those that are on the road; get them off of the road. But I think I'm not going to support bringing this back for this amendment because I think we have debated it and we have given it enough time, and I think what we have voted on is where we need to be going. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. (Visitors introduced.) Next we have Senator Carlson, followed by Senator Hansen, Senator Pedersen, and Senator Christensen. Senator Carlson. [LB299]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CARLSON: Mr. President and members of the Legislature, I am going to agree with Senator Chambers. He and I won't agree on probably some other things today but on this bill I think that we do. Senator Chambers, you have been here a number of years, and I would like to know how many senators couldn't read when you started. I sometimes get confused whether you've been here 37 or 137, but I need to figure that out. And Senator Stuthman, you just cinched my vote on this because you said it's confusing if we put in Senator Christensen's amendment. You got confused trying to explain it. So I think that I agree with you that we should not go with this amendment. But it did serve the purpose of kind of slowing things down a little bit and consider again where we've been and where we want to go, and I think we want to stay on course. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Hansen. [LB299]

SENATOR HANSEN: Thank you, Mr. President and members of the body. I want to stand in opposition to this amendment also and explain a little bit some of the things that go on beyond that three-mile limit that Senator Christensen is talking about. In my part of the world, when we go north of our ranch, it's not seven miles to the next place but it's 35 miles. A lot of that is covered by county road, some by state road also. I found out the other day that trapping is not permitted on state property or state right-of-way, and I think this would be inconsistent with the needs of the trapping and the needs of individual use of the road in one particular matter, and that is driving livestock up and down that road. I talked to Senator Stuthman, and he took his cattle 100 miles to pasture, but he used trucks and trailers and whatever devices he could get, but we drive our cattle to the hills. And you take baby calves up and down those county roads, they don't stay on the road. They stay...you know, they wander, wander back and forth, they wander from side to side. So you get three miles beyond the village or town limits, and if we have traps in there, then that's quite a hazard for those baby calves. And those baby calves' legs aren't any bigger than a coyote leg, so if they're looking...trapping coyotes or other varmints, baby calves I think are at great risk. All we need to do is get a...go back to the hunting laws and ask for permission. If fur harvesters want to trap, have them ask permission and get those traps on the inside of the fences. Most of the area out in my country is fenced and not farmed, so livestock is in there. If the owner of the land knows that there aren't going to be cattle in there, then it should be open to fur harvesting or elimination of varmints. Live traps probably won't work. They'll keep the cattle out, for sure, but you put the honey and the peanut butter in there and it's hard to tell what you are going to get in a live trap, and sometimes the trappers tell me that they get animals in there that tears their traps apart, so those probably won't work either. But I stand opposed to this, and I think that we should make county right-of-ways along county roads illegal for trapping altogether. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Pedersen. Senator Pedersen waives. Senator Christensen. [LB299]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Hansen yield to a question? [LB299]

PRESIDENT SHEEHY: Senator Hansen, would you yield for a question? [LB299]

SENATOR HANSEN: Yes, I would. [LB299]

SENATOR CHRISTENSEN: How many cattle have you had caught in traps, moving cattle up and down the road? [LB299]

SENATOR HANSEN: Not a one. [LB299]

SENATOR CHRISTENSEN: Did you know current law allows them to trap there now? [LB299]

SENATOR HANSEN: Yes. [LB299]

SENATOR CHRISTENSEN: So really there would be no change to what's happening now. If you're not having a problem, this is not an additional burden. [LB299]

SENATOR HANSEN: I haven't asked every rancher that travels up and down all the county roads in the state of Nebraska, though. We have had problems with traps along state roads but not county roads, and they were illegal traps, but not along county roads we've not had personal problems with it. [LB299]

SENATOR CHRISTENSEN: Thank you. My point is that this hasn't been a problem. This was brought up because of one incident where a dog got caught, and it was an illegal trap. And just like Senator Hansen just mentioned, he knows of a problem with an illegal trap. You're not going to change those that are going to break the law. You need to make the penalties more stiffer if you want to go after those, but I want to correct something also. These traps, by law, have to be marked. So if they are in this roadway, they're going to be marked right now. So...or they're illegal. And like I said, you're not going to stop those. So the point is, if they're illegal, if they're marked, or if they are marked out there, they got a name on them, so if you're going to be moving cattle, they'll set them off for you. This doesn't have to be an issue. It's not been an issue. We drive cattle up and down the road ourselves, and this has not been an issue with the traps out there. So I want you...I'm going to ask again that you move this back to amend this, because this whole thing started from an illegal trap. I do see the safety issues; that's why I put in the restrictions from town, but I would just like to continue to have people think about it. This is not changing anything different from what we have now. They have to be marked. Let's go ahead and move this back and make this instead of restricting hunting and fishing and harming an industry, let's go ahead and improve it but

Floor Debate
May 22, 2007

not kill it. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Christensen. We do believe that the system is back up and running, and so I'm going to ask each senators to select their light to speak. So Senator Hudkins, could you click out please? I'm going to put it in an order of where we are right now. Senator Nantkes, would you turn your light on? Senator Hudkins. Senator Wightman. Senator Wightman, would you turn your light on? Senator Chambers. Thank you, Senators. Senator Nantkes, you are recognized, followed by Senator Hudkins, Senator Wightman, Senator Chambers, and Senator Dubas. Senator Nantkes. [LB299]

SENATOR NANTKES: Mr. President and members, good morning. I rise in support of the Christensen amendment, and I rise in opposition to the amendment as originally brought by Senator Hudkins, but I do not rise in opposition to the underlying bill which I believe is necessary. I believe Senator Christensen's amendment is appropriate because it strikes a balance between public safety and the protection of the right to hunt, fish, and trap, and participate in other wildlife and outdoor activities, which is so important to so many Nebraskans. And I believe that Senator Hudkins' amendment on to LB299 originally is the first step in eviscerating the right to hunt, fish, and trap, as held dear by many Nebraskans. So again I believe Senator Christensen's amendment strikes the proper balance in addressing public safety concerns and protecting those precious rights. With that I yield the balance of my time back to the Chair. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Hudkins. Senator Hudkins. [LB299]

SENATOR HUDKINS: Thank you, Mr. President and members. After I spoke last time, I was given a note that said that the Nebraska Association of County Officials is also opposed to this amendment, and as I stated before, county employees are in those ditches. They are working; they are cutting trees; they are trimming bushes; they are doing whatever it is that county employees need to do in the right-of-ways. It is already illegal to be trapping on state highways. It is already illegal to be trapping on federal highways. And in visiting with my road superintendents, they said to me, you mean that it's not illegal? They already assumed that there could not be trapping along road right-of-ways. We moved some cattle just last weekend, and we are outside the three-mile limit. We had baby calves, quite a number of them. And a baby calf is how many hundreds of dollars? But if you get one caught in a trap and it's one of those traps with the teeth that go like this, and that's going to be fun for the transcribers, but the teeth interlock. That calf has most likely lost his leg and then most likely you're going to have to destroy the animal. I am not wanting to put a kibosh or stop or any way interfere with hunting, trapping, or fishing. My husband is a hunter. I have friends who are hunters, fisher people, and we have neighbor kids who are trappers. So I do not want to in any way inhibit them, but I want them not to be doing it in the roadside ditches.

Floor Debate
May 22, 2007

Senator Christensen said that Senator Hansen didn't have any problem with moving cattle in his part of the country so it shouldn't be an issue; this amendment, if it were passed, shouldn't be an issue. Well, it's probably not an issue for Senator Hansen because most likely there are not a lot of trappers in that area. That's not the point. The point is that why should people within three miles of a town be totally safe except for illegal traps, and you're not going to be able to do anything about illegal ones anyway unless people and the public in general say this is an illegal trap, come and get rid of it, I don't want it next to my fence. I would hope that you would think about this, that yes, there is a safety issue. That's what we are stressing. And I've said it before and I'll say it again: All you have to do to be legal is move that trap a foot and you're fine. I'm not going to fuss anymore. I don't want them in the roadside ditches. Is this going to inhibit the trappers? Well, yeah, the ones that are too lazy to ask permission or too lazy to put it in the fence line or whatever. This is much easier for them. The youngsters going to school, if they have a trap line set up, they can quick, hop out of their pickup, check the ditch, and if there is an animal, they take care of it; if there isn't, they can go on to school. But if that trap is set on private property, first of all, they had to ask permission,... [LB299]

PRESIDENT SHEEHY: One minute. [LB299]

SENATOR HUDKINS: ...and then it's going to make them a few minutes longer, checking their traps, if it's where it is supposed to be. So again, I urge you, please do not return this to Select File. We do not need this amendment. If there is a terrible hardship, this is something that we can look at next year, but I would prefer that it not be considered this year. Thank you, Mr. President. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Hudkins. Senator Wightman. [LB299]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I rise in opposition to AM1432. It seems to me that when roads were laid out, they were laid out as a public right-of-way, and that's true whether it's along the right-of-way or within the roadway itself. It's been mentioned that people drive cattle. In some rural areas I think probably kids even play in that right-of-way. They walk in that right-of-way. Once in awhile civic groups go out, you see it more along the highways, but also along county roads, and pick up debris in those areas to keep it clean. It just seems to me that it gets down to competing interests, and those competing interests, just by the very nature of a road right-of-way, it seems to me have got to be weighed heavily in favor of the right of the public to use it and not one individual to trap in it. We don't have a lot of trappers that I'm aware of in my district, probably because it is a little more populated than some areas, but at the same time I just think that it interferes with the public's right to use it. So we grant one person the right to do an activity that maybe only a few people within the county would do to (inaudible) a danger. And I will agree with Senator Christensen: I haven't heard of anybody getting caught in a trap. But it just seems to me we ought to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

look at the purpose of that right-of-way and the purpose wasn't to provide a hunting ground or provide a trapping ground. I agree there are too many deer out there, but I don't think we're going to solve that by trapping. There are too many other animals within the road right-of-way, but I don't know how we're going to change that, and I don't think trapping is going to deplete that population very much. So I will vote in opposition to AM1432. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Chambers, followed by Senator Dubas, Senator Pedersen, Senator Christensen. Senator Chambers. [LB299]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Christensen is a young man. He hasn't been many places; he hasn't seen much; he hasn't experienced much, so he's doing the best he can with what he has to work with. And after he has been around awhile longer, he'll come to an understanding of the fact that on many occasions it takes one incident, one occurrence, to point out the fact that there is a defect here, a problem which needs to be addressed, and then we address it. However, I think he is greatly mistaken in concluding that because Senator Hansen may not have had a problem with his cattle, that no problems exist anywhere else. I think Senator Hudkins took care of that very well. But I would like to ask Senator...I think Senator Cornett is here. I would like to ask her a question. [LB299]

PRESIDENT SHEEHY: Senator Cornett, would you yield to a question? [LB299]

SENATOR CORNETT: Yes, I will. [LB299]

SENATOR CHAMBERS: Senator Cornett, I would contend that not every person who has lost an animal of any kind or variety has had that incident brought to the public's attention. Are you aware of any other incident besides the one that was publicized? [LB299]

SENATOR CORNETT: Yes, I am. My husband had a dog and was out walking with, before we were married, with his dog, and she was killed in a trap. [LB299]

SENATOR CHAMBERS: Thank you. Now that we have another incident, that should persuade Senator Christensen. He's not even paying attention. That's why he doesn't learn anything. Son, pay attention. (Laughter) It look as though this amendment is not going to be adopted. The bill will not be returned. But I think the discussion has been helpful because the same person who called Senator Christensen, may have called me and talked about how this might be...he didn't say this...but how much harm it's going to do to trapping and so forth. If the only place these people trap would be in these ditches along the roadway, then they need to just give the whole thing up anyway. This is not going to have any significant or consequential effect on any trapping. I would make it clear that I'm opposed to trapping, but that's not what this is about. And as for what

Floor Debate
May 22, 2007

Senator Nantkes said about balancing interests, when it comes to creating a hazard in a thoroughfare there can be no balance. Do away with the harm; do away with it. It would be like saying these manufacturers who build toys that are to be used by infants should have a balancing act engaged in, and even though an infant might be able to remove a piece from that toy and choke on it, we have to balance the interests of those who make these toys and put the responsibility on the parents to watch their children or not make the purchase. Instead, society says, no, you're not going to be allowed to unleash such things on an unsuspecting public; there is a standard that is going to be maintained. Now it is known that people will walk in these areas, animals will be in these areas, and I don't think when it comes to this aspect of the issue, trappers have any rights that exist. Senator Hudkins mentioned the small distance that would have to be moved to be outside that prohibited area, and they can ask the landowner, but they don't want to. So I'm going to have and watch more listen more closely to Senator Nantkes because she is kind of leaning so much to the right now that...(laughter). [LB299]

PRESIDENT SHEEHY: One minute. [LB299]

SENATOR CHAMBERS: "Danielle Boone," somebody just said. (Laughter) I would like to ask Senator Christensen a question in the short time I have. [LB299]

PRESIDENT SHEEHY: Senator Christensen, would you yield? [LB299]

SENATOR CHRISTENSEN: Yes. [LB299]

SENATOR CHAMBERS: Senator Christensen, are you going to take this issue to a vote? [LB299]

SENATOR CHRISTENSEN: Sure. [LB299]

SENATOR CHAMBERS: Okay. Thank you, Mr. President. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Dubas. [LB299]

SENATOR DUBAS: Thank you, Mr. President and members of the body. It had been my intention to bring an amendment forward to request this to be returned to Select File also. The people that contacted me, their main concern was that they didn't feel that this amendment had had a public hearing, and they didn't feel like they had had the chance to air their concerns and their issues. So as I said, I was prepared to bring this amendment forward. But I did some more investigating. I began talking to some people, had several meetings with Game and Parks. And they too stated that they were very concerned about this issue, and they wanted to have some time to gather information and prepare themselves to bring something forward that we could have in a hearing format to give hunters and trappers the opportunity to address this issue. And so I

Floor Debate
May 22, 2007

agreed to wait on any amendment to allow them the time to gather the research, talk to hunters and trappers in the associations across the state to see, you know, exactly where is this a problem. Is this a problem statewide? Is this an isolated problem? Are there other things that we can do to address this issue? So rather than cloud the issue further I agreed to wait and work with my interested constituents and work with Game and Parks to see what we could bring forward in the form of future legislation, have a public hearing on it, give everybody their opportunity to raise their concerns, present their information, and then go forward from there. So with that, while I appreciate the fact that Senator Christensen wanted this brought forward for more discussion and is trying to address the concerns that hunters and trappers have, I would like to give Game and Parks that opportunity to work with these people and their associations to see what we can bring forward that would have remedy for everyone and also preserve the hunters' and trappers' rights. So I thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Dubas. We have Senator Pedersen, followed by Senator Christensen, Senator Chambers, Senator Aguilar, and Senator Stuthman. Senator Pedersen. [LB299]

SENATOR PEDERSEN: Thank you, Mr. President. I came to Omaha in 1964 and I've been a city man ever since, but before that time I taught school for two years in a one-room country schoolhouse on the reservation up in South Dakota. And on my way to that schoolhouse in the mornings, I would trap and do some hunting. I come from a country that has a lot of cattle--never heard of a calf getting caught in a trap. A lot of sheep. I do remember one time when a sheep got out and got into one of the traps. I see this amendment as being the key for me to vote for this bill because I wasn't going to vote for it the way it was, but without the amendment I won't vote for it. I also have a problem with us changing the law all the time to make things better for a few people. Have you ever seen a horse after it hits a barbwire fence and has a tussle with it? It butchers them up pretty bad. Are we going to outlaw barbwire fences? I doubt it. Those of you who have been on farms and raised horses, you've probably seen them horses hit a barbwire fence. I've seen them have to be put down afterwards. It concerns me that we have things like this happen, even if it's two or three domestic pets that have been killed by traps, that we automatically have to make it against the law to trap. And for the people who have their pets and go out for longer walks, I think three miles is justifiable. I think it's a good thing for both sides and I'm going to be supporting the amendment, and if the amendment gets on I'll support the bill. If it doesn't, I won't. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Pedersen. Senator Christensen, and this is your third time. [LB299]

SENATOR CHRISTENSEN: Thank you. Mr. President, fellow colleagues, I just wanted to mention several people said, well, what does it hurt just to move it off the roadway

Floor Debate
May 22, 2007

onto the farmer's field? Well, there's two things that can happen. One, if you've got livestock running out there, it's going to prohibit the hunting because on my ground I run livestock out there, and I'm not going to want that. The second thing, Senator Chambers has already said he can't control his dog; he follows his dog. Does the dog follow a fence? No. It crosses the fence. So if the trap is over there, the dog is going to get in it there, too. What difference does it make which side of the fence it's on? If the dog is running loose, it's going to hit it anyway. That's a moot point. We're making a crisis out of a little thing here. Another thing: You know, I'm surprised at you, Senator Chambers, that you never have liked the lobbyists out here, but this is what you are supporting here. This was the lobbyists brought this. And one more quote. I guess I am picking on Senator Chambers here in fun, but he has said many a time, hard cases make bad laws, and I think that's what we're doing here. We're just trying to restrict everything out of the roadways. We're overreacting to a single case that has been brought forth. And I charge you to think about what difference is it going to make if that trap is on the left side of the fence or the right side of the fence. A dog is not going to stop, and that's why this bill was brought forth because they're going to run both sides. So we have to watch for our children, for our dogs, whether they're on the inside of the fence or outside of the fence, or on the property of the roadway or on the other side of the personal property. It makes no difference. Again, we're trying to make a hard case and make a bad law. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Chambers, and this is your third time. [LB299]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this debate has become silly. For Senator Pedersen and Senator Christensen and even Senator Nantkes to suggest in seriousness that it's more important to let people trap than to look after the public safety is incomprehensible to me. I will always take a position that's designed to ensure the public safety. Why do you think I was against that liability law, the one that gave immunity? Because when the government presents something to the public, the public is entitled to believe that it's safe. These roadway ditches should be safe, and the public should be entitled to believe that they are safe. They are not private property. They are not the domain of hunters and trappers. They are available for people to walk, to crawl, to ride bicycles in, but there should be nothing that is hazardous, something that is known to be hazardous. I do not believe this amendment will be adopted. I do not believe the bill will be returned. But since Senator Christensen and a couple of others he's been able to get on to his bandwagon are suggesting that the safety of the public takes second place to the pleasure and entertainment of somebody trapping animals made it necessary for me to say more than I feel is really necessary. Senator Christensen, I would like to ask you a question. [LB299]

PRESIDENT SHEEHY: Senator Christensen, would you yield to a question? [LB299]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHRISTENSEN: Yes. [LB299]

SENATOR CHAMBERS: Do you think children should be protected by society from hazards that are created by others? [LB299]

SENATOR CHRISTENSEN: Sure. [LB299]

SENATOR CHAMBERS: Senator Christensen, is it possible that a child could wind up in one of these traps, a child being on a walk with his or her parents? [LB299]

SENATOR CHRISTENSEN: It is, and it doesn't matter if it's on the public right-of-way or an (inaudible). [LB299]

SENATOR CHAMBERS: Okay. If that had happened, would you still say the rights of the trapper are paramount, because the parent ought not to have allowed the child to walk with him or her in this ditch and should have known that there would be traps there? Would that be your view? [LB299]

SENATOR CHRISTENSEN: That's not my view because the point is missed here. If it's the right-of-way, and you go an inch off of it and have that trap, they can get in it there the same as they can on that road right-of-way. You're going to have to limit... [LB299]

SENATOR CHAMBERS: Yeah, but we're talking... [LB299]

SENATOR CHRISTENSEN: ...all trapping then. [LB299]

SENATOR CHAMBERS: But what we're talking about is the right-of-way, because if you rob a bank and don't get caught, then you are home free, but bank robbing is still illegal. We are talking about the right-of-way, and what happens in that right-of-way is of concern to me. I'm going to watch the vote on Senator Christensen's motion to return this bill. How much do I have, Mr. President? [LB299]

PRESIDENT SHEEHY: One, 50. [LB299]

SENATOR CHAMBERS: Thank you. I would like to ask Senator Christensen another question. [LB299]

PRESIDENT SHEEHY: Senator Christensen, would you yield? [LB299]

SENATOR CHRISTENSEN: Yes. [LB299]

SENATOR CHAMBERS: Senator Christensen, you received a phone call about this,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

didn't you? [LB299]

SENATOR CHRISTENSEN: Yes, I did. [LB299]

SENATOR CHAMBERS: And that's what caused you to bring your amendment, isn't it? [LB299]

SENATOR CHRISTENSEN: Yes. [LB299]

SENATOR CHAMBERS: How many phone calls did you get? [LB299]

SENATOR CHRISTENSEN: Oh, seven or eight. [LB299]

SENATOR CHAMBERS: Seven or eight. [LB299]

SENATOR CHRISTENSEN: Yeah. [LB299]

SENATOR CHAMBERS: Was it seven or was it eight or did you even count? [LB299]

SENATOR CHRISTENSEN: Well, I wasn't counting, but I've had at least seven, let's put it that way. [LB299]

SENATOR CHAMBERS: So it may not have been seven, huh. It could have been six, right? [LB299]

SENATOR CHRISTENSEN: I doubt it. [LB299]

SENATOR CHAMBERS: Well, if you didn't count, how do you know? [LB299]

SENATOR CHRISTENSEN: I would bet it's over ten, but I didn't want to exaggerate. [LB299]

SENATOR CHAMBERS: But you are exaggerating because if you don't know how many calls you got, you don't know how many calls you didn't get either, right? [LB299]

SENATOR CHRISTENSEN: Correct. [LB299]

SENATOR CHAMBERS: And you want me to follow you in allowing traps to be put in a place where they can catch little children? [LB299]

PRESIDENT SHEEHY: One minute. [LB299]

SENATOR CHRISTENSEN: You're missing the whole point. All I've got to do is move

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

an inch off, and they can still get in it, too. [LB299]

SENATOR CHAMBERS: I think you're missing the point. You are willing to say that in the right-of-way where children may be, there could be traps, and if the child is caught, that's tough. That's what you're saying because that's what you're asking for, although you're not saying it in those words. Senator Hudkins brought us a well-reasoned amendment, and I signed on with her. That's why I don't just call her "Wonder Woman," but in this case a wonderful woman. Senator Christensen, I'm out of time so I can't proceed any further on you. Thank you, Mr. President. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Aguilar, followed by Senator Stuthman and Senator Fischer. Senator Aguilar. [LB299]

SENATOR AGUILAR: Question. [LB299]

PRESIDENT SHEEHY: There is a call for the question. Do I see five hands demanding that debate cease? I do see a sufficient number. The question before the body is, shall debate cease on the motion to return to Select File? All those in favor vote yea; opposed nay. Have all voted who wish? Please record, Mr. Clerk. [LB299]

CLERK: 27 ayes, 3 nays, to cease debate, Mr. President. [LB299]

PRESIDENT SHEEHY: The motion does pass. Senator Christensen, you are recognized to close on your motion to return to Select File. [LB299]

SENATOR CHRISTENSEN: Thank you, Mr. President. Thank you, fellow senators, for the discussion. I appreciate the opportunity to bring this forth because I agree, safety is an issue. That's why we stayed away from the towns. But at the same point we've got to understand we're restricting freedoms. And if you move that trap one inch, one foot, same as the example of people saying you go three miles and a foot and now you can, there you can't. It is a complicated issue. There is not an exact answer to take care of all the safety issues that this bill wanted to do unless you're going to kill trapping altogether, and that we don't want to do. So I'm asking you to take this, bring it back, let's adopt this to give that buffer zone for the people to have the safety. But remember, when people are trapping, if they're doing it legal, it's going to be flagged, it's going to have the name of that trap so it's easily identified, so that there isn't this issue like we had that brought this to us--an illegal trap because it was an oversized, unmarked trap in the roadway right-of-way. And it wouldn't have mattered if that trap was on the right-of-way or off; it run the risk of that dog getting in there. And we still have that risk whether it's a dog or it's a child or an adult, whether it's an inch off the right-of-way or an inch on the right-of way, they can still get in there. You know, I can make a good case that you don't even need the three miles on there because you either got to get rid of the trapping or you've got to allow it because what's an inch? Think about it. But for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

public safety we do these things; we do good things. That's why we put the buffer zone on there, and that's why I ask you to vote to move this back to Select File, adopt the amendment, and go forward. Thank you. [LB299]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You've heard the closing on the motion to return to Select File. The question before the body is, shall LB299 be returned to Select? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB299]

CLERK: 8 ayes, 21 nays, Mr. President, on the motion to return the bill. [LB299]

PRESIDENT SHEEHY: The motion to return fails. Mr. Clerk, we will move to the Final Reading of LB299. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; opposed vote nay. Please record, Mr. Clerk. [LB299]

CLERK: 35 ayes, 4 nays, Mr. President, on the motion to dispense with the at-large reading. [LB299]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB299]

CLERK: (Read title of LB299.) [LB299]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB299 pass? All those in favor vote yea; opposed nay. Please record, Mr. Clerk. [LB299]

CLERK: (Record vote read, Legislative Journal page 1734.) 41 ayes, 4 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB299]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB299 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB299. (Visitors introduced.) We will now move under the first item under General File, LB646, Mr. Clerk. [LB299 LB646]

CLERK: Mr. President, LB646, a bill originally introduced by Senator Nelson. (Read title.) The bill was introduced on January 17, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Nelson, you are recognized to open on LB646. [LB646]

Floor Debate
May 22, 2007

SENATOR NELSON: Thank you, Mr. President and members of the body. I rise to introduce LB646. Before I begin I want to thank Speaker Flood for designating LB646 as one of his Speaker priority bills. I am pleased to advise that this bill has no fiscal impact but that it does have an large impact on obtaining accurate results in a timely manner on election day. LB646 accomplishes two goals. First, the bill designates that county election commissioners and clerks are responsible for developing a procedure for picking up and counting ballots at their own discretion. Second, the bill permits the counting of early voting ballots as early as 24 hours prior to the opening of polls on an election day. For decades, counties in Nebraska conducted so-called midday pickups whereby ballots would be driven from a polling place to the election commissioner's office at about 2 p.m. on election day. Midday pickups resulted in ballots being counted quickly and the results of elections being announced accurately and in a timely manner. In all the years that Nebraska took advantage of midday pickups, no occurrence of impropriety was ever alleged. In the summer of 2006, the Secretary of State ordered county election commissioners and clerks to stop conducting midday pickups. As a consequence, the general election results were released in an unacceptably slow manner. In certain circumstances the results that were initially released did not accurately reflect the final outcome. LB646 remedies the problem and prevents inaccurate and untimely results from being released in the future. You should be aware that early voting, that is by absentee ballots, has skyrocketed in the past few years. It has been estimated that 25 percent of all votes cast in 2008 will be by early voting ballot. The stark increase of early voting ballots necessitates a change in the procedure of counting these ballots. Allowing election commissioners to count early voting ballots 24 hours prior to the opening of polls enables those commissioners to focus their attention on the many problems that usually arise on election day. LB646 increases efficiency and accuracy in the offices of the election commissioners and county clerks. In the 2006 general election, staff in election commissioners' and clerks' offices worked for more than 24 hours straight, fulfilling election day duties. Requiring staff members to work for so many hours increases the likelihood of error due to exhaustion. I'm proud to say that LB646 has 21 cosponsors, was advanced out of committee unanimously, has received the support of almost every county election commissioner and clerk, and garnered a large amount of bipartisan proponents. I encourage you to support LB646 and vote to advance LB646 to Select File. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. You've heard the opening to LB646. We will now move to the committee amendment, AM752, from the Government, Military and Veterans Affairs Committee. Senator Aguilar. (Legislative Journal page 904.) [LB646]

SENATOR AGUILAR: Thank you, Mr. President and members. The committee amendment contains several provisions of LB528 which makes changes in the Election Act. The first change eliminates certain types of counting boards. Before the new voting equipment, counting boards were appointed to a precinct to manually count paper

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

ballots. With the new voting equipment, counties no longer manually count ballots, and therefore these counting boards are no longer necessary. The second change requires candidates to be affiliated with a political party before the first Friday in December prior to the statewide primary election, in order to be eligible as a write-in candidate. This provision is intended to close a loophole for write-in candidates who didn't register with a party before the December deadline. The final change provides that if the ballot for early voting has not been printed in sufficient time, the election commissioner or county clerk will issue a special ballot at least 60 days prior to an election to each qualified voter requesting such a ballot. The current deadline is 57 days prior to the election. This change is made to bring the statutes in compliance with federal law. The Secretary of State's Office is already complying with the federal law, but this will bring state law into compliance. The committee advanced LB646 with the committee amendment on a 7-0 vote with one member being absent. I ask for your support of this amendment and the underlying bill. Thank you, Mr. President. [LB646 LB528]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You've heard the opening to the committee amendment, AM752, to LB646. Mr. Clerk, do you have an amendment to the committee amendment? [LB646]

CLERK: I do, Mr. President. Senator Schimek, I had an amendment, AM1142, but I have a note you want to withdraw that particular amendment. [LB646]

SENATOR SCHIMEK: Correct. [LB646]

PRESIDENT SHEEHY: AM1142 is withdrawn. [LB646]

CLERK: Senator Schimek would move to amend the committee amendments with AM1392. (Legislative Journal page 1694.) [LB646]

PRESIDENT SHEEHY: Senator Schimek, you are recognized to open on AM1392, an amendment to the committee amendment. [LB646]

SENATOR SCHIMEK: Thank you, Mr. President and members. I would like to thank Senator Nelson for bringing this bill in the first place and the committee for having worked on it. I think that Senator Nelson and I had the same thoughts about the general purpose of this bill, and that was that we thought that more timely information could be available on election day, and at the same time we could prevent fraud. I think that with my amendment the general purpose of having this information available in a timely manner can be accomplished, and the provisions will be those that I think we can more easily live with. First of all, as Senator Nelson mentioned, I think, the bill as originally introduced allowed early ballots to be opened at any time after issuance. Now they can be issued 35 days before the election, so that left a real wide-open field there for 35 days. The original bill also allowed early voting ballots to be counted the day before the

Floor Debate
May 22, 2007

election, and that's a large departure from what we've done and allowed in the past. So I should tell you that I brought this amendment on behalf of the Secretary of State. And he and Senator Nelson, I think, discussed the provisions that I'm going to introduce to you now that are the provisions of the amendment to the amendment. I think there is one sticking point, and Senator Nelson will probably tell you about that. But the first change in the committee amendment, which becomes, of course, the bill, is to allow early voting ballots to be opened for flattening on the second Monday before election day. Right now, they are opened on the Thursday before election day, so this allows three more days for the opening, but it doesn't allow that whole 35-day period to occur. Secondly, it allows early precinct pickup and early count, which I think is good, with those ballots counted prior to the close of the polls. No report or tabulation will be created until...originally the Secretary of State's provision was a half an hour. With NACO's input, we changed this to an hour before the polls close. So you can pick these ballots up, you can actually put them through the counting machine, but you can't have a report or tabulation compiled until an hour before the polls close. That gives plenty of time and I'll go into that in a minute. And finally, this amendment would eliminate the provision to allow counting of early ballots prior to election day, but allowing early tabulation as I just mentioned of these results for these ballots. I think the sticking point between the Secretary and Senator Nelson was that early voting ballots, counting them the day before the election, the Secretary of State really didn't see a need for that. He said in a memo to me that you may have received, in my opinion we are far from being overwhelmed by early ballots with a 16-18 percent early vote count. The number of machines we bought in 2006 anticipated growth of early voting. The percentage of early votes will grow gradually, not dramatically. For the foreseeable future, there simply should be no problem. In addition, we expose ourselves to additional risk in counting those ballots the day before election, and that is, of course, that these reports could be released by somebody in the office to a campaign. I want to say something about the Secretary of State. I have had the opportunity to work with him and his office as Chair of the Government Committee for about four-plus years, and I have found him to be just extremely good to work with and very attuned to getting as much input as possible. And I would like to compliment him because I don't know if you all noticed in the paper this morning, there was an article about Florida going back to paper ballots. Florida, you remember, the state of the hanging chads, went to touch-screen technology for their voting, and it got so messed up that they decided and the legislature just passed the bill, that they're going to go back to exactly what Nebraska picked, and that's the optical screen voting...or optical scan voting machines. And I think we spent our money wisely. I think the Secretary of State has been very thorough in looking at our needs. I mention all that because I want to tell you about these counting machines, these optical scanners that we did purchase. He says...and they're called M650s. An M650 is designed to count over 18,000 ballots per...pages per hour, but most practically it can easily process 6,000 ballot pages per hour. This includes time for getting the ballots to the machine, preparing for storage after counting, and so forth. Lancaster County processed 40,000 early ballot pages in just over an hour and a half with five machines

Floor Debate
May 22, 2007

on November 7, 2006, and they had 20,000 early votes in that count. With eight machines, Douglas County should be able to process 30,000 early voters, which was the 2006 general election number, with a two-page ballot, he is suggesting, or 60,000 ballot pages in one and a half hours. Even double to 120,000 ballot pages it should only take three hours, and this can be easily accomplished on election day if you begin early on election day. So his suggestion is that we stick with the election day counting of those ballots. This prevents any suggestion that there could be fraud in the process. And I don't know if you looked at the e-mail from Larry Dix from NACO, and he said that the county clerks were concerned about this particular provision, because they don't want any current elected official who is running for elective office to be accused of prematurely obtaining any results and therefore obtaining an unfair advantage or influencing voter turnouts. Larry Dix goes on to say I do not believe that this would happen, but the accusation itself could be damaging to the reputation of the elected official. So on that one point the county clerks were concerned about the count before election day. And I think the Secretary of State makes a very good argument for not doing it until election day. I did pass out the Larry Dix letter. I also passed out the tabulations of all the votes in the years 2000, 2002, 2004, and 2006, and you'll see Douglas and Lancaster Counties, which are the biggest counties, had 29,000 and 19,000 votes respectively in the early category. So we're not talking huge, huge numbers here, and I believe that... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR SCHIMEK: ...with this provision that we would be okay. In addition to that, I know that some of you have heard from county clerks in Wayne, Cass, Sarpy, Hall, Otoe, Madison, Platte, and Lincoln Counties, and they basically make the same arguments. They are in support of this amendment, and I would ask for your consideration. I'd be happy to answer any questions that you might have. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Schimek. You've heard the opening to AM1392, the amendment to the committee amendment. The floor is now open for discussion. Senator Nelson. [LB646]

SENATOR NELSON: Thank you, Mr. President, and thank you, Senator Schimek. I am speaking in opposition to this amendment. By way of background I should tell you that the Secretary of State and I worked out most of our differences on this, and I also thank Senator Schimek for withdrawing the one amendment and adding AM1392 which provided that no results will be released until an hour prior to the time that the polls are closed. I...that...we are fine with that. We're also fine with the proviso that the early ballots cannot...you cannot begin to open and flatten those until the second Monday prior to the election day. Probably for larger counties, 35 days ahead of time would be preferable because that allows you to assign one or two persons to do that and get it

Floor Debate
May 22, 2007

out of the way, but we can certainly live with the second Monday prior. Our main point of disagreement on this is the matter of counting early ballots a day early. Yes, Senator Schimek shows the chart, and she makes the argument that we aren't dealing with a lot of absentee ballots or early ballots. We certainly are. In this last election, for instance in Douglas County, we counted 200,000 ballots. Of those, about 30,000 were absentees. And to say that because we have eight machines that are large machines that can count at a rapid pace misleads us a little bit. Yes, theoretically they can, but it just simply doesn't work that way. Problems come up, especially with the machines. That's an argument for doing the counting of the early ballots ahead of time so that you can get those out of the way, and if you anticipate any machine possibilities, you've got time to work with that and get those things ironed out. I want to tell you that I was chief deputy election commissioner in Douglas County for eight years, and it's been awhile ago and I realize that things have changed to a certain extent, but people are people. And my experience on election day was that you were there at 5:00 in the morning or even earlier, and that as soon as the polls opened you were inundated with hundreds of calls with people having problems, and those calls extended during the day. And to have to address all those, send people here and there, maybe do some additional ballots and everything, that's very time consuming and distracting. That's enough of a distraction. You shouldn't have to be trying to count early ballots, especially 29,000 or 30,000 or even 40,000 of them on that day. It just lends to frustration, errors, and long hours. This is what we encountered in Douglas County and Sarpy County--Lancaster not to this certain extent--and a lot of the offices around the state had problems not necessarily with the early ballots, but the fact that they could not pick up the regular ballots on midday. And I probably neglected to say that we're in agreement on that; that it is a good thing to be able to pick up ballots on election day, that are started counting or voting at 8:00, to pick those up on election day and midday pickups. We're fine with that and not releasing the results until 7:00. The thing that we are concerned about is the ability to count the early ballots the day before... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR NELSON: ...and have those results completed. I should point out and I'll talk later about security or may answer questions. You've got these large machines. If you run the count on those ballots or you count them on the day before, at the end of the day when you've finished your count of the early ballots, you slip a floppy disk into the machine, you take it out, you take it to the vault. Nobody knows what those results are. They are in the vault overnight. You don't bring that floppy disk out and merge it with the election day results until 7:00 that day. There are really no problems of security that I can see. It's just...we're saying if there may be problems. Well, we haven't experienced any problems in the past, and I should tell you that revealing election results ahead of time or prior to the time they are released is a Class IV felony here in Nebraska, and all election officials are aware of that. [LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Time, Senator. [LB646]

SENATOR NELSON: Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. We have Senator Schimek, followed by Senator Friend. Senator Schimek. Senator Schimek waives. Senator Friend. [LB646]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I was going to run up here, but I don't have quite the skills that I used to have in that area, so I figured I had better walk. I was wondering if Senator Nelson could...I didn't get a chance to talk to him off the record, but I was wondering if we can get some stuff on the record if he would yield to a question or two. [LB646]

PRESIDENT SHEEHY: Senator Nelson, would you yield to a question? [LB646]

SENATOR NELSON: Yes, I will. [LB646]

SENATOR FRIEND: Senator Nelson, you had alluded to some of the process...let's take Douglas County, for example, and let's take absentee ballots specifically, for example. The day that those absentee ballots show up or the time...they're showing up at different times obviously, but the time when you can grab those absentee ballots in the past, count those on a time set by the county elected officer is the way that is used to be. When that's going on, who is actually counting those ballots in those local...are they being counted in those local precinct offices or were they gathered up, moved to a central location, and then counted? [LB646]

SENATOR NELSON: Let me address the rural counties first where they have the smaller machines. My understanding is that...and you can come in and vote early two weeks ahead of time. When voters come in at that time and they do their early ballot during that two-week period, that ballot is inserted into a machine, it's counted right then and there, and the ballot drops down into a secure storage box below. At that time, any time during that two weeks, the county clerk or election commissioner could run a tally right there and know what the results of the vote are. So we've been doing that for a long time. [LB646]

SENATOR FRIEND: Okay. I guess...and I guess the thing is, what you're telling me is on that particular day, according to the National Conference of State Legislators...State Legislatures, excuse me...the people in Nebraska who were counting the ballots were, for lack of a better way to describe it I think on their part, absent voters counting boards. What does that mean? Does that make any sense to you? I mean, who is counting those ballots? Are they poll workers? [LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR NELSON: You mean prior to election day? [LB646]

SENATOR FRIEND: Yes. [LB646]

SENATOR NELSON: They would be... [LB646]

SENATOR FRIEND: It couldn't be a poll worker. [LB646]

SENATOR NELSON: No, it couldn't be a poll worker. It would have to be someone in the county clerk's office, probably the county clerk themselves in the smaller county. In the larger counties with an election commissioner, there would be designated persons on staff that would be doing that under the supervision of the election commissioner. [LB646]

SENATOR FRIEND: Okay. [LB646]

SENATOR NELSON: But we're talking about opening them up and flattening them first, of course; that has to be done. [LB646]

SENATOR FRIEND: Okay. And thank you, Senator Nelson. I mean, I was filtering through the NCSL information on receiving and counting absentee ballots, and that was really the only questioning that I had because I wasn't sure that I understood exactly what they meant by some of the labels that they put on here. But thank you, Senator Nelson. I guess there is a tendency, members of the Legislature, there is a tendency to look at this stuff and it's the first thing I did. I believe I did it once after Senator Nelson introduced this bill, is to go out and try to figure out if there is a nationwide norm. If there is an effort or a movement from all of the states to try to normalize this... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR FRIEND: ...early voting and absentee voting behavior, the counting behavior. Stop looking because there is no norm. I mean, it is all over the road; it's all over the board. I can go into this later. We've got 50 states. They are all doing something different in regard to ballots, when the ballots are due, when the...how the ballots are counted, at what times they are counted, and who counts those ballots. Quit looking. It's crazy; it's all over the board. And the thing is, I'm not sure it's crazy to the degree that it shouldn't be done this way, but I think it's a testament to the idea that the federal government is leaving it up to the states to do it the right way or what they think is the right way. I think that that's what we're going after here with AM1392. I'm a little worried about this amendment. I thought LB646 in itself was okay as a stand-alone bill. I'm going to listen to more debate, and I'm a little concerned about AM1392, though. [LB646]

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Time, Senator. [LB646]

SENATOR FRIEND: Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Schimek. [LB646]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I turned my light on to try to add some clarity, I think, to the discussion that just took place. Let me remind you that we have never ever counted ballots the day before the election. We've always counted ballots on the day of the election. And the ballot envelopes that come in with absentee votes in them can be opened the Thursday before the election right now. They can be opened Thursday before the election. And there is, as I understand it, in the rural precincts when those...when somebody ballots early voting, that those particular ballots can't be counted at that point because the software doesn't even get put in those smaller scanners until a day or two before the election. So I don't think they're counting...I don't think that they're counting ballots ahead of time in those rural areas; at least it would be very difficult for them to do so. I would like to just say that I think everything can be done in a timely manner and the concerns of the Secretary of State can be addressed, the concerns of the county clerks can be addressed through this amendment, and I would just encourage the adoption of this amendment to the committee amendment. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Nelson. [LB646]

SENATOR NELSON: Thank you, Mr. President, members of the body. Yes, we have not counted early ballots before in, for the most part, according to Senator Schimek. But I think we have to remember that in a sense we are counting, especially in the rural counties, we are counting early ballots early. It's being done during that two-week period. And if we pass this amendment prohibiting any early counting, what are these early...what are we going to do out in the rural counties? You're supposed to let people come in and vote at that time and run it through their counter two weeks...during the two weeks prior to election. So I see a problem there. I just...and I would like to address the concerns of the county clerks. By and large, when we had the hearing, they were 100 percent behind the bill. Then after some consultation, I guess they do have reservations from one point, and that's about the early counting. If we're going to allow the early counting of early ballots, they want to be able to do that statewide, and I really have no problem with that. That's the way it is right now. The other thing is that it's discretionary. The bill, as it stands, that I introduced, makes it discretionary as to whether they can count early or not, of the early ballots. If you have a clerk or some other official that's on the ballot, and they have some concerns that fingers might be pointed at them and that they shouldn't be doing that, they don't have to count early; they can wait until election day. Let me come back to counting in the larger areas. I would like to point out that of cities the size of Omaha, there are only six other cities in the United States that require

Floor Debate
May 22, 2007

the counting of both early ballots and election day ballots on the same day. As Senator Friend has said, there is a large variety. But there are a lot of places, a lot of counties, a lot of cities in the United States that do permit the early counting of the absentee ballots. Counting early voting ballots prior to election day is safe. We have never really had any problems with that--no allegations, no lawsuits. We've counted early voting ballots prior to election day for years. As I said, we've never had a problem. It's a common procedure done across the country. Ballots cannot be tampered with by counting early, the counting the early voting ballots prior to election day, as I've already covered, and releasing election results prior to the closing of polls is a Class IV felony. So I think we have all the protection that we need. I don't think we should be stuck in the mud in saying, well, we've never done this before, let's not count early ballots, because I can anticipate and our election commissioners can anticipate with the increase of the early voting ballot that we may very well, for instance in the next general election, be doing 50,000 to 60,000 early ballots there in Douglas County. Let's get those done ahead of time. The problems of security or fraud are just absolutely nonexistent, and looking at election day, because those are taken and they're out of the way, we can concentrate on having timely election results on election day. And the timeliness is because we don't have to worry about the absentee ballots and problems with the counting machines. We can deal with those ballots that are cast on election day. We can pick them up in the afternoon at 2:00. We can get 40 percent of those counted on election day, and we'll have those results, whatever we have at 7:00, they are ready to go. [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR NELSON: In my case and in a lot of candidates' cases, in Douglas County we didn't know whether we had won the election until 5:00 the next morning. Because of delays due to the counting of the early ballots on election day, they really were not able to get to the election day ballots until after 8:00. That put things way behind. This was a problem for Douglas County, and I don't want to look at this as just Douglas County alone; it can be a statewide problem, and I want you to understand that. But this is the problem that caused me to bring this bill, and I think it applies across the board to the state, and therefore I urge you to oppose the Schimek amendment and go with the bill as amended by the committee. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Erdman, followed by Senator Aguilar. Senator Erdman. [LB646]

SENATOR ERDMAN: Mr. President and members of the Legislature, Senator Nelson, would you yield to a question or two? [LB646]

PRESIDENT SHEEHY: Senator Nelson, would you yield to some questions? [LB646]

SENATOR NELSON: Yes, I will. [LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR ERDMAN: Senator Nelson, if I understood you correctly, you said that in rural counties they begin counting the ballots early. Their practice was to count the ballots early. Can you elaborate on that just a little bit so I can capture what you said? [LB646]

SENATOR NELSON: I want you to understand I'm not out there and I'm not familiar, but it is my understanding that you, in your particular county, Senator Erdman, you can come in up to two weeks ahead of time and you can vote early, in person. [LB646]

SENATOR ERDMAN: Right. [LB646]

SENATOR NELSON: And when you have voted that ballot, it is then taken by the county clerk and it's put in the machine and it's counted and the ballot, having been counted, is dropped into a secure container and there it remains. So, in a sense, they're counting ballots right then and there two weeks ahead of time...up to two weeks ahead of time. [LB646]

SENATOR ERDMAN: Okay. Let me share with you what my understanding is, Senator Nelson, and then we can find the reality here, either through our conversation or possibly visiting with others. It's my understanding that if I go in, and I live in Morrill County, if I go into the Morrill County courthouse in Bridgeport and vote early, that ballot is placed, not in the scanner but in a sealed box similar to what I would place that ballot in at the day of an election at the polling place. It's placed in a sealed box. And then upon the prescribed time, as it was under previous law, or actually in 2006, the Secretary of State's order, I guess, was that you couldn't start until the polls closed. At that point the box would then be opened and fed into the scanners, because it's further my understanding that the scanners don't have the programming or the software installed for that election to be able to accurately read those ballots, because every election the ballot changes and then the software has to be able to read the ballot. So my understanding is that in those rural areas they don't actually take the ballot and scan it when you do an early vote. You place it in the box, that box is sealed, and then upon the prescribed time, under your bill it would be the option of Monday but no later than Tuesday, or under Senator Schimek's bill it would be no later than the morning of the elections, whenever that time line is--if you're on Mountain time, it would be 7 a.m.; if you're on Central time, it would be 8 a.m.--that then you would be able to count those from that box. I'm not aware of counties sticking the ballot in as soon as you vote and then tabulating them but not producing a record or a report until a later date, and I need more information on that because that's my understanding of the process, and it sounds like that's different than your understanding of the process. [LB646]

SENATOR NELSON: That's correct. It does appear that they are handling it differently. Now whether that is discretionary with the county clerks or the election commissioners

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

in those counties, I just can't tell you, Senator. [LB646]

SENATOR ERDMAN: Okay. Senator Nelson, let me ask you a further question. The main issue that I believe you and others, especially in the metro area, in the Omaha area, Douglas County, faced in the 2006 election was the fact that ballots were not able to be counted until after the polls closed. Now that applied statewide, but that was the main issue as far as the delay. Under your bill or under Senator Schimek's amendment, you would still be able to count those ballots earlier than that time, pursuant to the state law that we would change; is that right? [LB646]

SENATOR NELSON: I don't think that's correct, Senator Erdman. In Douglas County, we are able to start counting the early ballots when the polls open on election day, not after they close. [LB646]

SENATOR ERDMAN: So you were able to count them early,... [LB646]

SENATOR NELSON: We were able to count them. [LB646]

SENATOR ERDMAN: ...of that day. [LB646]

SENATOR NELSON: That's correct. [LB646]

SENATOR ERDMAN: And that was... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR ERDMAN: Okay. Well, then there is...we're on opposite sides now. I was under one assumption on one side and you were on the other, and so hopefully by the end of this debate we'll be on the same page. So you're saying that under the existing operations of the election commissioner in 2006, they began counting early ballots on the morning of the election, and then they didn't begin counting the other ballots until the polls closed? Is that more accurate? [LB646]

SENATOR NELSON: Well, they... [LB646]

SENATOR ERDMAN: Or did they go pick up those and begin counting them, as well? [LB646]

SENATOR NELSON: Yes, that's right. They couldn't...because of the delays caused by some malfunction in the machines on election day with the early ballots. And that's why I'm saying, you can't count on having things whiz through in three or four hours. There may be problems and those problems, if there are, should be addressed the day before so that we're free to have the machines ready to go at 2:00 in the afternoon when the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

ballots that are cast on election day come in. [LB646]

PRESIDENT SHEEHY: Time, Senator. (Visitor introduced.) Senator Aguilar, followed by Senator Erdman. Senator Aguilar. [LB646]

SENATOR AGUILAR: Thank you, Mr. President. I wasn't going to weigh in on this, but I think I will after some of the comments that I've heard. I'm going to rise in support of this amendment. One of the things that I have done, I have participated in a lot of conversations with the Secretary of State and, you know, he shared his views. And you heard Senator Friend get up and talk about how all of the country the process and procedure for this is kind of all over the board. There are a lot of different things. Well, we depend on our Secretary of State to make sure the process runs as smoothly as possible, and I think we're in kind of a panic mode because we had one bad situation in a specific county in the state, and you know, things didn't go well. Fine. That's all right. But I don't think we should assume they're going to go not well all the time. I think give them time to adjust. You know, they've got the very expensive equipment in place, and it should run a lot smoother, and we'll be hopeful that that will work out, and I'm going to put my faith in the Secretary of State that, you know, he knows what he is talking about. And I think he has the right process in mind, and I'm going to support him with that. If I have any time left, I would yield it to Senator Erdman. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Senator Erdman, 3, 50. [LB646]

SENATOR ERDMAN: Thank you, Senator Aguilar. Mr. President, would Senator Nelson continue to yield so we can continue our conversation? [LB646]

PRESIDENT SHEEHY: Senator Nelson, would you yield to some questions? [LB646]

SENATOR NELSON: I would be happy to, Senator Erdman, because I have some additional information regarding what you were asking. [LB646]

SENATOR ERDMAN: Fair enough. Why don't you proceed with that and... [LB646]

SENATOR NELSON: Well, it's...we've got two different kinds of machines that are in use. One is a Model 100 which operates the way I described for you and which is not used in...it's Morrill County, is that where you're from? [LB646]

SENATOR ERDMAN: Yeah. [LB646]

SENATOR NELSON: There in Morrill County you use the Model 650. [LB646]

SENATOR ERDMAN: Is that an upgrade? [LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR NELSON: That's an upgrade. [LB646]

SENATOR ERDMAN: All right. Good deal. [LB646]

SENATOR NELSON: And because it is an upgrade, then yes, you're absolutely correct. They can be stored and they are not counted until election day, just as we do in Douglas County, and I apologize for that. [LB646]

SENATOR ERDMAN: So we use the same machine. [LB646]

SENATOR NELSON: Yes, we do. [LB646]

SENATOR ERDMAN: We use the same machine in Morrill County that you would in Douglas County. You just have more of them because you have more ballots to count. [LB646]

SENATOR NELSON: That's right, but there are 39 counties that use the smaller model that I described, which is Model 100. [LB646]

SENATOR ERDMAN: And in those counties that use the Model 100, according to what I've heard from Senator Schimek and what I've heard from you, you say that up to two weeks before the election they are able to count those ballots at the time that the early ballot is cast, but Senator Schimek tells us that those machines don't have the appropriate software in them until just prior to the election. Does your research reveal that before those counties begin to count the ballots, that they have the appropriate software? [LB646]

SENATOR NELSON: Well, I would think that they would. You know, I haven't researched that, Senator, but if you're going to have to permit people to come in and vote in person, absentee or early ballot, and then run them through the machine in order that they are stored safely, then you're counting at that time. [LB646]

SENATOR ERDMAN: Sure. Let me go back, and my light is next so this will probably be a little prolonged, but talk to me about how the process worked, say, in 2004. In Douglas County, the county could begin counting ballots whether they were absent...when could they begin counting their early ballots or their absentee ballots? [LB646]

SENATOR NELSON: Let's distinguish between early ballots and absentee ballots. That's one and the same thing, okay? [LB646]

SENATOR ERDMAN: They have a...right, they have become known as early ballots...

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Floor Debate
May 22, 2007

[LB646]

SENATOR NELSON: And you're... [LB646]

SENATOR ERDMAN: ...but they used to be called absentees. [LB646]

SENATOR NELSON: ...but I'll refer to them as absentee ballots... [LB646]

SENATOR ERDMAN: Fair enough. [LB646]

SENATOR NELSON: ...if that's a little easier. [LB646]

SENATOR ERDMAN: Yep, that's fine. [LB646]

SENATOR NELSON: Absentee ballots can be voted up to 35 days ahead of time by mail. If you want to come in, in person, to the election office and vote an absentee ballot, that's two weeks ahead of time. [LB646]

SENATOR ERDMAN: Correct. [LB646]

SENATOR NELSON: All of those ballots...as early voting ballots come in by mail, the envelopes are opened and they are flattened out and they are put in a box and put in the vault so that they're secure... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR NELSON: ...until you're ready to count. [LB646]

SENATOR ERDMAN: And so then in that scenario, those ballots come in and it sounds similar to the process that I have in my home county: They get placed in the secured box, they're put into the vault. At what point in the 2004 election could the Douglas Count election commissioner begin counting those ballots? [LB646]

SENATOR NELSON: He could begin counting those ballots at 8:00 in the morning on election day. [LB646]

SENATOR ERDMAN: Eight o'clock in the morning on the election day. [LB646]

SENATOR NELSON: Yes. [LB646]

SENATOR ERDMAN: What...and, again, that was a presidential election. [LB646]

SENATOR NELSON: That's right. [LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR ERDMAN: It wasn't a gubernatorial election, but there were a number of other elections as well that probably brought a similar number of people to the polls or the total number of votes cast, whether they be absentee or election day ballots, would have been about the same. What was the result in that year of the timing of the ballots? Did you see a delay or...? [LB646]

SENATOR NELSON: No. No. We had no problem at all in 2004, because we were able to pick up ballots early on election day and count about 40 percent of the ballots and have those ready for release... [LB646]

PRESIDENT SHEEHY: Time, Senator. Senator Erdman, you will now run on your time. [LB646]

SENATOR ERDMAN: And if we can...if Senator Nelson would continue to yield. [LB646]

SENATOR NELSON: Yeah. And then you can't release any results until 8:00, but at least those results could be prepared. And I think we have to give them to the...the results, to the Secretary of State before we get around to releasing them to the press. But to the best of my recollection there were no problems in 2004, because of the fact that we had done it the same way that we had done for 30 years. We picked them up early in the afternoon and had at least 40 percent of the count completed by the time the polls closed. [LB646]

SENATOR ERDMAN: So then under LB646, as amended by the committee...excuse me. Under the Schimek amendment, we will be restoring the process that was used in 2004 or will it be more restrictive, in your analysis, than what you just explained to me in 2004? [LB646]

SENATOR NELSON: Under the Schimek amendment, we will be restoring the process as far as the early pickup is concerned at midday, but with a restriction saying that...and we can count them, but that there will be no release of any results until 7:00. Well, you can tabulate,... [LB646]

SENATOR ERDMAN: One hour prior... [LB646]

SENATOR NELSON: ...let's put it that way. [LB646]

SENATOR ERDMAN: ...one hour prior to the closing, which would be... [LB646]

SENATOR NELSON: Right. [LB646]

SENATOR ERDMAN: ...6:00 in western Nebraska, 7:00 in the Central time zone, which

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

would be Central in eastern Nebraska. [LB646]

SENATOR NELSON: Yes, that would be correct. [LB646]

SENATOR ERDMAN: Those results go to the Secretary of State or those results are released to the public? [LB646]

SENATOR NELSON: At 8:00, they are released to the public, but I think that the Secretary of State, if I recall, gets those tabulations and results before that. [LB646]

SENATOR ERDMAN: Right. So the hour before the polling closed. We're not allowing election commissioners to release the results of any preliminary data or voting before the polls close. That one hour says that the local election commissioners can't release that to the Secretary of State until one hour before the polls close. Is that right? Because the law, as you said earlier, precludes anybody from releasing election data before polling and it's a Class IV felony. [LB646]

SENATOR NELSON: That's right. It's all done in that final hour of election day before the polls close. [LB646]

SENATOR ERDMAN: Okay. Senator Nelson, here's where I'm at, and this is your bill. I want to give you the credit that you deserve for trying to restore some sanity into this election process based on what you've gone through, but what I've heard you say so far is that in 2004 the process that's being outlined by Senator Schimek worked, with the exception of the time line that has an hour before you can release the information to the Secretary of State. Earlier in our conversation you said that you would prefer your amendment which states the Monday instead of the Tuesday, because we need the opportunity to make sure that it works right and not just rely on the last day. The last bill we used a hard case to make state law. I don't want to make state law based on one election but I'm fully aware, as we have seen this morning with our technology here, things can happen that are unexpected. We need to have contingency plans in place. I'm willing to give you the benefit of the doubt, but what I've heard you say is that in 2004 essentially what Senator Schimek is offering us worked and worked very well. They could count the ballots starting at 8:00 on that morning, they had the early pickup, they had 40 percent of the ballots tabulated at an appropriate time during the day, the election returns were a lot more timely. My concern or the burden that I think you still have to overcome with me is, why do we need to go to Monday then, if Tuesday works? And maybe not to put words in your mouth, maybe your argument is that, well, Douglas County doesn't address the 39 counties that use the M100. I'm wanting to understand, if it worked in 2004, why we don't reinstate the 2004 process if it worked for 30 years, when the 2006 process, by most objective opinions in the metro area,... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR ERDMAN: ...didn't work? And I'll yield you the remaining time to respond.
[LB646]

SENATOR NELSON: Well, we have two things here. Unless I misspoke, I'm saying that Senator Schimek and I are together. My...what we're doing here, because of the order of the Secretary of State saying we couldn't do early pickups midday on election day, that's what we're restoring here. We're both restoring that with a proviso which is acceptable to both of us that you can release results to certain persons such as the Secretary of State at 7:00. What my amendment is doing is changing the current arrangement and letting us count early ballots a day ahead of time. And Senator Schimek in her amendment is reversing that and going back to the way we've always been required to do it at...beginning at 8:00 in the morning on election day. And that doesn't work anymore for large counties because of the huge increase in absentee ballots. [LB646]

PRESIDENT SHEEHY: Time, Senator. (Visitors introduced.) Senators wishing to speak: Senator Nelson, followed by Senator Erdman. And Senator Nelson, this is your third time. [LB646]

SENATOR NELSON: Thank you, Mr. President. Let me follow up in what I was telling Senator Erdman. In the old days when we only had 1,000 or 2,000 or maybe 3,000 early ballots at most, that really wasn't a problem. We could start counting those at 8:00 in the morning on election day, and even if there was food on some of them and the machines jammed or it didn't read properly and we had to recount, we had time to deal with that by the time we got around to 2:00 in the afternoon. We don't have that amount of time available to us anymore. Even though we have more machines, things can still go wrong. And things went wrong in Douglas County; they went wrong in other counties. We are not the only instance of county clerks and election commissioners having problems with their machines, and because they were not able to count ballots or not able to pick ballots up early, they got a start on their counting after 8:00, and so their results were very delayed. So that's the main thing. As long as...and I hope everybody is in accord that we need to go back to picking up ballots on election day at midday so that we can get those ballots counted. That will help a great deal. It worked very well for us for 30 years and the only reason it got changed, as I understand it, by the Secretary of State, because it was a recommendation by a federal official that we ought not to do that. Well, I think we can decide for ourselves here in Nebraska what works for us and what we should be able to do, and it worked very well, the midday pickup. Now as long as we're doing this, I'm arguing that we might as well anticipate and look ahead at what we're going to be dealing with, with the increased number of early ballots. We've had problems counting those on election day. Let's do it a day early and have it done with. There are, as I've addressed, no security problems as far as I can see. It's done around the country. In a large number of places they count early. At this juncture I'm going to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

say that I'm going to urge again that you defeat the Schimek amendment. I have another amendment that I will file which does the same thing as--and this will be to the committee amendments--which does cover the two things that Senator Schimek and I are in agreement with, but my amendment will permit us to count early on, or 24 hours ahead of the opening of polls on election day. And I would commend that. I would ask you to vote the Schimek amendment down and then vote for my amendment, which will do all of the things that we are in accord on except the matter of counting the early ballots 24 hours before election day, and we would be able to do that. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Erdman, and this is your third time. [LB646]

SENATOR ERDMAN: Mr. President and members of the Legislature, Senator Nelson, now that you've sat down, can I get you to yield to another question? [LB646]

PRESIDENT SHEEHY: Senator Nelson, would you yield to some questions? [LB646]

SENATOR ERDMAN: Thank you, Senator Nelson. Let me...where you left off and it's my understanding that you have an amendment that would do what Senator Schimek's amendment does, except allow us to count on Monday. [LB646]

SENATOR NELSON: That's correct. [LB646]

SENATOR ERDMAN: So you're in agreement except for the day. [LB646]

SENATOR NELSON: That's right. [LB646]

SENATOR ERDMAN: Where I left you on my last time was, what is the strong rationale for that extra day? And let me preface that by saying, 2006, I think, is an anomaly. I think it's something that there were multiple things that happened that year, as you've explained them to us, that probably wouldn't happen again, but that doesn't mean that they won't. My understanding is, is that Douglas County printed their own ballots that caused some of the problem with the reading of the ballots by the machines; that they didn't start counting those ballots until 3:30 in the afternoon; that there were some things like that, procedurally, that happened locally, that may have contributed to the issue. What I need to hear from you is why it's so essential that the Monday be the appropriate day to begin to allow election commissioners and county clerks across the state to have that opportunity to start on Monday instead of on Tuesday, because earlier today you've said that for the last 30 years we've done it this way and it's worked very well. If we take care of the issues of counties printing their own ballot that may not be compatible, allowing them to begin counting at 8 a.m. in the morning or whenever the polls open, which would be 7 a.m. Mountain time, if that's worked for 30 years, give me the vision

Floor Debate
May 22, 2007

forward that we need to be looking at and why Monday would be there. And again I'll just, when I'm done I'll just yield you the remainder of my time. One of the arguments that I've heard you say is, because of the increasing number of early voting...and I think you're right, I think we're going to see people taking more advantage of it whether it's on election day, general election or primary election or special election, and some of those are being done by mail now, but if you look at the percentage on the sheet that Senator Schimek handed out, you have the exact same number of early votes or absentee votes in 2006 as you did in 2004. We didn't have the problem in 2004 but, in fact, you had 60,000 less votes cast, so the percentage went up but the total number of votes went down, and therefore if you had the same number of early votes and your total vote went down, your percentage would go up. The same situation happened in Lancaster County; 2006 was not a presidential election, and that's logically why there was a higher vote in '04. They had a few less thousand early votes, but they had almost 30,000 less total votes so their percentage of early votes went up, but their actual number of early votes was about the same. Again, what I need to hear from you is why Monday is essential, when for the last 30 years counting on Tuesday morning when the polls opened was an effective and appropriate way to handle the counting of ballots. If Senator Wightman would quit bending your ear, I could...(laugh). [LB646]

SENATOR NELSON: Thank...(laugh). [LB646]

SENATOR ERDMAN: And you can have the rest of my time. Essentially what I need to hear from you directly is, why Monday, when for the last 30 years Tuesday has worked, assuming the election commissioners have the opportunities that this bill would provide and that we're restoring. [LB646]

SENATOR NELSON: When I say that it's worked for 30 years, I'm referring mainly to the early pickup, that the early pickup had worked for a long time and basically we never had any problems with that. Yes, I would say, by and large, that counting the absentee ballots on election day has worked perhaps up until recently, but regardless of what you say here with the chart, I would just point out that... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR NELSON: ...we're probably going to have a larger number of absentee ballots during our next general election and that in light of the problems we had in 2006, let's get those counted the day early. And I might turn the question around: Why not count them a day early? Just because we've never done it before? Can you point to any security problems or any things that would mitigate against that? Why not look out of the box just a little bit? And it's discretionary with the election commissioners, county clerks. If they don't want to count early, they don't have to. But in the larger counties where we anticipate problems or we see there is going to be a huge number of early ballots, then let them go ahead and start counting the day before. All security measures will be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

followed. I just don't anticipate any problem. On the other hand of it, I do anticipate continued problems on election day. [LB646]

PRESIDENT SHEEHY: Time, Senator. [LB646]

SENATOR NELSON: Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you. We have Senator Stuthman, followed by Senator Friend. Senator Stuthman. [LB646]

SENATOR STUTHMAN: Question. [LB646]

PRESIDENT SHEEHY: There is a call for the question. Do I see five hands for debate to cease? I do see a sufficient number. The question before the body is, shall debate cease on AM1392? All those in favor vote yea; opposed, nay. Have all voted who wish? Senator Stuthman, for what do you rise? [LB646]

SENATOR STUTHMAN: I request a call of the house. [LB646]

PRESIDENT SHEEHY: There is a request for the call of the house. The question is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB646]

CLERK: 26 ayes, 0 nays, to place the house under call. [LB646]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators, please return to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senator Janssen, Senator Cornett, Senator Dubas, would you please check in? Senator Pankonin, please check in. All senators are accounted for. Senator Stuthman, how would you like to proceed? [LB646]

SENATOR STUTHMAN: Call-in votes. [LB646]

PRESIDENT SHEEHY: We will continue with call-in votes. Mr. Clerk. [LB646]

CLERK: Senator Pedersen voting yes. Senator Engel. You had voted yes, Senator Engel. Senator Mines voting yes. Senator Burling voting no. Senator Chambers voting no. Senator Gay voting...changing from yes to no. Senator Carlson voting no. Senator Ashford voting yes. Senator Janssen voting yes. [LB646]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB646]

CLERK: 23 ayes, 11 nays, to cease debate, Mr. President. [LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: The motion to cease debate fails. The call is raised. Senator Friend, followed by Senator Schimek. Senator Friend. [LB646]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Mr. President, I would like to yield time to Senator Erdman. [LB646]

PRESIDENT SHEEHY: Senator Erdman, 4, 55. [LB646]

SENATOR ERDMAN: You know, Senator Stuthman, if you wouldn't have done that we would have been able to talk and probably vote on this amendment this morning, but so be it. Senator Nelson, would you continue to yield? [LB646]

PRESIDENT SHEEHY: Senator Nelson, would you yield to a question? [LB646]

SENATOR NELSON: Yes, I will. [LB646]

SENATOR ERDMAN: All right, Senator Nelson, I wanted to respond to your question before we were so rudely interrupted by Senator Stuthman, but...(laughter). Relax, Senator Stuthman. It's all right. Your question back to me was why not, why not go with Monday? And I can't say that it's a bad idea but what I need to hear from you...and let me give you the reality based on what you have shared with me that the future looks like with early voting. Monday may be fine. Tuesday may be fine. What happened in 2006 is not fine. I think we can agree on that and I think your proposal or Senator Schimek's proposal addresses what happened in 2006. Whether it was by executive order or order of the Secretary of State or whether it was by issues that happened locally in your community or communities across the state...excuse me, counties across the state, those issues need to be resolved, and I would imagine that after 2006 they will. Let me pose this reality to you and see if this doesn't change things a little bit, as well. If an individual casts a vote by mail or in person as an absentee ballot, where does that ballot get stored, generally? [LB646]

SENATOR NELSON: Would you repeat the question? I didn't hear the last part. [LB646]

SENATOR ERDMAN: Okay. If you cast an early ballot, if you cast an early ballot or an absentee ballot, whether it's by mail or in person, where does that ballot get stored? [LB646]

SENATOR NELSON: Stored? [LB646]

SENATOR ERDMAN: Right. [LB646]

SENATOR NELSON: Okay. I thought you said sorted. Stored. It's stored in a secure

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

place in either the office of the county clerk or the commissioner. In (inaudible) in a vault. [LB646]

SENATOR ERDMAN: It is already at the courthouse, correct? [LB646]

SENATOR NELSON: Yes. [LB646]

SENATOR ERDMAN: Okay. If the argument is that we're going to have 60,000 people in Douglas County vote by absentee in the future, will you also say then that the number of total votes will go up 60,000, or will those 60,000 votes be votes that would have been cast at a polling place? The offset. In other words, you'll see more people voting by absentee than you will in person, and therefore those ballots will already be at the courthouse, will they not? [LB646]

SENATOR NELSON: That's true. [LB646]

SENATOR ERDMAN: And so then if those votes are already at the...if those ballots are already at the courthouse, doesn't that reduce the time of counting, especially even if you have the early pickups, because you've already collected a greater percent as we've seen increase over the past four elections, a greater percent of those ballots will already be at the place where they'll be counted and you will not need to pick up as many from the actual precincts, and the actual counting should take less time because you won't have the time of going out and picking those up? Is that a fair hypothetical? [LB646]

SENATOR NELSON: Not fair, Senator Erdman,... [LB646]

SENATOR ERDMAN: Okay. [LB646]

SENATOR NELSON: ...because you're still dealing with 50,000 or 60,000 absentee ballots, and you're still having to count those. The problem is, are you going to get them done by 2:00 or 2:30 in the afternoon? Yes, you might if you don't have any problems. But the likelihood is more and more than you're going to have problems, and because you are still counting those...I guess you could stop there and resume counting later on so that you can start counting the ballots that were cast on election day, but just because you have more absentee and fewer election day ballots, really doesn't make that much difference. You're still going to face quite a delay and the possibility of error, just the things I've already recounted. [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR ERDMAN: Okay. Thank you, Senator Nelson. Members of the Legislature, let me walk through the scenario that I just laid out to Senator Nelson, and we'll have an

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

opportunity, I think this afternoon, to come back to this. If the argument is, is that we need to be able to count the ballots in a more timely manner and more of those ballots are going to already be at the courthouse at the start of the day, and that the courthouse begins the count at 8 a.m. or 7 a.m. local time, whichever time zone you fall into, you're going to be able to count those ballots more quickly than if those same people had gone and voted at the poll. If you have problems, you're going to have problems no matter what, but if you take the load off the back end, which is where you are picking them up at the polling place or the precinct, and you front-load that system, you're going to have more time in the later part of the day, or even if you have less time you're going to have less ballots. I'm not opposed to counting on Monday, Senator Nelson. I just haven't heard the compelling reason why. I think the reasons that things happened in 2006...I think there were multiple reasons. I believe and I would hope that they would be addressed. [LB646]

PRESIDENT SHEEHY: Time, Senator. [LB646]

SENATOR ERDMAN: I think regardless, 2008's election will be run better than 2006. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Mr. Clerk, messages, reports, or announcements on your desk. [LB646]

CLERK: Mr. President, bills read on Final Reading this morning were presented to the Governor at 11:02 a.m. (re LB221, LB334, LB482, LB482A, LB504, LB516, LB516A, LB542, and LB299.) Revenue Committee will meet in Executive Session at 1:00 today in Room 1524. A priority motion: Senator Fulton would move to recess until 1:30 p.m. (Legislative Journal page 1735.) [LB221 LB334 LB482 LB482A LB504 LB516 LB516A LB542 LB299]

PRESIDENT SHEEHY: I have a priority motion by Senator Fulton to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We are in recess.

RECESS

SENATOR ERDMAN: Members, the afternoon session is about to reconvene. Please return to the Chamber and check in.

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Please record, Mr. Clerk.

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

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will continue with floor discussion on the amendment to the committee amendment, AM1392. Senators wishing to speak, Senator Rogert. Senator Rogert, you're recognized. [LB646]

SENATOR ROGERT: Thank you, Mr. President. I'll yield my time to Senator Nelson. [LB646]

PRESIDENT SHEEHY: Senator Nelson [LB646]

SENATOR NELSON: Mr. President, members of the body. Thank you, Mr. Rogert for yielding your time. Over the noon hour, ladies and gentlemen, I've had a chance to get a little additional information which I think will be helpful. The question has been raised, well, we have a certain number of votes and if more of them are absentee ballots and fewer are regular ballots, it shouldn't take any more time. Here's the problem that we have: We have a large number--and I'm speaking for Douglas County and the other larger voting centers--we have a large number of absentee ballots. This...in 2004, we went from 16 percent to close to 20 percent of absentee ballots, even though we had quite a few people, or fewer ballots. But with the absentee ballots, it doesn't go smoothly like it does with the ballots that you cast on election day, and here's why. First of all, they have to be taken out of envelopes and they have to be flattened. But you have to bear in mind that it's a certain number of spoiled ballots that come in, in the mail. They're spoiled, they're bent, they have marks on them, and probably most of all, they use the wrong pen or pencil. So they can't be read by the scanner, and so you may have 50...let's say 30,000 votes and you've got 30 stacks of a thousand. You put a thousand of those ballots in and you get to number 20, and all of a sudden the machine stops because it comes to a spoiled ballot. Then you have to remove the remainder of those ballots that have not yet been counted, get down to the spoiled ballot, take it out and put it aside or rectify whatever the problem is, and start in. You multiply that, you just have a lot of delays. You can't run them through at a possible speed of 6,000 an hour. It just doesn't happen. For the smaller counties that don't have that many absentee ballots to deal with, they have the time to deal with that problem. But it does happen regularly, and it causes unnecessary delays, so we're still faced with the problem. If we start at 8:00 on election day, we may not finish 30,000 or 40,000 absentee ballots, whatever we have, by 2:30. The other problem that we have is we only get about 80 percent of the absentee ballots in ahead of time. In Douglas County there were 6,100 absentee ballots, early ballots, that came in on election day. Those had to be opened up, flattened, and counted. That's about 20 percent and there, that eats up a lot of time and causes problems there because of that number, and we're talking about the numbers here. I want to tell you that the reason that we are having a lot more early ballots is that both of the political parties are pushing this. They're spending a lot of money on that. They want to be sure that people vote, and the best way to be sure that they get out and vote is to encourage them to do early ballots to the extent, you know, they send them out ahead of time, some even with stamps, whether

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

that's legal or not. But I just need to remind you, in this upcoming election next year, which is going to be a general election, we're going to have a major U.S. senate race which will be contested here probably in Nebraska. We're going to have many important issues. It's also going to be a presidential election. So there's going to be a high turnout, and in Douglas County we don't think it's unreasonable to say that we're going to have to deal with 50,000 absentee ballots. [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR NELSON: Finally, I want to emphasize that this is discretionary. We have concerns from some of the counties where they don't have a lot of absentee ballots to deal with. They don't have to count them early. We are just providing that at the discretion of the election commissioner or the county clerk, if they see they might have a problem or they've got a large volume and they want to do them the day ahead of time, then they can do it. But if they have reservations or think that someone, as I say, might point the finger, they don't have to do it, and they can probably deal with it. And with regard to the letter from NACO, I just want to reemphasize that they are okay with counting early, as long as it's uniform across the state and they have that discretion. So these are the points I'm happy to make at this time, and if you have any questions, I would be glad to answer them. And again, thank you for your time and thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. (Visitors introduced.) Next we have Senator Lathrop, followed by Senator Wightman and Senator Wallman. Senator Lathrop. [LB646]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I stand in support of LB646 and would like to give you the perspective of someone who was in a close race. LB646...and maybe by way of an overview--and I think Senator Nelson has done a fine job presenting the case for this bill, but all LB646 is going to do is to allow the local election commissioners or county clerks to decide the best way, the best time to count their ballots. It's not going to make anybody do anything. It's only going to avoid what happened in the last election, and let me tell you what that was like in Douglas County. They did not start counting ballots that they could have counted all day long; they didn't start counting them until the end of the day, and the consequence was that we didn't know who won and who lost races in Douglas County until five in the morning. It was 4:30 or 5:00 in the morning before the last returns came in, and that is, frankly, unnecessary. Instead of having people counting ballots during the day when they'd rather be at the election commissioner's office, we have them there into the middle of the night and into the morning, unnecessarily. It is also important, I think, for this body to recognize that we need to make some accommodation for absentee ballots, and you know, we call them absentee ballots. They're not absentee ballots any more; they're early voting, and more and more people are engaged in that process. The Democratic

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

Party pushed early voting, and the Republican Party pushed early voting, and you are going to see, I think, probably 20 or 25 percent of the votes cast in the next election by early voting. And as Senator Nelson correctly pointed out, it's not like taking ballots from the polling place and dropping them or feeding them into a machine. These are ballots that have to be taken out of envelopes, then they need to be flattened. You need to make sure that if somebody has dropped something on them and they can't be fed through a feeder, that you make a substitute ballot, and these things take time and there's just not good reason for it. And I think the last point that I would make with respect to my experience was, I became involved with the Douglas County election commissioner's office because we had to count provisional ballots and then ultimately do a recount. And I think it's important for you to appreciate how professional the election commissioners' offices are. I don't have...even with a 14-vote margin, I never had a second where I was concerned about the integrity of those who worked in the election commissioner's office, and we do not need to be frightened by the prospect that we could allow somebody to start counting these ballots before the election...before the polls are closed. I think it's a good measure, it's a good idea, it's necessary, and I would encourage your support for LB646. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Wightman. [LB646]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. As an out-state senator, again, I don't have a great big stake in this, but I do believe that we ought to provide the opportunity or even allow, for sure, the early voting, and I think there are a couple of reasons. As Senator Nelson has so ably pointed out, and Senator Lathrop, who has certainly been there and in the midst of the scene, the growth in early voters has been tremendous. That's been true out state, and it just seems to me that it makes sense to let those be counted early. I don't see the downside to it. I know the argument is made that maybe some of that information is going to be released, but I think that's small in comparison with the likelihood that we're going to have more accuracy. I think that if we don't have the early count, we are far more likely to have a rush in the counting, and the likelihood of errors and inaccuracies certainly becomes greater. So it seems to me that the risk that there's going to be some release of that information ahead of time, which shouldn't happen, is small compared to the gain that can be had. So I stand in support of LB646 and the committee amendment. I would be opposed to the AM1392. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Wallman, followed by Senator Schimek. Senator Wallman. [LB646]

SENATOR WALLMAN: Question. [LB646]

PRESIDENT SHEEHY: The question has been called. Do I see five hands calling for the question? I do see sufficient number of hands. The question before the body is,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

shall debate cease on AM1392? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB646]

CLERK: 29 ayes, 2 nays, Mr. President, to cease debate. [LB646]

PRESIDENT SHEEHY: The motion to cease debate passes. Senator Schimek, you're recognized to close on AM1392, amendment to committee amendment. [LB646]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I've certainly appreciated the discussion. I think we've all learned a lot about the voting process as a result of the discussion. But I would like to take you back to tell you exactly what the amendment does. The amendment allows for early voting ballots to be opened for flattening on the second Monday before election day, and that provides an additional three days from what it is right now. Right now it's the Thursday before the election. And one thing I just learned from the Secretary of State's Office is that ballots don't really have to be flattened much any more, because they come in bigger envelopes now, so generally, that isn't even a deal. And as for flattening them, they can open them ahead of time and flatten them, so that's not part of the process of counting on election day. Secondly, the amendment allows for early pickup and early count with those ballots counted prior to the close of the polls. They can start at 8:00 in the morning if they want to and count those ballots. But once they have counted them, they don't produce a report or tabulation until an hour before the polls close, and the reason that that stipulation is there is so that there is no possibility of release of that information to any person or to any candidate or to any campaign. And finally, it eliminates the provision to allow counting of early ballots prior to election day, and I guess that kind of fits in with the last thing I said. The only thing that Senator Nelson and the Secretary of State didn't agree on concerning these provisions--and they worked on working out an agreement--is the business about doing the counting of early ballots on the Monday before the election. And the Secretary of State feels quite strongly that we don't have any need to do that, that if, in fact, the election commissioners started counting ballots early in the morning on election day, they would have more than enough time to count these ballots. And let me take you back to that chart where it shows you what the early vote has been, and we're primarily concerned about Douglas County and Lancaster County here, because they have the most ballots. But in Douglas County they had in 2006, 29,000 early votes, and in Lancaster, 19,000. Well, if you looked at the information that I passed out earlier or that I talked about earlier, we know that in Douglas County, with eight of these counting machines, they should be able to process 30,000 early voters with a two-page ballot, or 60,000 ballot pages...I'm sorry, I misstated that. They could process a one-page ballot with a...I'm sorry, I'm getting this...with eight machines, Douglas County should be able to process 30,000 voters with a two-page ballot, or 60,000 ballot pages in an hour and a half. Even if they doubled it to 120,000 ballot pages, it should take only three hours. Now one thing is that you should know is that even when you go to the polls to vote, sometimes your ballot gets messed up, and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

it can cause the same kinds of problems with the machine that any kind of messed up early voting ballot would cause. Somebody asked at some point in the discussion, and I think it was Senator Erdman, he kind of really detailed what the essential questions are here. Why not go to Monday? What not allow that counting on Monday? Because you open up the possibility of the release of those reports earlier than you might want to do, and I think that it is our responsibility to see that as few instances as possible of fraud would happen in our election process, and I think by having that, keeping that the way it's always been on election day, narrows that window of opportunity. I also think that the... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR SCHIMEK: ...numbers don't argue for the Monday count, and we can always return and change it if the numbers become so great that it becomes impossible to handle it on election day. And I don't think that has happened so far. Douglas County didn't start till 3:30 in the afternoon in 2006 in counting those early ballots. If they had started at 8:00 in the morning, they wouldn't have had to go so late in the day. So I would encourage you to adopt the amendment and move the bill forward from General File. Thank you very much. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Schimek. You've heard the closing on AM1392, an amendment to the committee amendment. The question before the body is, shall AM1392 be adopted to AM752? All those in favor vote yea; opposed, nay. Senator Nelson, for what do you rise? [LB646]

SENATOR NELSON: I would ask for a record vote on this vote, Mr. Speaker. All right, a roll call vote. [LB646]

PRESIDENT SHEEHY: We do have a request for a roll call vote. Mr. Clerk, please call the roll. [LB646]

CLERK: (Roll call vote taken, Legislative Journal page 1736.) 15 ayes, 20 nays, Mr. President. [LB646]

PRESIDENT SHEEHY: AM1392 is not adopted. (Visitors introduced.) Next amendment, Mr. Clerk. [LB646]

CLERK: Senator Nelson would move to amend, AM1395. (Legislative Journal page 1736.) [LB646]

PRESIDENT SHEEHY: Senator Nelson, you're recognized to open on AM1395. [LB646]

SENATOR NELSON: Mr. President, members of the body, I appreciate your support in

Floor Debate
May 22, 2007

not approving the amendment that was just voted down. As I promised, I now have AM1395, which would be to the committee amendment, and basically it proposes two things: that we go ahead and open the ballots and flatten them, beginning with the second Monday prior to election day. This reduces the time available for opening these ballots and therefore diminishes what we presently have in current law, which is...and which we would have in LB646, being able to open and flatten those 35 days ahead of time. The other...it also preserves the ability to bring ballots in on election day at midday and start counting them, so that we have those ballots counted by 8:00, at which time they would be available for the press and media and all interested candidates. Finally, it would change LB646. It would amend it to the effect that no report or tabulation of vote totals for such ballots shall be produced or generated prior to one hour before the closing of the polls. So this means that all of the early ballots that were counted on the day prior to election, although there might have been a tabulation at the end of the day, that certainly would not have been promulgated. It would have been put in the vault and brought out; and then those ballots cast on election day, including a good number of early ballots, as long...along with all the regular ballots counted as of 2:00, or voted as of 2:00 in the afternoon, brought in. Those would be counted, approximately 40 percent of them, and the tally would be done no earlier than 7:00 on election day, and that gives the election commissioner and the county clerks just a little bit of time to make sure that everything is accurate and everything has been considered. We did start out at 7:30, but Senator Schimek graciously...and the Secretary of State graciously agreed to move that to 7:00, so that gives an hour there for the tabulation, and then the results will be ready for publication and for release. I think this AM1395 adds some good things to the bill. I think that LB646 is basically a very good bill. It gives us a lot of discretion; it permits us to count ballots or pick up ballots early on election day, midday, and get those counted; it also gives us the option of counting early ballots the day before the election, no more than 24 hours prior to the time that the polls open. That will dispose of probably 80 percent of the early ballots. They will be out of the way, and we can direct our full attention on election day to finishing up some of the early ballots which arrive in the mail that day, but also direct our attention to all the procedures and all the problems that crop up on election day itself. I therefore urge your adoption of AM1395 to the committee amendments, and let's move this forward and then go ahead and adopt LB646. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. You have heard the opening to AM1395, amendment to committee amendments. Senators wishing to speak are Senator Erdman and Senator Schimek. Senator Erdman. [LB646]

SENATOR ERDMAN: Mr. President and members of the Legislature, when the Legislature is not under call and a record vote is cast, those individuals that vote don't get an opportunity to change their vote after that has run its course. On the last vote I didn't vote, under the idea that if that amendment wasn't adopted and Senator Nelson's amendment isn't adopted, that we need to reconsider that and have one of them pass.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

I'm willing to support Senator Nelson's amendment here. I do think that either one of them needs to be adopted, so if you didn't vote or voted no on Senator Schimek's, I would hope that you would vote for this one, because either one of these will make the bill better. The real discrepancy is whether or not you can begin the counting on Monday or Tuesday--Monday before the election or the Tuesday, the day of the election. That's really the only difference between these two amendments. I wanted to briefly explain why I was present and not voting, and it's because I had filed that motion. I am willing to give Senator Nelson his amendment. I'm going to support AM1395. Again, I will reiterate the fact that the only differences between the two amendments is that Senator Nelson's amendment will give discretion. It's not a requirement that they begin on that Monday, but it gives discretion that they may choose to do that in certain areas where they may demonstrate a need. Senator Schimek's amendment would have said that they couldn't begin counting until the Tuesday, the day of the election, the morning of that election. So I think either one is a valuable opportunity for us, but one of them needs to be adopted. I'm going to support Senator Nelson's amendment and hope that we can adopt it and advance LB646. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Schimek. [LB646]

SENATOR SCHIMEK: Thank you, Mr. President and members. I have to tell you that I'm really concerned about the last vote that we just took, because I don't think there was a need displayed and stated clearly as to why we need to count ballots on Monday. Let me read you from a Secretary of State's...National Association of Secretaries of States survey. In most states they don't even open the ballot until election day. They don't even open the ballot till election day. Thirty-eight states and territories responded to the question about when you open your absentee or early voting ballots; 28 of the 38 said they cannot open the ballot until election day. Nine of those added they couldn't open ballots during poll hours, and six of them added that they had to wait till the polls closed to even open the ballots. I don't think the need is there. I don't think it's been demonstrated that...and the problem seems to be in Douglas County. I don't think it's been demonstrated that Douglas County needs to open these ballots or to count these ballots the day before the election. It can be handled on election day. I agree with Senator Erdman that we need to adopt one or the other of these amendments, but I have to state for the record that I don't think this is the one that we should adopt, so I'm probably going to be voting no on this amendment, but it certainly is the will of the body to decide what to do on this. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Further senators wishing to speak on AM1395? Seeing no further lights on, Senator Nelson, you're recognized to close. [LB646]

SENATOR NELSON: Thank you, Mr. President, members of the body. I must respectfully disagree with Senator Schimek. I think we gave all sorts of reasons as to

Floor Debate
May 22, 2007

why we needed to count early ballots early, the day before, in Douglas County, and I won't recount those all now. I would simply turn the question around. I think there was absolutely nothing shown in the way...that there were any inherent dangers or any problems with counting those ballots a day ahead of time. Nothing has been presented on this floor about lack of security. It's all been crying wolf, wolf, so to speak, and I don't know about the statistics that come nationally. I think part of our problem here is because we were being asked to adhere to some rules that some national people are promulgating. I don't think we need to do that at all. I am aware, and I've already told you, that in a large number of states, especially in the Southwest, they count ballots early. They count their early ballots. Before election day they have those done. Apparently, there are no problems with that. As Senator Friend said, it varies all over the country as to the methods. I think we just simply need to determine what we feel is best for Nebraska. It will certainly help us in Douglas County. I suspect that the election commissioners and county clerks in some of the other larger counties will appreciate the fact that they have some discretion in this matter, and it may be that a lot of our counties don't need it, and that's fine. But I think we've got a good amendment here, I think we've got a good bill. I think that, in my opinion, it's looking forward to the problem that we may encounter in the future, where we see increased voting by early ballot to a large extent, and now, in taking a look at this, we have made sure that we have addressed that and probably helped ourselves out a great deal by not having to come back and discuss this again in another year or two. I solicit your vote on AM1395 and would ask you to advance that and then vote for LB646. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. You've heard the closing of the amendment to the committee amendment, AM1395. The question before the body is, shall AM1395 be adopted to AM752? All those in favor vote yea; opposed, nay. Have all voted who wish? Senator Nelson, for what do you rise? Please record, Mr. Clerk. [LB646]

CLERK: 26 ayes, 9 nays, on the adoption of Senator Nelson's amendment. [LB646]

PRESIDENT SHEEHY: AM1395 is adopted. We'll now return to discussion from the floor on AM752. Seeing no lights, Senator Aguilar, you're recognized to close on AM752. [LB646]

SENATOR AGUILAR: Thank you, Mr. President, members. As I stated in the opening, the committee amendment contains several provisions from LB528. The first one eliminates certain types of counting boards, the second one requires candidates be affiliated with a political party before the first Friday in December prior to a statewide primary election, and the third one is that the election commissioner or county clerk will issue a special ballot at least 60 days prior to an election. I would appreciate your support for AM752, the committee amendments. Thank you. [LB528 LB646]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You've heard the closing to the committee amendment, AM752. The question before the body is, shall AM752 be adopted to LB646. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB646]

CLERK: 31 ayes, 2 nays, on the adoption of the committee amendments. [LB646]

PRESIDENT SHEEHY: Committee amendment AM752 is adopted. We will now move to discussion from the floor on LB646. Seeing no lights on, Senator Nelson, you're recognized to close on LB646. [LB646]

SENATOR NELSON: I'll be very brief, Mr. President, members of the body. Thank you for the votes at this point. I would just urge you to go ahead and vote for LB646 and with that, I will close. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Nelson. You've heard the closing. The question before the body is, shall LB646 advance to E&R Initial? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB646]

CLERK: 37 ayes, 0 nays, on the motion to advance the bill, Mr. President. [LB646]

PRESIDENT SHEEHY: LB646 does advance. Mr. Clerk, do you have some items for the record on your desk? [LB646]

CLERK: Mr. President, I do. I have a letter from the Speaker referring LR214 to the Reference Committee for reference to the appropriate standing committee. In addition, a communication from the Executive Board referring LR214 to the Judiciary Committee. Your Committee on Enrollment and Review reports LB247A to Select File and LB653A to Select File. (Legislative Journal page 1737.) [LB247A LB653A LR214]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the next agenda item under General File.

CLERK: Mr. President, next bill, LB530, by Senator Nantkes. (Read title.) The bill was read for the first time on January 17, referred to Natural Resources Committee. That committee reports the bill to General File with no committee amendments. [LB530]

PRESIDENT SHEEHY: Senator Nantkes, you are recognized to open on LB530. [LB530]

SENATOR NANTKES: Good afternoon, Mr. Lieutenant Governor, colleagues. I rise in support of LB530. This legislation simply clarifies the distribution of state funds dealing with storm water management plans. This bill does not, I repeat, does not encompass

Floor Debate
May 22, 2007

the larger storm water issues that have been proposed. I want to thank the Speaker for including this simple yet important piece of legislation as a Speaker priority bill this session. I also want to thank Senator Louden and the Natural Resources Committee for working with us on the committee amendment, to help us achieve our objectives. And my objective is this, members, to correct the distribution of state funds from the DEQ Storm Water Management Program. The fund was created in 2006 to help offset the cost of the federally mandated Storm Water Management Program. I handed around a fact sheet earlier this morning, addressing these issues, for your information. With that, I would be happy to answer any questions, and I'll let Senator Louden speak to the committee amendment. Thank you for your consideration. [LB530]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Mr. Clerk, do you have an amendment to LB530? [LB530]

CLERK: Mr. President, I do. Senator Louden would offer AM1110. (Legislative Journal page 1270.) [LB530]

PRESIDENT SHEEHY: Senator Louden, you're recognized to open on AM1110. [LB530]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. This amendment was suggested during testimony at the hearing. The amendment was discussed by the committee during an Executive Session with all members of the committee agreeing that it improved the bill and was consistent with the purposes of the bill and the underlying Storm Water Management Plan Program. However, it was never formally drafted or adopted by the committee prior to advancement of LB530. All the Natural Resources Committee members and Senator Nantkes have signed this amendment. The amendment places the same restriction on urbanized areas that is placed on cities and counties outside the urbanized areas. It simply states that if a county is going to apply for grant monies under the Storm Water Management Plan Program, the county may not count as part of the population base the population of any city applicants located within that county. This program was established last year with a \$2.5 million appropriation. It is to help those cities and counties that must obtain a National Pollutant Discharge Elimination System permit required by the federal government. The only requirement for obtaining funding is that the applicant has a Storm Water Management Plan approved by the department which meets the requirements of the National Pollutant Discharge Elimination System. Under the grant program, 80 percent of the funds were to be used by urbanized areas as defined by the federal government, and 20 percent were to be used by communities outside of the urbanized areas as defined by the federal government. The cities of Lincoln, Omaha, South Sioux City, Bellevue, Papillion, Ralston, La Vista, Boys Town, Elkhorn, and the counties of Dakota, Douglas, and Sarpy all received grants under the program in Category I, which is the urbanized areas. The cities of Fremont, Hastings, Lexington,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

Beatrice, North Platte, Norfolk, Columbus, Kearney, Scotts Bluff, and Gering all received grants under the program in Category II, which is the area outside of the urbanized areas. I would thank you, and I'd ask for the adoption of this amendment. [LB530]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the opening to AM1110. We will now have floor discussion. Senator Erdman. [LB530]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I rise in support of Senator Louden's amendment. I appreciate the committee's attention to the fact that the bill, as introduced, would only apply to one-half of the program. As introduced, it would have only applied to the rural districts, the nonurban areas. The 20 percent with the committee amendment, or with the Louden amendment, excuse me, it would apply statewide, which I believe the intent of the introducer and the proponents would be that if we're going to make this change for the smaller communities, we make the same change and the same determination for the larger communities. I think that's appropriate. I'm glad that the committee has made that correction. That was one of the issues that I thought needed to be addressed in LB530, as introduced. One of the other things that we have not had the chance to do--and I haven't had a chance to visit with Senator Nantkes about her bill at this point, and that's why you'll see my amendment will be on Select File--is possibly determining if there is an opportunity this session, or if there is another vehicle or remedy available maybe next session, to explore this program. Given the fact that we have set a precedent this session regarding the local match required in rural Nebraska for water funding at 40 percent, this program would apply to more urban areas for only 20 percent to receive the match. Senator Nantkes and I will have that discussion between now and the time the bill comes back up on Select File. I'm also aware that the Natural Resources Committee has a number of interim studies that have been introduced in reference to them. One of them specifically deals with the Storm Water Management Program, some of the details there, and it may be something that we work on over the interim. But out of respect to Senator Nantkes and her attempts, as well as respecting the committee's work at this point, I have asked that FA90 be filed on Select File. I will support the Louden amendment, and I will support LB530 to Select File. Thank you, Mr. President. [LB530]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Further senators wishing to discuss AM1110? Seeing no lights on, Senator Louden, you're recognized to close. [LB530]

SENATOR LOUDEN: Thank you, Mr. President. As Senator Erdman said, it's something that improved the bill, as something was overlooked, and I would ask for your support for AM1110. [LB530]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the closing. The

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

question before the body is, shall AM1110 be adopted to LB530? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB530]

CLERK: 31 ayes, 0 nays, on the adoption of Senator Louden's amendment. [LB530]

PRESIDENT SHEEHY: AM1110 is adopted. We will now return to floor discussion on LB530. Senator Heidemann. [LB530]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. I don't have a problem with this bill. I'm just trying to find some information out. I wondered if Senator Nantkes would yield to a few questions. [LB530]

PRESIDENT SHEEHY: Senator Nantkes, would you yield to some questions? [LB530]

SENATOR NANTKES: Yes. (Laugh) [LB530]

SENATOR HEIDEMANN: I'm trying to figure out just where all the money goes and what they do with it. And even on the city side, the question that will be following, what the counties do with their money. But what do the cities use the money that they access for? [LB530]

SENATOR NANTKES: Well, it's my understanding, Senator Heidemann, that monies afforded and allocated underneath this fund go to cities and counties to comply with federal mandates as contained in the federal Clean Water Act, and those can include anything within their plan such as constructing pollutant discharge elimination systems and things like that. [LB530]

SENATOR HEIDEMANN: And I understand where the cities would access that money and use it for, but what do the counties use the money that they access? [LB530]

SENATOR NANTKES: It's my understanding that the counties affected in Nebraska underneath these federal mandates, that are required to comply with these are essentially Douglas and Sarpy counties, and Lancaster is not quite there yet. But the grant program would cover those same kind of similar activities on the county level, because they have such an urbanized concentration. [LB530]

SENATOR HEIDEMANN: So you're saying, then, that Lancaster County doesn't have to comply? [LB530]

SENATOR NANTKES: I believe that at this point in time, because they don't reach the level of urban concentration as delineated within the federal Clean Water Act, they're not at that point yet, but they will be soon. The city of Lincoln does have to comply. [LB530]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR HEIDEMANN: So then only counties that have to comply are eligible for the grants; is that correct? [LB530]

SENATOR NANTKES: That's right. [LB530]

SENATOR HEIDEMANN: Okay, thank you. Thank you, Mr. President. [LB530]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Gay. [LB530]

SENATOR GAY: Thank you, Mr. President. I would...this is in response to Senator Heidemann, and I'm no expert in this, but the...in Sarpy County, much of the county is not even in the city. I think 50-some, 55,000 people are outside the county, but that development is occurring. And with the construction and the storm water run-off, they're working with the city of Omaha in a pact. So that's where we're using this money. I'm supporting the bill. But that's kind of why the counties...you'd be...the way I understood this is, if the city of Papillion would be receiving money, then they shouldn't double dip, and the counties shouldn't be able to count those citizens in Papillion, Bellevue or whatever, and they'd be duplicating the number of residents if they said we had 125,000 people, and then they then included Papillion, and so it's just to clean up the language, is the way I understood this, so just throw that out there for discussion. Thank you, Mr. President. [LB530]

PRESIDENT SHEEHY: Thank you, Senator Gay. Further discussion on LB530? Seeing no lights on, Senator Nantkes, you're recognized to close. [LB530]

SENATOR NANTKES: Thank you, Mr. Lieutenant Governor, members. Again, I want to thank Senator Loudon and the Natural Resources Committee for working with us on this amendment to achieve our objective. I want to thank Senator Erdman for his willingness to work on this with us in between General and Select File, and thank Senator Heidemann and Senator Gay for their comments. With that, I urge your consideration and support. [LB530]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. You've heard the closing. The question before the body is, shall LB530 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB530]

CLERK: 32 ayes, 1 nay, on the motion to advance the bill, Mr. President. [LB530]

PRESIDENT SHEEHY: LB530 does advance. Next item under General File. [LB530]

CLERK: Next bill, Mr. President, LB351, introduced by Senator Stuthman. (Read title.) The bill was read for the first time on January 12 of this year, referred to the Health and

Floor Debate
May 22, 2007

Human Services Committee. That committee reports the bill to General File, with committee amendments. (AM645, Legislative Journal page 810.) [LB351]

PRESIDENT SHEEHY: Thank you. Senator Stuthman, you're recognized to open on LB351. [LB351]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. LB351 amends sections in the Revised Statutes relating to Chapter 68, Paupers and Public Assistance, so that Nebraska law becomes more consistent in critical areas, with the federal regulations outlined in the federal Responsibility and Work Opportunity Reconciliation Act of 1996. LB351 eliminates Nebraska's separate state time limit receipt of cash assistance for a total of 24 months within a continuous 48-month period and adopts the federal 60-month lifetime limit for receiving Temporary Assistance for Needy Families, TANF, cash assistance. In Section 408-A7 of the Social Security Act, a state to which a grant is made under Section 403 shall not use any part of the grant to provide public assistance to a family that includes an adult who has received assistance under any state program funded under the part attributable to funds provided by the federal government for 60 months, whether or not consecutive. After the date, the state program funded under this part commences subject to this paragraph. The act goes on to exclude minor children from being time limited for...explains hardship provision. Current statutes do not end or cap cash grants at 60 months. If the state chooses not to adopt the federal 60-month lifetime limit, then state-only funds must be used for nonhardship participation for 60 months. LB351 eliminates the one month, one-half transitional Aid to Dependent Children, ADC payment and adopts a five-month transitional grant. The goal of transitional grants is to help families transition from welfare to independence. The one-half month grant does not meet the federal definition of assistance; therefore, families who receive it cannot be calculated in the state's work participation rate. The proposed transition grant does meet the federal definition of assistance; therefore, families who receive it can be counted in the work participation rate. It is estimated that after the first five months, 1,550 families can be counted, each as engaged families. They represent 38 percent of the total number, 4,100, that Nebraska must engage each month in the 30-hour-per-workweek activities. LB351 eliminates postsecondary education as an approved work activity. Postsecondary education is defined as a four-year college baccalaureate degree program. Postsecondary education is not a federally approved work activity, and participation in this activity no longer counts towards Nebraska's work participation rate requirement, as of June 30, 2003, with a loss of federal waivers. Vocational training and two-year college programs leading towards a certificate, diploma, or associate degree is still allowable under the Employment First program and are federally approved work activities that do count towards the work participation program. If we fail to adopt this bill, this could lead to measures that could have fiscal penalties to the state of Nebraska in the amount of \$2.9 million. So this is a bill that we need to act on at this time, and I would...there are committee amendments, and I would ask for your support of this bill.

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Transcriber's Office

Floor Debate
May 22, 2007

Thank you. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You've heard the opening to LB351. We will now move to the committee amendment from Health and Human Services Committee, AM645. Senator Johnson. (Legislative Journal page 810.) [LB351]

SENATOR JOHNSON: Thank you, Mr. President. Members of the body, this is the committee amendment, it's AM645 to Senator Stuthman's bill, LB351. The committee amendment simply restores postsecondary education as a recognized work activity under the Welfare Reform Act, as stated on page 16 of the bill. The amendment reinstates the stricken language in line 10, and it strikes the new matter in lines 11 and 12. Now here's what we're talking about. The federal government does not allow postsecondary education to be counted as an allowable work-related activity under TANF; that is, the Temporary Assistance to Needy Families program. Let me read that again: The federal government does not allow postsecondary education to be counted as an allowable work-related activity. Currently, the state is counting postsecondary education, but it just can't be counted for purposes of meeting our work participation rates with the federal government. In other words, the state can count it, but the federal government will not. If postsecondary education was eliminated as an allowable work-related activity in the state, the fiscal note says that this portion of LB351 would result in a General Fund savings of \$179,424 in fiscal year '08 and the same amount for fiscal year '09. Again, I want to emphasize for the record that the committee amendment simply restores the status quo in the TANF program, as far as postsecondary education is concerned. As a result, it removes the projected savings that we were just talking about, of approximately \$179,000, as attached to part of the bill. This issue is the topic of an ongoing discussion, I am told, between Senator Harms and Health and Human Services, and I believe that this will be revisited on Select File. I would leave the rest of my time for Senator Harms to comment on that. I think that he also has...or we'll just let him comment about that amendment. But the main thing here is that the state counts this, and the federal government no longer does; thus, postsecondary education cannot be counted as work time for this federal bill. With that, I'd yield the rest of my time to Senator Harms. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Harms, you have about 6 minutes, 15 seconds. [LB351]

SENATOR HARMS: Thank you. Thank you very much, Senator Johnson. The thing that I just want to bring to your attention is, and I want you to think about, because it will come on Select File, and the reason I'm doing this, I'm giving Health and Human Services the opportunity to continue to discuss this, to see if they could work out some differences. Regardless of whether they work it out, it is coming to the floor, because we're defining postsecondary education as a bachelor's degree only, and if you open up the green copy, on page 16, it spells out exactly what the criteria is here, and it's all

Floor Debate
May 22, 2007

basically for community colleges. It's all basically technical training, education, and yet we say that we cannot...we deny them that opportunity to pursue this. There's approximately 100 students or 100 people involved in the bachelor's degree program. Now what I'm telling you is that the clients that are here, the majority of these people will need to have an additional skill to be successful, to even be able to get into the workplace. With the rapid changing global economy, there's no hope for these folks, and this program has the opportunity, if we allow them to use that and pursue that, as an associate degree. It equals out this balance for the folks. It gives them...the people, it gives them an opportunity to do this. So I'm ready to debate this issue, but I'm just going to wait for Select File, and I would urge you as a body to look at this, to understand that we need to equalize this thing out. And there's a lot of different issues that hopefully we'll resolve, but it's all over redefining postsecondary education, and also being allowed to count their work experience towards that. And the way this would work out is that it will allow...it's 30 hours that they have to use for work experience--15 hours would be for educational purposes, and then 15 hours could be for job training related to that educational experience. It could be for internships, apprenticeships, and it could also be for study time. I think this is probably one of the most important amendments to reach that particular segment of our population, to encourage them to go on, to encourage them to get the skill, and to make them competitive in the marketplace. And thank you very much, Senator Johnson, for giving me this opportunity, and thank you, Mr. President. I'll be back on Select File. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Johnson, Senator Harms. You have heard the opening of AM645 from Health and Human Services Committee. At this time we will, though, move to an announcement from Speaker Flood. [LB351]

SPEAKER FLOOD: Thank you, Mr. President. A quick announcement here, just two of them. We will be working through the lunch hour on Thursday and adjourning early to mid afternoon on Thursday. Next Tuesday, March 29, it's my intention to convene at 9 a.m. to maximize our time on the floor. Again, the announcement this afternoon is, we will be working through the lunch hour on Thursday, hoping to adjourn early to mid afternoon, and next Tuesday, we will convene at 9 a.m. Thank you, Mr. President. [LB351]

PRESIDENT SHEEHY: Thank you, Speaker Flood. We will now move to floor discussion on AM645. Senators wishing to speak are Senator Harms, Senator Stuthman, and Senator Howard. Senator Harms. Senator Stuthman. [LB351]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I'm not going to take a lot of time, but I do want to mention that we are working with Senator Harms and HHS to try to come up with something so that we accomplish what we both want to do. The thing about it is we've got to make sure that we can utilize the work portion of the education, so that it doesn't conflict with the federal requirements and it doesn't get

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

us in problem with the federal government. That's where we have to try to get that accomplished. You will see that this is a Speaker priority bill. This bill came out a unanimous vote. But I will also mention that there was some opposition. The opposition was because of the postsecondary education portion of it. We had quite a number of students of the College of Saint Mary that felt that they wanted to continue on this. They were single parents that were trying to get an education, and I think that we felt that we need to do something for these people. What our goal is, and what Senator Harms's goal also is, is that we get these people educated, get them so that they find work and are off of the welfare system. That is our goal. We want to get them to be tax-paying people, citizens of the state of Nebraska. That is our goal. So that is what we're trying to accomplish with this bill. We want to make sure that we don't...we're in compliance with the federal government, so we don't lose this \$2.9 million and that we can do the best we can as far as education for people that want to get off of the welfare program and be an asset to the state of Nebraska. Thank you. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Howard. [LB351]

SENATOR HOWARD: Thank you, Mr. President and members. I recall clearly during the hearing for this bill that we had a number of students come in from the College of Saint Mary, those very students that Senator Stuthman is referring to, and they were so nervous, they were so anxious about appearing before the committee. And yet they delivered some of the best testimony that I personally had heard since I'd been down here. These students of the College of Saint Mary are working to better their lives and the lives of their children. Some of these women have come from abusive situations and many would have continued lives of dependence on the ADC/TANF program. Through the opportunity that they are utilizing at the College of Saint Mary, they are working to become tax-paying members of society. Additionally, and frankly, this is even more important, they are giving their children the example of working hard to better your own life. Rather than continue a generational dependency on the "system," they are teaching their children the importance of education and self support. I commend these families for their commitment to overcoming the odds, and to the College of Saint Mary for giving them the chance to do this. I support this amendment, and I urge you to vote to do the same. Thank you. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Howard. Further discussion on AM645? Seeing none, Senator Johnson, you're recognized to close. [LB351]

SENATOR JOHNSON: Thank you, Mr. President. I won't take long, just to make the body aware of exactly what we're talking about with this amendment, and that is, again, the federal government does not allow postsecondary education to be counted as allowable work-related activity under the TANF statute. And so, we're just emphasizing for the record that the committee amendment simply restores the status quo in the TANF program, as far as the postsecondary education is concerned. With that, I would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

ask the body to adopt this amendment. Thank you. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the closing to the committee amendment, AM645, from the Health and Human Services Committee. The question before the body is, shall AM645 be adopted to LB351? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB351]

CLERK: 26 ayes, 0 nays, on the adoption of committee amendments, Mr. President. [LB351]

PRESIDENT SHEEHY: Committee amendment, AM645, is adopted. Mr. Clerk, do you have additional amendments on your desk? [LB351]

CLERK: Mr. President, Senator Synowiecki had offered AM951, but Senator, I have a note to withdraw this one? [LB351]

SENATOR SYNOWIECKI: Yes, that's correct. [LB351]

PRESIDENT SHEEHY: AM951 is withdrawn. [LB351]

CLERK: In that case, Senator Synowiecki would offer AM1382. (Legislative Journal page 1664.) [LB351]

PRESIDENT SHEEHY: Senator Synowiecki, you're recognized to open on AM1382. [LB351]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor. First, I want to extend my deep appreciation to Senator Stuthman for bringing this legislation. Thank you. And also my appreciation goes to Speaker Flood for having prioritized Senator Stuthman's bill, and additionally, I want to express my appreciation, as I consulted with both of them prior to my attempt to attach this amendment to the bill. AM1382 represents a bill that I introduced to the Health and Human Services, LB82. It was presented to the Health and Human Services Committee on January 17 and was advanced to General File with a vote of 4-0. I might note that there were several individuals that testified as a proponent; there were no opponent testimony at the public hearing. AM1382 removes the family cap provision for Nebraska's Aid to Dependent Children program. Family cap policies exclude children conceived while their mother...or the mothers receive public assistance from the calculation of the family's monthly cash grant. This deviates from a basic public policy surrounding the public benefits system, in which a family's cash grant is typically based on family size, independent of when a child is conceived. Since 1977, the family cap in Nebraska has been applied to all children born into ADC family units, 10 months or more after the family's application for ADC. Under the current calculations, each additional child would increase the family's monthly cash grant by a mere \$71. The

Floor Debate
May 22, 2007

family cap further reduces the standard of living of families that are already living on income which is less than 30 percent of the federal poverty level. If a family of four were at 30 percent of the federal poverty level, their annual income would be about \$5,805 a year. Under the current policy, a family who has a child after the 10-month period will not see an increase in their payment, even though there is another mouth to feed and body to clothe. Currently, there are about 20 states that have a family cap in effect. The intent of these laws during the time of welfare reform was to reduce the incidence of out-of-wedlock births and limit the states' welfare caseload. In recent years there's been a trend among states to repeal these provisions for a variety of reasons. The primary reason states have reconsidered the use of family cap policies is that after having been in effect for almost ten years, research shows that these policies have not produced the intended results, according to a September 2000 report from the General Accounting Office. Members, I feel that discriminating against a child solely because of the time and circumstance of his or her conception violates the child's dignity as a human being and the common good of society. The idea of using subsidence cash assistance as a behavior modification program is punitive and unjust. The idea aims at the behavior of parents but directly hits defenseless children, punishing the child for something his or her parents did, for innocently interfering with the track to self-sufficiency. This socially unjust attempt to use subsidence cash assistance as a behavior modification program inappropriately weighs the lives of children on the scales of their parents' poverty rather than by their individual dignity as human beings. Barring children from receiving a modestly increased subsidence grant for their care, maintenance and support, and protection drives already impoverished families even deeper into poverty, impacting upon all children in the family. Additionally, this policy discriminates and makes unfair and misguided assumptions relative to the motivation for poor families to have children. No one seriously questions the motivations for middle- and upper-class families for having children. No one asserts that the primary reason for these families to have children is to take advantage of another tax deduction. So why do we in an official state policy maintain an assumption that poor families have children just to receive an additional \$71-per-month benefit? The intent of this amendment is to improve the standard of living for children in families who are already considered severely low income and to ensure that they have the resources to provide for the basic needs of their children while transitioning from welfare to work. Additionally, this amendment seeks to ensure that in the state of Nebraska, our public policy does not provide an economic incentive to terminate a pregnancy. I want to thank you, members, for your consideration. I might also note that the fiscal note for LB82, under the current two-year biennium, would not reflect any General Fund appropriation whatsoever for the program. The fiscal note--I would invite you to read it under LB82--indicates that the rainy day funds--these are federal funds--could be used for the costs associated with this bill in the short term, and I think when they mean short term, I think the Fiscal Office is indicating that at least for the first two years of this program, we would not be using any General Fund appropriation. Be that as it may, the General Fund impact, should we need to look at general funds, would be about \$200,000 a year

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

for each biennium, for each year of the biennium. Members, I'd appreciate your support of the amendment. Thank you. [LB82 LB351]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. You have heard the opening to AM1382. The floor will now be open for discussion. Senators wishing to speak are Senator Stuthman, Senator Lathrop, Senator Erdman, and Senator Ashford. Senator Stuthman. [LB351]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. Senator Synowiecki asked me if I would approve of putting this onto my bill, and I support it and I approve of this. So it is an amendment that I can live with, and I support it, and I ask for your support, too. Thank you, Mr. President. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Lathrop. [LB351]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. I rise in support of Senator Synowiecki's amendment, AM1382, and I do so for a couple of reasons. First of all, I think the idea of a family cap was a notion perhaps grounded in logic, and in practice turns out to be an ill-conceived idea--the idea that you can tell someone that even though there are additions to the family, they're not going to receive additional support during a period of transition. As proven over time, you can't affect the number of children people have or stop them from having children by telling them they won't receive more benefits. People do not have...people in transition, people receiving ADC, are not having children to get more ADC. They never were, and now, with a little experience, we know that this was an ill-conceived idea. But I think it's also important for us to recognize today that there are a lot of us who call ourselves pro-life candidates, pro-life legislators. And today, this is a pro-life issue, in my judgment. Poverty and the inability to pay for children may be the leading cause of abortions in this country. We only encourage that when we say we will not provide for more members of your family if they come along, so we effectively provide an incentive for women to choose abortion over allowing their child to come into this world. It is a small amount of money in the big scheme of things, but let us today adopt AM1382 because it's the right thing to do for those families, because the support will not affect a person's decision to have children so that they can receive more benefits, but rather, it will provide more benefits so people can choose to have children rather than to terminate their pregnancies. Thank you. [LB351]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Mr. Clerk, do you have items for the record? [LB351]

CLERK: I do, Mr. President, thank you. Enrollment and Review reports LB247 as correctly engrossed. I have amendments to be printed to LB653, to LB177, and to LB351A. That's all that I had, Mr. President. (Legislative Journal pages 1738-1742.)

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

[LB177 LB247 LB351 LB351A LB653]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senators, your agenda states at 3:00 p.m. we would move to the General File 2007 committee second priority bills. The first item under that bill is LB475, Mr. Clerk. [LB475]

CLERK: Mr. President, LB475 by Senator Chambers. (Read title of LB475.) Introduced on January 17, referred to the Judiciary Committee. The bill was discussed on May 18, Mr. President. Committee amendments were offered. When the Legislature left the issue that day, Senator Chambers had pending an amendment to the committee amendments, specifically FA116. [LB475]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Chambers, you're recognized to open on LB475. [LB475]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this amendment itself is of no great consequence. Instead of leaving the name of the act as a part of the amendment, this amendment would strike the name and just put "this act." That was for the purpose of having further discussion. The amendment which is being amended by mine is what's known as the Catholic Conference or Boys Town amendment. If you pull it up on your gadget, you will see what it says. And I will not read exactly what that verbiage is, but it is exactly the language that has appeared in this bill every time it has been introduced except this time. When the bill first was brought several years ago by Senator Tim Hall of south Omaha, who is a Catholic, I told him that there is so much hatred against gay and lesbian people that no senator ought to have his name on that bill alone, so I'm going to cosponsor it with you. Ever since that day I have brought this bill repeatedly, and my name generally has been the only one on it as the sponsor. I bring the bill because I see a very great need for it. We have heard stated here, we heard it during committee, you'll hear it in other places where this bill is discussed, that we are giving special minority status to gay and lesbian people. My response is that the state has an obligation whenever we become aware of a discrete, identifiable group who are being targeted for acts of hatred, which include violence, denial of basic human rights, then the state has the responsibility to provide protection for those people. What this bill is designed to do is provide protection. If you look at the green copy, you will see in various places a listing or a catalogue of categories of people who have protection against discrimination in employment. One category relates to marital status, a strictly voluntary arrangement. When you talk about age, how did that get into the nondiscrimination portions of the law? White men were encountering problems. They were being terminated because they had reached a certain age. They were not being given employment opportunities in the first instance. They were not being promoted. And in some cases, they were being pressured out of their job. So in order to protect older white men, age was put into the law as a category of protected persons. Whenever something impinged upon white people, then the state

Floor Debate
May 22, 2007

quickly took steps to protect them. Marriage is something that people choose to enter into. So if people want to talk about a voluntary choice, those kinds of things are already shielded from discrimination in employment. But whether it's a choice or not, when a group of people have been identified and set aside for wrongful treatment, even criminal conduct, the state has an obligation to do something about it. I hear some of the people who cannot bring themselves to simply stand on the floor and say they hate gay and lesbian people to put up the notion that somehow businesspeople are being harmed, that businesspeople's hands are tied. Well, I think that Senator Engel was out of step when he tried to speak for businesspeople. I don't know if Senator Fulton did or not; he was just against gay and lesbian people, period. But if you look at the committee statement, you don't see a businessperson who spoke against this bill. Not one businessperson, not the Chamber of Commerce, no organization of those that are being so vociferously defended on this floor spoke against the bill. So if they didn't feel their rights or their interests as employers are being infringed or impinged upon by this bill, why should these people on the floor of the Legislature do that? Because they need a cover. They're trying to hide behind a straw person. This bill, I think, is one of the most significant things that we can do as a Legislature. The other day, my good friend, my good young friend half my age, Senator Fulton, was very upset about some group called the North American Male and Boy Association or something, because these are grown men feeling they have the right to have sexual relationships with underage boys. And he expressed a kind of indignation that probably all of us feel. However, he didn't go far enough. He didn't talk about the large number of Catholic priests who are doing this. Large numbers! And one of those, Senator Fulton, who wore a red hat, who was an archbishop and presided over one of the worst cases of child molestation in the country by Catholic priests. You know what his name was--his last name should have been Lawless--Bernard Cardinal Law. And you know what the Catholic Church did for him when he was shown not only to have known about these problems but have sat back silently while these rats were transferred to dioceses around the country and no diocese was notified that you are being set upon by a known predator? The Catholic hierarchy is sending him and did not warn the people that your little lambs are going to be set upon by a ravening predatory wolf. And these were heterosexuals, by the way. So you know what they did to fix Bernard Cardinal Law? They brought him to Rome. They (inaudible) him over the second most important basilica in Rome. He could not have been lifted or elevated to that position by appropriately discharging the work of a cardinal. He wouldn't have made it. So how did he get it? By presiding over a type of sexual viciousness that would not be tolerated by the Mafia or La Cosa Nostra. Worst abuse, worse abuse of young boys by Catholic priests than would be tolerated by organized crime organizations. And courts have begun to hold the Catholic hierarchy responsible because they endorsed, they ratified this misconduct because upon finding out about it they didn't take action to correct it but rather to cover it up and to transfer these predators to other fertile fields for their predation. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

Floor Debate
May 22, 2007

SENATOR CHAMBERS: So Senator Fulton did not go far enough. Maybe it's because he's a Catholic and maybe because he operates in a diocese presided over by a bishop who is the only one in the country who will not go along with what the College of Bishops said ought to be done in terms of these men, monitoring the activity of priests with reference to whether or not they're abusing children, and that is Bruskewitz. So if we want to get off into that, I am informed and I can do it. But I think we should focus on what this bill is designed to do. And I mention that to show that the arguments being made by some of the people against this bill would more better and more appropriately be made against the hierarchy of their own church. This is a worthwhile bill. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. (Visitors introduced.) You have heard the opening to LB475. We will now move to the Judiciary Committee amendment, AM399. Senator Ashford, you're recognized. (Legislative Journal page 674.) [LB475]

SENATOR ASHFORD: Just a second, Mr. President, if I might. Okay, I'm sorry. I thought...that has not been adopted. I apologize. That's not been adopted? I guess not. AM399, I believe, was introduced the last time we debated the bill but just to go over it, the amendment exempts from the bill religious organizations and institutions and nonprofits affiliated with religious institutions. This is the amendment that Senator Chambers discussed. The committee felt it to be an appropriate amendment. It was adopted and I would urge its adoption. Thank you. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening. We will move now to FA116, amendment to committee amendment. Senator Chambers. [LB475]

SENATOR CHAMBERS: Mr. President, I'm going to look on my gadget and make sure which one that is because I think I'm going to withdraw it, but let me be sure. [LB475]

PRESIDENT SHEEHY: It would be FA00116. [LB475]

SENATOR CHAMBERS: I want to withdraw that. [LB475]

PRESIDENT SHEEHY: FA00116 is withdrawn. We will now return to discussion of the Judiciary Committee amendment, AM399. Senators wishing to speak are Senator Ashford, Senator Fulton, Senator Carlson, Senator Schimek, and Senator Chambers and Senator Nantkes. Senator Ashford. [LB475]

SENATOR ASHFORD: Thank you, Mr. President. Now that I know where we are, I was going ahead of myself a bit and I apologize. The last time we discussed this bill, there was a rather lengthy discussion about the definition of sexual orientation. And as we go

Floor Debate
May 22, 2007

through these amendments, that, I think, will be one of the issues that we will be discussing. I have an amendment. Senator Erdman has an amendment that precedes it, that defines or modifies the definition in the original bill, the definition of sexual orientation. What is clear though is that, on this particular amendment is that...and Senator Chambers is right, there was no opposition by any religious or by the Catholic Church, certainly, to this bill with the adoption of this amendment. And the discussion about sexual orientation that we had, I believe, on this amendment, though I'm not certain, will come up in later debate on the other amendments. But again, I would urge the adoption of this amendment. It again exempts religious institutions and affiliated nonprofit organizations affiliated with religious institutions from the purview of this bill. And with that, I'd give the remainder of my time to Senator Chambers. [LB475]

PRESIDENT SHEEHY: Senator Chambers, about 3 minutes, 35 seconds. [LB475]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Ashford. Members of the Legislature, this is the amendment that I touched on, known as the Boys Town amendment. I do support it. The reason I did not include this language in the bill was for strategic purposes. Had it been included in the bill, the Catholic Conference representative would not have shown up at the hearing. I could not have argued that the mere absence indicates that they have no opposition. So I knew by leaving that amendment out, Mr. Cunningham would come to speak against the bill. He had started into his discussion and then I read the amendment. I said, Mr. Cunningham, this is the language that ordinarily appears in this bill that you touched on. Then I read it. He said, that's exactly what he was going to recommend. I said, if I would persuade the committee to adopt this amendment, would your opposition to the bill go away? He said, yes, we would then have no further interest in opposing the bill. The reason I did it that way was so that some of the new members on the Judiciary Committee could hear Mr. Cunningham state himself that the opposition they had was because that amendment that we're considering now was not a part of the bill. But with its inclusion in the bill, their opposition would go away. I have no objection to including this amendment and I do support it. Thank you, Mr. President. Thank you, Senator Ashford. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Fulton. [LB475]

SENATOR FULTON: Thank you, Mr. President, members of the body. We'll get to have some debate on this issue, and I think you know where my position is. I'm opposed to LB475. Something that I want to address, Senator Chambers brought up the scandal within the Catholic Church--and not just the Catholic Church, by the way--with these pedophiles. And we share a disgust there. The way it's been handled has been shameful. And clearly that's a grave injustice because the serenity and peace of a little child is being disturbed in the worst way. So we have agreement there. But the point that I had made earlier and that I tried to articulate, that point still stands. If an individual were to come forward asking for employment who admits that type of inclination--that, in

Floor Debate
May 22, 2007

my opinion, disoriented orientation--but says that I abide by the law, I'm not a lawbreaker, but you should know that I have this inclination, I think it would be reasonable to say, well, you shouldn't be working with children. That puts you in a state where you're tempted. And so in that regard, would the passage of LB475...would an employer be breaking the law if LB475 went forward? I don't know for certain and so I think that's a legitimate question, the definition of sexual orientation. Secondly, a point I'd like to make, whether one is for or against the bill, in my opinion, does not make them hateful or bigoted. We're addressing this by way of policy, and Senator Chambers said that this would be a significant step, and it would be. This would be a significant step forward by way of policy for society to grant protected class status, at least in Nebraska, for the first time based on one's sexual orientation. So I submit to you something of that gravity ought to have clarity. And with no definition, I would submit that there is not clarity. You know, I reflected on this a little bit this weekend, and I think of some of the people that I've met in this body. I've met all of you in this body, but I've gotten to know some pretty well. John Harms is not a person who hates. Anyone who knows John Harms knows that about him. And he spoke against this bill earlier. Tom Carlson is not a bigot. Anyone who knows him knows that. I'm hopeful that people who have met me recognize that I'm a fairly agreeable person. I don't go crazy and go nuts when I don't get my way. So I hope that...I'm hopeful that we can elevate this discourse to the policy at hand. I have strong concerns about this bill--the lack of definition, the policy that we would be setting, the statement we would be making by law for society. And I'm hopeful that that is the level of discourse that we can have. To the question, not the man; not ad hominem, but to the question. The points that I had raised earlier, I'll just briefly raise them again. Is there a necessity for this? This is coming by way, this new, a new protected class based on sexual orientation is being... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR FULTON: ...introduced within employment law. And the argument would be that those who profess a sexual orientation or who have a sexual orientation who are being discriminated against solely because of that sexual orientation need remedy of law such that they can find employment, a way to make their livelihood. And I submit that what I have seen is that that's not the case. Homosexual households have very high employment income averages. I don't watch TV much anymore but there's a show called--maybe it's gone now--straight, straight eye, something like that, straight eye for the something guy, something like that. Maybe someone will pop up. (Laugh) But I mean, that's indicative that there's a certain amount of affluence there because there's a certain amount of credibility, I guess, that's granted to the homosexual lifestyle. So I mean, if we take a look at culture, I don't know that this is something that necessitates... [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

Floor Debate
May 22, 2007

SENATOR FULTON: Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Senator Carlson. [LB475]

SENATOR CARLSON: Mr. President, members of the Legislature, I'm offended by Senator Chambers saying that Senator Fulton hates gays and lesbians. I don't know if he said about me; he's going to have his chance. But regardless of what he says, Senator Chambers, over a four-month period, I've grown to really like you. I don't like some of your habits. I don't like some of your stances. I don't like some of your thoughts. But I like you and that's not going to change. I have friends that are gays and lesbians. I don't agree with their lifestyle. I don't agree with some habits. But I like them as friends. In our society, our set of values, as I thought about LB475 in the last couple of days, I asked a question of some senators. What's the purpose of sex? Number one, procreation. Number two, recreation, pleasure, in marriage. And I believe marriage is between a man and a woman. I don't think there are any other good, acceptable reasons for indulging in sex. Senator Chambers, you said the other day, what goes on in someone's bedroom is nobody else's business. I agree and it shouldn't be shared with anyone. What goes on in one's house or apartment is nobody else's business. I agree and it shouldn't be shared with anyone. What goes on in my bedroom with me and my wife is no one's business, and I have no business sharing it with anyone. But that's not really what LB475 is about, keeping everything private. Now concerning the bedroom or the home, to use Senator Chambers' words, I don't think that we should unleash such things on the unsuspecting public. Now I don't know Senator Chambers' heart. I hear what comes out of his head. And sometimes I think he forgets that the two are only about 12 inches apart. Senator Chambers says that the Bible is really a book of fairy tales and phony doctrine, that Jesus was and is a lunatic because he said he was God, that there is no God, that Hell is a myth, and that Heaven is a dreamy imaginary place for the unintelligent who call themselves Christians. And so because of some of these thoughts that he's expressed, I am rising in stern opposition to AM399. This amendment to exempt churches makes no sense. Our responsibility as a body is to pass legislation that's good for society. Now if it's good for society, it's good for the church. And Senator Chambers indicated Jim Cunningham had said that exempting the churches would take his opposition to LB475 away. I think Mr. Cunningham ought to rethink his position. If the church needs exemption, LB475 must not... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CARLSON: ...be good for the church. And if it isn't good or right in the church, how can it be good and right for society? Good for the society and bad for the church makes no sense. Do we want to approve that kind of legislation? No. What we pass for society almost be...should also be what's best for the church. If there is a discrepancy, we should not go forward. I'm opposed to the amendment. I'm opposed to the bill. Thank you, Mr. President. [LB475]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Schimek. [LB475]

SENATOR SCHIMEK: Thank you, Mr. President and members. So Senator Carlson, if I'm understanding you right, taking away the amendment would not take away your opposition to the bill. That is the way that I understood what you said. May I ask Senator Carlson to respond? [LB475]

PRESIDENT SHEEHY: Senator Carlson, would you yield to a question? [LB475]

SENATOR CARLSON: Yes. [LB475]

SENATOR SCHIMEK: Taking away the amendment then, if I'm understanding you right, would not take away your opposition to the bill? [LB475]

SENATOR CARLSON: No, it wouldn't. [LB475]

SENATOR SCHIMEK: So I'm not certain I understand your argument, because I thought at one point you were giving the church the business for not thinking they should be subject to the rest of society's rules. Is that right? [LB475]

SENATOR CARLSON: If I might answer,... [LB475]

SENATOR SCHIMEK: Yes, please. [LB475]

SENATOR CARLSON: ...my thought is that we as a body are to pass legislation that's good for society. And if it's good for society, it should be good for church so we shouldn't be exempting the church from legislation that we pass. [LB475]

SENATOR SCHIMEK: We do exemptions all the time around here, Senator Carlson. Whether it's a good idea or not, we do do exemptions. We exempt property taxes on certain kinds of equipment. We exempt farmland from 100 percent of valuation when we tax property there. I mean, I'm not trying to say we should or shouldn't. It's just a fact of life that we do exemptions around here all the time to make things politically possible, to take away a large segment of the opposition. But what you have said, and I think what a lot of others would say, that it wouldn't make any difference whether we took away this exemption or not, you still wouldn't be supportive. [LB475]

SENATOR CARLSON: I've simply expressed that I'm in opposition to the amendment. [LB475]

SENATOR SCHIMEK: Yes, and that's what I thought you meant. Thank you, Senator Carlson. And I also think you said that procreation is the main focus or purpose of sex.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

And I think that there are a lot of people who can't procreate, who for one reason or another aren't able to have children. And you know, I don't know that you want to say that they shouldn't be having sex, necessarily. Am I right, Senator Carlson? [LB475]

SENATOR CARLSON: I think you missed the second reason. [LB475]

SENATOR SCHIMEK: Okay. [LB475]

SENATOR CARLSON: And the other is that we've given that to be used as pleasure in marriage. [LB475]

SENATOR SCHIMEK: Okay, thank you. I appreciate Senator Carlson's comments and everybody else's here. Everybody is, I think, trying to approach this issue in the manner that they see fit. I might encourage you to think about what other states are doing. As of 2003, there were ten states that had passed such legislation. I don't have a total update, but I do know that Iowa just passed legislation that would prevent discrimination in employment, in housing, and a lot of other areas. And that is now the law over in Iowa. I consider Iowa a sister state. I consider Iowa fairly closely attuned to the thinking of Nebraskans. And I believe this is coming sooner or later. I think it's like a lot of other things, it just takes time. And I would encourage us to not take a lot of time. I think a lot of time has already passed. I remember that Tim Hall... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR SCHIMEK: ...introduced this kind of legislation way back in the nineties and we've been at it ever since, so maybe we've been at it long enough. I passed out a chart of Nebraska businesses that include orientation in their nondiscrimination policy. Again, this is current as of 2003. There probably aren't any businesses that have changed their policy as far as doing away with the policy, and I'm sure there are those that have added to it. But look at the kind of businesses that you have on this list. They're big businesses, they're little businesses, they're Nebraska businesses, they're international businesses, they are churches, they are educational institutions. They are just a wide range of groups that have this kind of orientation. And I think, I mean, public schools even. I think that they... [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR SCHIMEK: ...have seen that this is a thing...the right thing to do. Thank you. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Schimek. The following senators are wishing to discuss this item: Senator Chambers, followed by Senator Christensen, Senator Fulton, and Senator Nantkes. Senator Chambers. [LB475]

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Mr. President, members of the Legislature, it would be hard to compress so much illogical claptrap in five minutes as was done by my good friend, Senator Carlson. He made illogical leaps from statements that were flawed and invalid in the first place. He should get the transcript and if he doesn't, I am and I'm going to let him read what he said. And he will say, gee whiz, did I say that? Now Senator Carlson says if we enact a law for society, it ought to be good for the church. We tax business property; we don't tax churches. We make people pay automobile tax; we don't make churches pay taxes on their vehicles. So he was just making that statement because he's upset with me and he said, because of what Senator Chambers has said and I don't like it, I'm against this amendment and I'm against the bill. Foolishness! And as for what Senator Fulton wanted to say, you all must not know what bigotry is. When you knowingly and intentionally discriminate against somebody because of what they are, that is bigotry. And if that's what Senator Harms does, if that's what Senator Carlson does, if that's what Senator Fulton does, if that's what the Pope does, it is bigotry. And I don't care who the person is who's going to wear that label. It's his or her conduct that causes the label to fit. And when Senator Fulton's best argument is, well, Senator Harms is against this bill, Senator Carlson is against this bill, and he's against it, therefore, everybody ought to be against it. That's why I'm so much different from many of the people in this Legislature and in this society. I have a brain. My brain is what I use. Senator Carlson talked about a heart. Since I don't have one, I'm not plagued by what these people who say they speak from their heart are plagued with, because those who profess to have a heart are the ones who are comfortable in the presence of bigotry. Bigotry is not inconsistent with their philosophical, their moral, and their religious principles. I have not brought a bill to abolish churches, even though I think as a whole they're probably the most worthless operations on the face of the Earth. And if you dropped them all in the ocean, the ocean would be the worst for it and society as a whole would be the better for it because you, Senator Carlson, are the tabernacle of God, not the church. Good God Almighty! You, Senator Carlson, not the stained glass windows, not the bricks, not the plaster saints, not the doctrines and dogmas of men, Senator Carlson. You're supposed to love everybody, and you demonstrate your love not by what you say--by what you do. I don't know what goes on in Senator Carlson's house. And as he said and I say, it's none of my affair. But in general, a man can tell a woman, I love you, and he slaps her around, treats her like dirt. A woman can say, I love a man, and put powdered glass in his food, hit him upside the head with a skillet, as happened to George Bush down there in Texas that time when he professed to have gotten choked on a pretzel and slid his face across the rug, and that's how he got that scar. That is known as a Crawford caress, and it's done with a cast-iron skillet in the hands of an angry female spouse. Now some people call that love. That might be tough love, but my view on these things is different. Senator Fulton... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

Floor Debate
May 22, 2007

SENATOR CHAMBERS: ...talked about the prosperity in homosexual homes. He doesn't know anything about that from his own experience, and he gave us 1991 figures. But if he knew anything and called it to mind, he'd know that men make more money than women in this society, regardless of their sexual orientation. So if you have a household comprising two men, they're going to have more money if they're working than a male and female would have, because both men are going to make more money than a female. Many of them do own their own businesses. And those who will acknowledge what their orientation is, Senator Fulton, because they know there are people like you with your attitude feel financially secure and they say, you can't do anything to me; I'll rub it in your face, yeah, I'm gay, are you? Is that why you fear me so much? Here's what one of my colleagues said. One of the senators said they're trying to...gays want to be made a special protected minority. And he said, are we? [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR CHAMBERS: Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Christensen. [LB475]

SENATOR CHRISTENSEN: Thank you, Mr. President, fellow senators. I guess I have a little concern with LB475 from the standpoint of the need of it. Because as discussion earlier has said, if the activities of the bedroom are private, then how is there ever to be a discrimination case against sexuality, homosexuality or any of it? Think about it. Unless you're flirting, unless you are telling somebody about it, unless you are exhibiting it, then how do they know about it? Why do we need another protected class? It doesn't make sense. If they aren't telling it or sharing it, then how did there become a case? You know, I don't know of any personal discrimination cases. But I'm not saying there hasn't been. But my point is, how did it become an issue unless they talked about it, that they created their own issue by sharing that they were gay or sharing what went on in the bedroom. It doesn't make sense here. I just want you to think about that. Why do you need a protected class because if they're not sharing it and making the case, then they wouldn't have a case. Thank you. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Fulton. [LB475]

SENATOR FULTON: Thank you, Mr. President, members of the body. I wonder if Senator Nantkes would yield to a question. [LB475]

PRESIDENT SHEEHY: Senator Nantkes, would you yield to a question? [LB475]

SENATOR NANTKES: Yes. [LB475]

SENATOR FULTON: Thank you, Senator Nantkes. Something you said last...when we

Floor Debate
May 22, 2007

were debating this on Friday, BLGT. Would you consider...for those who don't...bisexual, lesbian, gay, or transgender...oh, for the record, that show was "Queer Eye for the Straight Guy" so I really butchered that, but that was the show. BLGT, would you considered transgendered persons to be protected under LB475? [LB475]

SENATOR NANTKES: Yes. [LB475]

SENATOR FULTON: Okay. [LB475]

SENATOR NANTKES: And I thank you for the question, Senator Fulton, and I don't disagree with some of the points that were brought out from the debate on Friday and that it may be important to include some form of definition as we move forward on this legislation. It's my understanding...I think Senator Ashford is working on some language, and there may be some other proposals out there as well. And I have my light on...was going to visit in a little bit more depth about some terms as we proceed in this debate in ensuring that we're all utilizing accurate and informative language as we discuss these issues. [LB475]

SENATOR FULTON: Okay. Thank you, Senator Nantkes. I think that's how I would interpret LB475 also. Sexual orientation, BLGT has become an acronym that's fairly widely used, and I would think that transgendered persons therefore would be included within LB475. That being the case, I'll pose this question to the body. When I was growing up back home, small town, there were twin brothers and they dressed like...well, I guess they would be transvestite. They dressed like women. And I knew them. And we had...everyone kind of looked at them a little weird, but they were considered, I guess, harmless and they were. They never got in any trouble. But if they were to apply for a teaching job, and they never did, but if they were to apply for a teaching job within a public school, I think that would be a question that would be raised. Well, how are you going to dress in front of the children? Now I don't know if that's considered transgendered, but it would be within the same category, I guess. So if one who has chosen a different gender, one who is transgendered would be included within LB475, I'd say that's one instance where it's probably something that can be told or it can be discerned or gleaned by one's behavior or by looking. I mean, if it's a man that's dressing like a woman, that would be something that you could see. I think it would be legitimate to say you shouldn't be teaching children in a school. Now I have to admit I haven't clearly thought through that, but it seems reasonable anyway. And I think that would fall under the purview of LB475. So I bring that up not to confuse but to demonstrate that there can be confusion because we don't have terms. Sexual orientation can be wide open. And I will submit to you that when we do start, if we do start to laser in and find definitions to certain types of sexual orientation, there will inevitably be those of a certain sexual orientation which... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

Floor Debate
May 22, 2007

SENATOR FULTON: ...would be left out. And perhaps that's why...perhaps that is a prudential judgment on the part of Senator Chambers to introduce this legislation such that sexual orientation isn't defined, such that it's inclusive. And if that's the case, then perhaps he'll make that point or perhaps it's just obvious to others. It's not obvious to me. But regardless, without a definition there are a lot of possibilities, some of which I think it's reasonable and I think it would be a responsible action on the part of an employer to ask. If someone comes in, a male who's dressed as a female, asking to teach fourth graders, I don't think it's unreasonable to ask or to say that, no, I'm sorry, you shouldn't be teaching fourth graders. Maybe I'm wrong. I'll put that point out and it could be refuted. I'll stop there. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Next we have Senator Nantkes, followed by others wishing to speak on AM399: Senator Carlson, Senator Schimek, Senator Chambers, Senator Harms, Senator Christensen. Senator Nantkes. [LB475]

SENATOR NANTKES: Thank you, Mr. President, colleagues. Senator Fulton, I do need to actually make a correction for the record, and I misspoke earlier in our previous dialogue. The bill as written, it's my understanding, would not extend protection to transgendered members of our society, instead would apply to gay, lesbian, and bisexual employees. But I did want to talk a little bit this afternoon exactly about those issues and the terminology that we're using as we proceed in this debate, because I think it is important, and words do have meanings and connotations and some are legal terms of art, which have even greater importance. And I'll be passing around some of this information for members that are interested. But basically I'm relying on an article for January, 2004, that was published in the Nebraska Lawyer Magazine which was provided as a tool for education and awareness within the Nebraska Bar in addressing some of these issues in the course of our professional practice and which I thought may be of use to members of this body as part of this debate and otherwise. But when we talk about...and they have a nice glossary included in here with appropriate language defining sexual orientation, gender identity, heterosexuality, GLBT, homosexuality, bisexuality, lesbian, transgendered, sexual preference, lifestyle, and queer, which are some terms that come up in the course of debating these kinds of issues. And one thing that I wanted to point out that I know has been part of the dialogue amongst various members in this question of definition has been the inclusion of the words "sexual preference." And I wanted to point out for the membership how sexual preference is actually really not a politically correct term to use in debating these issues, because of the very connotations that it does imply. And GLBT people don't prefer or choose to be attracted to one gender or another any more than heterosexual people choose to be straight. Even if you disagree with whether or not orientation is mutable or not, this term will signal that you are not accepting if you choose to use it. And this same idea really mirrors some of the comments that Senator Rogert mentioned during the debate on Friday in relation to these issues. And so I just wanted to flag that issue for the

Floor Debate
May 22, 2007

membership and to be wary and careful as we move forward and ensure that we really are using appropriate terminology in this regard. And like I said, I'll be happy to have the page send around some of that glossary and information for people, and hopefully they'll find it useful. The other quick point I wanted to make in the debate today in addressing the issue as a whole is, earlier this session I'm sure, members, many of you remember we had a spirited debate on LB57, which was introduced by Senator Preister and that I chose as my priority bill for this session. And that was the fair share bill as it applied to membership and labor organizations and changing some of those provisions here in Nebraska. And we heard many passionate speeches on the floor during that debate about protecting Nebraska's right-to-work law and how important that is. Again, I contend that LB57 would not in any way endanger that,... [LB475 LB57]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR NANTKES: ...but I do believe that some of those same principles that many members in this Chamber brought forward during those speeches in opposition to that bill can be employed here. If in fact we believe that Nebraska should have strong right-to-work laws, that people should have the right to work free of these arbitrary and suspect classifications and instead just be judged on merit and performance of duties as hired to perform, we should be supportive of AM399 and the underlying bill, LB475. Thank you. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Carlson. [LB475]

SENATOR CARLSON: Mr. President, members of the Legislature, if I could I'd like to address a question to Senator Chambers. [LB475]

PRESIDENT SHEEHY: Senator Chambers, would you yield for a question? [LB475]

SENATOR CHAMBERS: Yes. [LB475]

SENATOR CARLSON: Senator Chambers, I've got to just verify what you said. Did you say that I'm against LB475 because you're for it? [LB475]

SENATOR CHAMBERS: You said that because of the things I was saying, you are opposed to the amendment and you're opposed to the underlying bill. [LB475]

SENATOR CARLSON: Okay. I'd like to make a correction there. My opposition has nothing to do with what you say. Now I may not agree with what you say, but what you say has nothing to do with me being against this bill or the amendment. And Senator Chambers, however I'm conducting myself, whether it's good or whether it's not good, a lot of what I learned has come from you. I met with you in your office a few days after we started the session, thanking you for something, and you told me right then, you

Floor Debate
May 22, 2007

don't have to agree with me. Don't think you have to agree with me. You have every right to stand up and speak and say what you think. And I appreciate that, and you've given me courage to do that. So I thank you for that. I want to comment a little bit about this idea about exemptions. And I talk about I don't think that the church needs to be an exemption, and then we get brought in taxes and other things that are exemptions. I don't think that has anything to do with this. We're talking here about values, we're talking about behavior, we're talking about ethics. And as a body, as we deliberate and we think about bills that relate to values, behavior, and ethics, if those things are good for the general society, they should also be good for the church. And I don't understand the idea of bringing in taxes and tax exempt and so forth. I don't think it has any relationship with this. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Schimek. [LB475]

SENATOR SCHIMEK: Thank you, Mr. President and members. I wish that more people felt like speaking on this issue. I know it's not an easy issue, and I know that sometimes people feel that taking a stand on this issue is not the politically popular thing to do or the politically correct thing to do. But I think it is an issue that can touch so many lives that I wish we were hearing from more than just the four or five of us who are getting up and talking about this issue. And I see Senator Harms's light is on up there, so we're going to hear from him pretty soon, maybe some others. I think it's important to talk about this issue. Senator Fulton, did I understand you to say that you wondered whether homosexuals should be teachers? [LB475]

PRESIDENT SHEEHY: Senator Fulton, would you yield to a question? [LB475]

SENATOR FULTON: No, that question had to do with transgendered people or transvestites being teachers. [LB475]

SENATOR SCHIMEK: And would you ask the same question of somebody who was gay or lesbian? [LB475]

SENATOR FULTON: Well, I wouldn't ask the question. My point was that I wouldn't be able to tell. I'd be able to tell if a man were dressing like a woman, but I wouldn't be able to tell with a homosexual person, I don't think. [LB475]

SENATOR SCHIMEK: Okay, that's fair. I do want to say that over the years I have known some gay men who have been teachers. In fact, one of them was an English instructor in Hastings, Nebraska, years ago. He was fabulous--he was absolutely fabulous. Was he openly gay? No. But did people know that he was? Yes. Did it make any difference in his ability to teach or to interact with students on a very healthy basis? No, it didn't make a bit of difference. And I note again that there are several public schools in this state who have adopted an open policy. Someone else asked the

Floor Debate
May 22, 2007

question about how would you know if somebody was gay if they didn't tell you. I think it was Senator Christensen. Well, people don't generally go around saying openly that I'm gay or I'm lesbian or whatever. But there are sometimes certain facts about their life that makes it become known to employers. For instance, if somebody, some man who is gay lives with another man who is gay and their fellow workers know about it, sooner or later that employer may know about it as well. And in fact, we had an incident not that many years ago at a restaurant here in Lincoln where it became known that someone was gay--I don't think because of anything he did overtly, but it just became known. And he was fired, and it caused a firestorm in Lincoln. And in fact, many people chose to boycott that restaurant because of it. So it does happen, and it's not necessarily because somebody goes around proclaiming what their sexual preference is. I don't think most people do that. I did want to just quickly update you. I got some new information about nondiscrimination laws in the U.S., and you will notice on the map that you received, there are 19 states that have now passed such laws and one, Colorado,... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR SCHIMEK: ...had a law passed by the legislature May 2007, and it is expected to be signed by the governor. In fact, I would guess that one or the other that decision has been made. But I don't know what that decision was. But you'll see that one of our neighbors...two of our neighbors have such laws. Four Midwestern states have such laws. Again, I think that if you look at the movement from 2003 to 2007, 9 or 10 new states have passed laws. So I don't think it's going to be forever until we have accomplished that here in Nebraska; South Dakota, North Dakota, some of the more central kinds of states, both geographically perhaps and politically. So I just ask you... [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR SCHIMEK: Thank you. [LB475]

PRESIDENT SHEEHY: Senator Chambers. [LB475]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, strictly speaking, transgendered people are those who have their sex changed surgically or they might, in some cases, have...they're called hermaphrodites. This is not a matter of attire. And I'd like to ask Senator Fulton a question. [LB475]

PRESIDENT SHEEHY: Senator Fulton, would you yield to a question? [LB475]

SENATOR FULTON: Yes. [LB475]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Senator Fulton, you uttered a redundancy, but that's not my question. You said when you were growing up, there were two twin brothers. Were there four, because twin means two, correct? [LB475]

SENATOR FULTON: I stand corrected. [LB475]

SENATOR CHAMBERS: Okay, now that's the easy thing. Do you believe that discrimination against a person in employment because he or she is gay or lesbian should be allowed? [LB475]

SENATOR FULTON: Simply because he or she is gay or a lesbian? [LB475]

SENATOR CHAMBERS: Yes, that's the only reason. You can't get this job because you're gay. Should that be allowed under the law? [LB475]

SENATOR FULTON: Well, I haven't thought entirely through it, but I don't think that one should be discriminated against because of that solely. [LB475]

SENATOR CHAMBERS: Well, that's what this bill is trying to stop, and you should have thought it through with all the discussion we've been doing. But that's all I'll ask, because I don't want to be argumentative on that. I'd like to ask Senator Harms a question. [LB475]

PRESIDENT SHEEHY: Senator Harms, would you yield to a question? [LB475]

SENATOR HARMS: Yes, I will. [LB475]

SENATOR CHAMBERS: Senator Harms, do you believe that under the law a person...it should be allowable to refuse employment to that person strictly on the basis of him being gay or her being lesbian? [LB475]

SENATOR HARMS: No, and I made that very clear, Senator, with that... [LB475]

SENATOR CHAMBERS: Well, if that's happening, they have no recourse under the law in Nebraska. Are you aware of that? [LB475]

SENATOR HARMS: Yes, I am, but I don't think it should be based on their sexual preference. [LB475]

SENATOR CHAMBERS: Do you think that a law should be passed to protect people against discrimination based on that fact alone? [LB475]

SENATOR HARMS: No, I don't. I really believe that...my argument has always been

Floor Debate
May 22, 2007

that I do not believe they should be in the same class as race, color, creed, religion. That's what my argument has been because I think life is a series of choices, Senator. [LB475]

SENATOR CHAMBERS: But if they are discriminated against only because they're gay or lesbian, they have no recourse under the law. And that doesn't bother you? [LB475]

SENATOR HARMS: Well, it does bother me, but I don't think that's really true in most cases. [LB475]

SENATOR CHAMBERS: Thank you, Senator Harms. In most cases...it is true. That's what the law is about. That's what we're...but see, when I put the question directly to them, they don't want to come forth sounding like the bigot that they must be if they agree that discrimination should be allowed on those bases. That's what this law is about. And to help those squeamish people, Senator Ashford is going to offer an amendment that will define for those who need it certain categories of our brothers and sisters who ought to have recourse under the law when they're denied what all of us would take for granted: the right to earn an honest living. If everybody who could employ had the attitude of the people on this floor, these people would not be able to work. Then if they went out and stole, you'd say, see what they are, they're criminals, they ought to have a job. But I'm not going to hire them because I don't want people like that around me. However you sugarcoat it, it comes down to the same thing. You are bigoted when you go along with discrimination against people in employment because of their sexual orientation. There is no other way to phrase it. I am so happy that I don't have any religious dogma or anything that makes me so intolerant. I can speak out on behalf of any person or any group suffering discrimination or unfair treatment in this society. I don't have to go ask a priest is it all right for me to take this position, is it all right for me to ask...do I have to ask the rabbi, do I have to ask the minister? [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CHAMBERS: Heavens, no. And I would hope that were I to be situated in a vulnerable position, somebody would come to my aid. But I'm going to always be able to defend myself and I will. But I think those that are not in a position to defend themselves deserve our support. This bill would also prohibit those who hire 15 or more people and are homosexual from discriminating against heterosexuals who may want a job. It cuts both ways and it cuts all ways. And the level of this discussion is really discouraging. People can say whatever they want to, but to operate on the level we've been operating on here is worse than what you'd find in an eighth grade class of informed children. Talking about somebody dressing like a woman, that's what we're talking about? If that's all that Senator Fulton can come up with he's got no argument, but there's something deeper that is motivating him but he doesn't want to bring it out but we all know what it is. Thank you, Mr. President. [LB475]

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Harms. [LB475]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Chambers, I just want you to understand that I'm not a bigot, and I want to make that very clear. And I'm sorry that you want to accuse me of being a bigot. In my entire life, I've never crossed that line. I also want you to understand that you don't own me. And I also want you to understand that I do not appreciate having my values questioned. I don't question yours, and I will never question those. Each of us have our own thoughts and our own beliefs. And I object to being a Christian and being accused of the things you've accused me of. You are a statesman and when you leave this institution, you will be a legend and you need to understand that. And I object to the way you've been treating me and anybody else. Now let me get to the issue of what I'm talking about. I said earlier I believe that life is a series of choices. And it's not my right to be critical of the choice that you make. It's not my right to not want to employ you. I have employed people that have been gay. I have friends that are gay. I have worked with people who are gay. So don't tell me I'm a bigot. Don't tell me I (inaudible) step that line. If I thought they were mistreated, I was the first in line in where I was working to correct that issue. My argument has been this--whether you like it or you don't, I don't care--it's been the simple fact that I do not believe that they should be placed in the same category as race, color, creed, religion, ancestry, sex, marital status, and national origin. And that's where I'm coming from. It has nothing to do with the individual. I think it would be horrible if they are being discriminated against. But I don't think we need laws, and I don't think we need to have that in that category. And I just object to that and I oppose LB475 for those reasons and those reasons only. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Christensen, followed by others wishing to speak on AM399, would be Senator Avery, Senator Nantkes, Senator Kruse, and others. Senator Christensen. [LB475]

SENATOR CHRISTENSEN: Thank you, Mr. President, fellow senators. I guess I'd like to make another point here. Quite often I've been told I got too much common sense for dealing with some of these issues. But why do we need an exemption for the church unless this is a special protected class unlike the others? Example, do we exempt the church from discrimination against race? No. Do we exempt the church for discrimination against color? No. Nor do we for the rest of them; creed, religion, ancestry, sex, age, disability, marital status, national origin, any of them. So why do we need to exempt the church here? Because this is a different class you're trying to set aside. You're trying to create a special class here which is just simply wrong. Thank you. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Avery. [LB475]

Floor Debate
May 22, 2007

SENATOR AVERY: Thank you, Mr. President. Last week I spoke on this issue, and it unleashed a torrent of e-mail. And I can tell you that not all of that e-mail was easy to read, and I'll share some of it with you in a minute. But I've heard it said many times in this debate that homosexuality is a choice; it's a lifestyle one chooses. I'm not an expert on this, but I do know that there are professional organizations that have experts that study these issues. And I know that the American Psychological Association has determined that sexual orientation is not a choice, but it appears very early in one's life without prior sexual experience. "60 Minutes" did a report on this not too long ago in which they followed twins. And these are identical twins, male twins. One had a preference for camouflage and war toys; the other had a preference for dolls and wanted to decorate his room in pastel colors while the other one wanted his room to look like an army barracks. These kids were not even two or three years old and the interviewer asked the mother, when did you first notice this difference? And the mother said, about the age of 18 months. Is that choice? I hardly think so. I think that we have to take a good, hard look at what we are as a society. In a modern, diverse society that seeks to be a just society--and we must seek that--to be a just society it is simply not acceptable to allow discrimination in any form. This bill is not outrageous. This bill is not outlandish. This bill is not doing anything more than giving to a class of people the same kind of rights you and I enjoy. It is limited to discriminatory practices in employment. It actually doesn't even address harassment--maybe it should. It doesn't address transgendered people--maybe it should. This is a pretty limited piece of legislation. It does not apply to religious organizations. As I said last week when we first discussed this bill, my concern is based on a constitutional question partly; it's also part of my personal conscience here. But the constitutional question is, can the government allow discrimination against a group or classification of people based upon who or what they are? I think not. Government cannot do this any more than it can discriminate against people based on race or gender. Our society is based on bedrock principles that have to be preserved, principles of fairness, tolerance, respect for human dignity, and equal opportunity for all, not singling out one group of people because you don't like their behavior, or you don't like what you think they do--singling them out for discrimination. This bill treats discrimination based on sexual orientation with the same seriousness that is given to race, gender, religion, and disability. So what's so dangerous about that? Extending the same rights to people who may have a different sexual orientation than you and I have is the right thing to do. It is not an endorsement of the person's lifestyle nor is it an endorsement of their behavior. It is merely a demonstration of the respect for them as fellow citizens. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR AVERY: Already many of Nebraska's largest employers provide protection against discrimination based on sexual identity. And I can name some of those companies: University of Nebraska-Omaha, UNL, UNMC, Alegent Health, Mutual of Omaha, Union Pacific. Let me just share with you some e-mails I've been getting. Now

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

I'm not going to read it all, but just to give you an idea of some of the hatred out there that might demonstrate why this is necessary legislation. One writes--no protection for sodomites is the title--this is a war. In fact, this piece of legislation only reenforces and justifies in people's minds the need that we are indeed the great Satan of the world. It produces distrust and great animosity of our government in the minds and the hearts of millions around the world, here at home, and is partially responsible for the bloodshed we saw at the World Trade Center. [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR AVERY: Thank you. [LB475]

PRESIDENT SHEEHY: Senator Nantkes. [LB475]

SENATOR NANTKES: Thank you, Mr. President. Good afternoon, colleagues. I'm proud to follow my good friend Senator Avery, and particularly I'd like to dovetail on some of the comments that he just added to our dialogue. He talked about some of the e-mails and phone calls and letters that he's received in regards to this issue, as I'm sure all of us have received literally a plethora of correspondence in regards to this issue. And he's right in pointing out the depth of emotion contained therein. To put it quite simply, I've been a fairly strong proponent of this legislation, and my political and personal future has been threatened because of it. However, I will continue to stand on the side of legislation that ensures equal opportunity and an equal playing field for all Nebraskans--for all Nebraskans--particularly in the limited extent as contemplated under LB475, which is limited to workplace discrimination. My good friend Senator Christensen mentioned, and some of his colleagues this afternoon, kind of a don't ask, don't tell approach that may subvert the need for legislation like this. And Senator Christensen, I just wanted to point out how at times I don't necessarily disagree with the ideas that you're bringing forth. But for example, I think that sometimes we take for granted the ease and advantage of our heterosexuality. For example, would we ask employees to not put their...heterosexual employees to not put their wedding pictures on their desk at work, but instead you want to ask gay and lesbian couples to maybe not display or overtly display their lifestyle? I think those are some of the questions that we need to ask ourselves. And again, I just wanted to make a point today about the limited nature of this legislation that we're discussing. We're not talking about marriage. We're not talking about parenting. We're not talking about inheritance rights. We're not talking about insurance coverage. We're not talking about medical decision making. We're talking about the right to work and be judged on the merit of your performance for duties you were hired to perform. And that seems to me to be a limited common-sense approach to dealing with these issues. With that, I'll yield the balance of my time to Senator Chambers. [LB475]

PRESIDENT SHEEHY: Senator Chambers, 2 minutes. [LB475]

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Nantkes. Members of the Legislature, what is before us is the amendment, not the bill itself. Were this amendment not to be in the bill, the same people who don't like the amendment would be saying, why are not you going to let the churches abide by their doctrine? If their doctrines are against this or that, why are you going to make it against the law for them to go along with their doctrine? They are just so rock-ribbed set against doing anything to protect our gay and lesbian brothers and sisters that they flip-flop on this issue. If it were not considered, they'd be upset because we're going to force the churches to go along with something they don't believe in. We're going to put it into the bill, so now they're saying, well, why are you going to exempt the churches... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CHAMBERS: ...if you're going to make everybody else go along with it? The level of the debate is very unsatisfactory. Nebraska as a state does not enjoy high status anywhere in the country or the world when it comes to intellectual pursuits. Nebraska is the butt of everybody's joke. The kinds of provisions in the State Constitution, the unwillingness of the Legislature to protect the rights of all people to a job mark Nebraska for what it is, a hotbed of bigotry. The Christians are the ones who bring that religion in here every day, not me. They're the ones who talk about their principles. Then when they don't live in accord with them, they don't want me to call attention to it. Then keep them to yourself. The only one who hollers is the one that the rock hits. If people are in favor... [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR CHAMBERS: Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Kruse, followed by Senator Friend, Senator Fulton, Senator Chambers, Senator Carlson, and Senator Avery. Senator Kruse. [LB475]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I stand in strong support of the amendment. Some have questioned what the need for that is. I think there's a clear need, because there is a difference in doctrine of various churches. This is not a question of who's right or who's wrong, but it is their doctrine. And if they have a person in their employ that they want to convey a particular belief or doctrine, they have a right to ask them to do that. And that would exclude, in some of their opinions, would exclude persons who are openly gay or lesbian. So the churches need to have that kind of protection and exemption. In the discussion which I've been following and which is really encouraging in some ways, because we've kept talking, but discouraging in other ways because we don't have much focus, the question before us is a matter of appearances.

Floor Debate
May 22, 2007

And I keep hearing references to behavior. Behavior is not before us. I have dealt with this issue for decades in various groups, and I know of no exception to it. We're not talking about behavior. We are talking about appearances. It is my professional judgment that about one-third of the gays in Nebraska are married. This is their way of finding safe haven from the prejudices and the barbs of society. But some of these persons are clearly gay. They have the bone structure, they are built that way, they are wired differently, they walk differently, they have a different kind of a voice box. And those that consider themselves expert in this can spot these persons as gay and label them, so that some of had to go and get their spouse in order to make them appear legitimate. Well, this is ridiculous. If the person is doing the good work that needs to be done and is not a disruption to the society, and I would agree that being appropriate in behavior around all persons is an important thing for gay and straight alike. We try to do that here; we try to do that throughout society. But if a person is appropriate in their behavior, then they should be judged on the basis of what they can do and produce and not on the basis of what I imagine their personal behavior to be. Since I have had to deal with this in extended courses and so on, I can assure you that I really don't want to imagine what some heterosexual behavior is. I really don't want to think about it. I really don't want to put that person into that peg. I really don't need that if I'm going to treat this person in an even sort of way. Well, that's what we're talking about here. Put our imaginations away and judge the person by what they can do and not by their appearances. I thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator Friend. [LB475]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I've been listening, I guess, pretty closely and, you know, I appreciate the debate. And what I've heard on several occasions is that--Senator Avery pointed it out and I think I understand his point--that this bill isn't outlandish, it isn't dangerous, there isn't a whole lot of turf here that hasn't been dredged up before, especially in other states. I agree. I agree with that. But I do think that this bill is, simply put, pretty difficult if not impossible to implement and pretty difficult to apply effectively. And here's one of the reasons that I feel that way. If you look out at citizens, people in our society who are not protected that consider themselves a certain class...let me give you an example. I know a guy at work, where I work in Omaha, can't be any more than, I'm guessing here, an adult male, can't be any more than maybe four-foot, five. Now some would say, well, that falls under disability. Well, I beg to differ. He doesn't think he's disabled, but I'll guarantee in his life he's been discriminated against--guarantee it. The first thing that I thought when I looked at him is, I said, in my head I said, that poor guy. Is that fair, fair that God made him that way? I don't think so. I'll guarantee he's been discriminated against. I'll guarantee he's lost a job because of his height. I'll guarantee he hasn't been advanced in a particular position that he's in because of his height, sometime in his life. I think he worked at the bank, I don't know. I saw him at the bank. I'm not really sure. He works somewhere, he had a suit on, he worked in that environment somewhere. Let's talk

Floor Debate
May 22, 2007

about another group. Let's talk about guys with really, really large noses--bad, ugly looks about them, if you will. They don't classify themselves in any particular way. I'll guarantee they're discriminated against, folks. But here's the most pertinent thing, I think. Let's talk about people that have virtually their own classification, and that's obese people. Now some morbidly obese people would fall under a--my guess would be, according to a lot of legal experts--would fall under some disability laws in certain states. But what about a guy that's 5, 11 and weighs 300 pounds? You think his boss is going to send him to Atlanta to meet with the board of directors and be real excited about that prospect? They're discriminated against. It happens every day. I'm worried about that, too. I'm talking about applicability of our laws. How do we apply them, and are we effective in applying them? I just pulled up...we can find this, it was published on the 17th. Boston, Massachusetts, the International Herald Tribune reports this. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR FRIEND: Legislation to add weight and height to antidiscrimination law in Massachusetts has been proposed to give special protection to short and fat people. Representative Byron Rushing, a Boston Democrat who is sponsoring the bill, said it is a question of civil rights. This is one of the last physical aspects of people that you can acceptably laugh about, said Rushing, who is black, slim, and of average height. You can be a shock jock on the radio and talk about fat people for a solid week, and no one will ever think of having you lose your job. It's still acceptable. It's not fair, says some people. Then there's other people that are saying, you know what? We might as well add color blind, left-handed, allergic to cashews, and get it over with. You know what? I don't know where to go with this, I got to be honest. But I'll tell you this. We are trying to save...if we really think we can save the world from inside of this place, we've got another thing coming. [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR FRIEND: Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Senator Fulton. [LB475]

SENATOR FULTON: Thank you, Mr. President. Would Senator Avery yield to a question? [LB475]

SENATOR AVERY: You bet I will. [LB475]

SENATOR FULTON: Well, firstly thank you for stepping up and engaging this debate. Okay, you had mentioned--I'm not quoting perhaps precisely--but you said something to the effect that we should not discriminate based on who we are. And as a general statement, I think most people should agree with that. Why I'm curious about this is

Floor Debate
May 22, 2007

because there are certain areas where that could be perceived as discrimination. And so I'm going to ask if the gay marriage bill, or the gay marriage constitutional amendment...do you believe that homosexual couples should be afforded the societal benefits and identity of marriage? [LB475]

SENATOR AVERY: No, I do not, because marriage is a religious ceremony. I believe, however, that gay couples deserve legal rights. [LB475]

SENATOR FULTON: Well, I'm not talking about the religious aspect of marriage, specifically the societal protection or the statutory protections of marriage, those afforded by the state. [LB475]

SENATOR AVERY: What you're employing is the "look over there" strategy. This is about discrimination in the workplace. It's not about gay marriage; it's not about civil unions. Don't play that game. [LB475]

SENATOR FULTON: Well, I understand that this bill is not. But the principle at work here is whether that could be...there are those who would accuse you of being discriminatory, and I agree with you on that issue. And I would say that this is an institution afforded by the state which should be recognized by...which a man and a woman are recognized as eligible for this gift of society or for this recognition by society. Thank you, Senator Avery. I'll continue making that point. There are those who would say it's discriminatory to disallow two males or two females to be married within society, within Nebraska. I mean, we saw it in the newspaper. This was a hot topic some years ago. That's discriminatory. You're discriminating against them because of a sexual orientation, sexual preference. And I would say no. And there are those in this body who would support LB475 who wouldn't have supported gay marriage. So there's a certain...there's a line, certain things that some will...that will draw a line, a demarcating line. And they can be accused of discrimination, but they are not. Senator Avery is...I don't believe he's being discriminatory in having that position. That's a legitimate position. Another example that came to mind, I'm a heterosexual male. That means I'm attracted to other women. Yet I have made a decision, taken a vow to not have relations with any other woman other than my wife. And if one asks me if I'm the better for doing so, I will say yes. Yet I am built to have this attraction to other women. That I have that attraction does not mean I have to act on it. And so the argument that this is...I mean, this is a big can of worms, nature versus nurture. I'd submit to you that if we want to be reflective, if we really wanted to be reflective of how our laws ought to encompass those of us who are created sexual in a certain way, then our laws ought to allow those married couples to have relations with others whom they are attracted to--consenting adults, mind you. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

Floor Debate
May 22, 2007

SENATOR FULTON: I'm not positive whether Nebraska's law says this, but one cannot...one can't be married to two people. So if we're going to utilize the argument that we need to make our laws encompassing of who we are sexually, if I grant you the argument that it is a matter of nature, sexual orientation, which I would dispute, but let us say and assume that it is a matter of nature, it is also a matter of nature that heterosexual males and females are attracted to members of the opposite sex. And yet, we have laws in place that recognize and reward behavior within the confines of one man, one woman. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Fulton. And Senator, that was your third time. Senator Chambers, followed by Senator Carlson and Senator Nantkes. Senator Chambers, and this is your third time. [LB475]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm listening to this debate, so-called. This is some of the silliest stuff I've ever heard in my life. We're talking about people being able to get a job. And Senator Harms stomps out of here angry after saying that he doesn't think a person should be discriminated against because of his or her sexual orientation, but there shouldn't be a law to protect them because you shouldn't put them in the category with race, religion, and so forth. That's illogical. Senator Fulton brings up same-sex marriage. We're talking about employment, the right to have a job. And I'm listening to all this crazy insanity. And if it was somebody who meant something to you and you based it on something other than sexual orientation, which seems to put your mind in a tizzy and you cannot think rationally, then you would be coming to me saying, Ernie, I got a relative and they were mistreated by HHS or the schools. Will you help? We're talking about a job. So why bring up all this other trash that has nothing to do with it? You know why I call it trash? Because it's totally irrelevant, but it's something people can hide behind and...I guess Senator Fulton thinks that if there was a homosexual person in this Chamber, he's got to watch out because they'd try to marry him and drag him home with them. I don't even believe a homosexual man would be drawn to somebody like that. Now I don't know for sure, but I think they have standards, too. Somebody who is going to be that narrow-minded, that intolerant. (Laughter) Good Lord! I'm listening to this. If I sneeze hard, I'll be...well, I acknowledge...I admit to 70 years old, and I'm still hearing this kind of conversation in the Legislature, where we're supposed to be talking about the rights of all people? Businesses didn't speak against this bill. It's all these sanctimonious, self-righteous, religious people coming here talking about it violates their religion. Well, they've got a job, and they can't be discriminated against for believing in that silliness, as I see religion. But they're protected under the law, and they think they should be protected under the law. And despite the fact that they've got all this protection, they're against others and they'll say, I don't know of anybody personally discriminated against like that. I tell Senator Fulton, I've never met a Filipino who told me he or she was personally discriminated against, so there's no discrimination against Filipinos. Catholics won't let women be priests. And Senator Christensen back there talking about, well, the church

Floor Debate
May 22, 2007

can't do this and church can do that. They discriminate against women. A priest cannot be a nun, although some might like to be. This is crazy. I can't believe what I'm hearing here today. Children in high school would have a more intellectual, high-level discussion than what we're having here. They wouldn't be bringing up all this stuff--same-sex marriage and God this and God that. Leave God in church. You all bring God into the Chamber. Then when I take him on and you all as his spokesperson, you get made at me. Then don't bring that which is holy and sacred to you into this Chamber. But if you bring it here, it's just like, as I say, Mickey Mouse, Donald Duck, and Goofy. We're talking about somebody having the right to work. And I don't know that I've heard a person stand on this floor and say, I believe... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CHAMBERS: ...that people should be denied a job based on their sexual orientation alone. None of them will get up and say that; they're not that honest. I haven't even heard Senator Carlson say that. But they're against something in the law that would give redress to people who are denied a job on that basis alone. I don't mind them being put in the category with race where I reside, color where I reside, national origin where I reside. This house is big enough for everybody. It ought to be. But those who have that protection want to deny it to others. I can't believe what I've heard this afternoon, but this is the reality that I have to contend with. This is milieu in which I operate, and I shall continue to do so. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Carlson, followed by Senator Synowiecki. Senator Carlson, this is your third time. [LB475]

SENATOR CARLSON: Mr. President and members of the Legislature, I'm going to take off a little bit on something Senator Harms said about choices and about some groups that don't have protection. I look at our pages--attractive group of people. Now I don't know what the rules are and how they go about applying for those positions. But I don't think that they come in here with a bunch of piercings, that they're going to be hired. That group that likes to pierce everything, they're not protected, but I don't think they're going to get this job. Dress--must have something to do with dress. They all look pretty nice--wear those ties. Matt, I don't know how often you wear a tie, if you enjoy it, but you're conforming to get this job and most of you smile most of the time. I don't think it's too bad. Whatever kind of dress you wear, you're not protected in that dress. You have a choice when you come here to work as to whether you're going to conform with the dress code or not. Hair--when I was a football and baseball coach, I made the rules and I paid attention to hair. And I look over these young men and if they were going to play football or baseball for me, almost all of them would pass. Senator Chambers, if you were going to play football for me, you got to cut that beard. But then you'll have a choice whether you play for me or not. We don't have a protected class in how they wear their hair. And I will say this, and it may be difficult for you to believe after you've

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
May 22, 2007

heard some of the things that I've talked about today: If I'm hiring somebody because they may or may not be gay, that's not going to be the deciding factor as to whether I hire them or not. Whether a young lady is a lesbian, I don't think that's going to be the deciding factor as to whether or not I hire them. But I don't think that there is necessary for a separate protected class. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Synowiecki. [LB475]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor. Senator Chambers, will you yield to a question? [LB475]

PRESIDENT SHEEHY: Senator Chambers, would you yield to a question? [LB475]

SENATOR CHAMBERS: Yes, I will. [LB475]

SENATOR SYNOWIECKI: Senator Chambers, I'd like to kind of bring this debate back to basics, if you will. Essentially what you're doing here with LB475 is if an individual applies for employment, that that prospective employer cannot discriminate based upon an individual's sexual orientation, meaning that he's homosexual. [LB475]

SENATOR CHAMBERS: Yes. [LB475]

SENATOR SYNOWIECKI: And likewise, if that person is a current employee, that the employer cannot discriminate or cannot fire that employee based solely upon the fact that he or she might be homosexual. [LB475]

SENATOR CHAMBERS: That's correct. [LB475]

SENATOR SYNOWIECKI: I mean, that's what we're talking about here. [LB475]

SENATOR CHAMBERS: Yes, that's all. [LB475]

SENATOR SYNOWIECKI: I'll give the remainder of my time to Senator Chambers. [LB475]

PRESIDENT SHEEHY: Senator Chambers, you have a little over 4 minutes. [LB475]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Synowiecki. We could have had a discussion here this afternoon that would have been informative, enlightening, educational. But people watching will have no idea what we're talking about. All it is, is a job. I was educated at a Jesuit university. The Jesuits are supposedly the soldiers of the Pope, whatever that means. But in any branch of Catholicism that I'm aware of, the right to earn a living, the right to shelter, food, the

Floor Debate
May 22, 2007

basics of life are rights that belong to every human being. The right to earn a living is basic in this country and even in Nebraska, based on what the law says. Again, nobody has stood on the floor and said forthrightly that you should discriminate against people in employment based on gender alone, based on sexual orientation alone, based on religion alone or any of the other things that are already catalogued. We're not talking about anything other than the right to have a job. I tell young people that if you are going to get a job, you might want to dress like me but if you need the job, dress the way they tell you to dress. But clothing has nothing to do with what we're talking about here. Down through the years, the level of debate in Nebraska has not been elevated on this subject. Senator Carlson has two of the most delightful little grandchildren I've ever seen. I'm wondering how they could have a grandfather would be against them having a job if they grew up and happened to be homosexual in their orientation. Would he tell that employer, these are my grandchildren, I love them, but if you don't like them because they're homosexual and you don't want to give them a job, okay? I don't believe that. He may not know as much about himself as I know about him. There are people who come to me because a family member is gay or lesbian, and there have been some in this Legislature. And when they tell me, I ask, why don't you want it known that your child is gay or lesbian, as the case might be? Well, I live in a small town; it would be embarrassing and people would ostracize. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CHAMBERS: I say, okay, now you're worried about that happening to you because you're the father. Your child that you brought into the world has nobody in his house that he can go to for support, and he'd come to me before he'd go to you. He knows what your attitude is, and you brought him in the world. And you cannot speak up for him, and you're afraid of what these people in your town will think about you as his father. So you leave your child out there alone, unprotected, naked, and you brought him into this world. I wouldn't want to be that way. I wouldn't want people to feel that because I've shown so much hatefulness toward a group who really need a voice, that they can't come to me. People without a voice, the ones who are most marginalized, need somebody who is an advocate. And the more they need an advocacy, the more ferocious that advocacy should be. I am forced to deal with these issues in the way that I deal with them because of the attitude of the people I have to try to persuade. [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR CHAMBERS: Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Wightman, followed by Senator Aguilar. [LB475]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

not spoken on this issue and had almost decided that I would not. But I would like to ask Senator Chambers a question or two, if he would yield. [LB475]

PRESIDENT SHEEHY: Senator Chambers, would you yield to some questions? [LB475]

SENATOR CHAMBERS: Yes, I will. [LB475]

SENATOR WIGHTMAN: First of all, Senator Chambers, I have relatives that belong to the lesbian community, and certainly I wouldn't discriminate them. I think I have the same amount of love for them as I do anyone else. But tell me, if this law passed and I hired someone in my law office who was a gay, and I wouldn't have any problem with that, but I want to know what my rights are after I hire that person. And say he had...he and his live-in partner or whoever it may be, publicly displayed their affection in front of my office. Do you think that would cause any clients or person maybe to... [LB475]

SENATOR CHAMBERS: First of all...excuse me, if you didn't have 15 or more employees, it wouldn't apply to your law office. Secondly, there is conduct which carried on in public would be inappropriate for anybody, not just based on their sexual orientation. If you had a man and a woman working in your office and they engaged in these public displays of affection in front of your office, it could have the same impact. So I'm not talking about inappropriate behavior and conduct at the workplace. I'm talking about orientation and that also includes somebody accusing a person of being gay or lesbian and it's an accusation, because that status is looked down upon and scorned to such an extent in this society. [LB475]

SENATOR WIGHTMAN: Don't you think, Senator, that there are members of the gay and lesbian community that would test that? And let's say you fit within the group that have 15 or more employees. [LB475]

SENATOR CHAMBERS: Well, whether they tested it or not is no basis for determining the kind of laws that we enact. There are people who test all kind of laws; heterosexual people will. So that is no reason not to enact this law. [LB475]

SENATOR WIGHTMAN: Well, it's my opinion that there are many members of that gay community who would challenge that, and you probably would end up before the Equal Opportunity Commission. [LB475]

SENATOR CHAMBERS: Well, you don't know that, Senator Wightman, because a lot of people who are gay don't want to acknowledge it, not only because they might be discriminated against in the workplace but in the community, in the neighborhood where they live, if they have children who go to school. And for some people's information, there are gay people who will marry a member of the opposite sex and produce

Floor Debate
May 22, 2007

children. So it's a very complex situation that they confront, and it's so complex because of the attitude of others toward them. [LB475]

SENATOR WIGHTMAN: Don't you think that if I'm an employer and I employ 15 people and I have, let's say a man, male that's been working for me and he has a public display of affection out in front of my office, I can probably fire that male who is having the public display with a female much easier and without the risk of some repercussion under this proposed bill than I could if I discharged either a male or a female that was having a public display of affection with someone of the same sex? [LB475]

SENATOR CHAMBERS: But Senator Wightman, if you have a business and you have a code of conduct which is reasonable and applies equally to all, then a person has noticed. And if those principles are violated, termination can result. And if you're complying with a reasonable code of professional conduct, then they can sue you as much as they want to, but they won't get very far. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CHAMBERS: They probably would be subject to a motion to dismiss. [LB475]

SENATOR WIGHTMAN: I'll probably be defending myself. I guess I also have a question with regard to depriving them, they and their male partner or female partner of benefits as well. [LB475]

SENATOR CHAMBERS: That's not what we're talking about. Remember, Senator Wightman, no businessperson or organization opposed this bill. They weren't worried in the way that you are. [LB475]

SENATOR WIGHTMAN: Well, I have some concerns in that regard. Thank you, Mr. President. Thank you, Senator Chambers. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Aguilar. [LB475]

SENATOR AGUILAR: Thank you, Mr. President, members. I've been sitting here most of the afternoon listening to this debate. And I already have my opinion, and I know how I'm going to vote, and I really didn't have a need to get up and say anything. But there's a few misconceptions that I thought it was important to correct for the record. I heard one of our members get up and say that he thought it was wrong that we hire homosexuals as teachers because there would be too much temptation there. We're making very simple and common mistakes. We're confusing homosexuality and pedophiles. They're not one and the same. It's different, and to make the assumption that they are the same is nothing but bigotry. You can deny bigotry all you want, but if

Floor Debate
May 22, 2007

that's the way you think, that's bigotry. I get e-mails every day, and I will tell you that people think that if a Latino speaks Spanish, he's illegal. Bigotry. I'm sure Senator Chambers can tell you exactly the same thing about the black population. Bigotry--alive and well in Nebraska; whether we want to admit or not, it's there. When I worked at Central Catholic in Grand Island years ago, I had a good friend that graduated from there, went on to college at the University of Wyoming. Went out on his bicycle one day for a ride in the country, comes around a hill and there's another young man staked to a cross, dead, beaten to death and burned. Why? Because he was homosexual. Senator Carlson, you were making a comparison with the pages up there. That's the difference between homosexual and being a page and having to go by certain standards. Homosexual people, their standards are a little bit different, and they have to put up with a lot more. I'm one that doesn't believe in any kind of discrimination if possible. And that's all this bill does, is try to eliminate some discrimination. I'd yield the rest of my time to Senator Chambers. [LB475]

PRESIDENT SHEEHY: Senator Chambers, about 2, 40. [LB475]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Aguilar. I'd like to read something. The son of an immigrant said he had always been taught to accept people for who they are, not what they are. Experiencing discrimination because of his ethnicity was surprising to him at first, he said. Quote, it always took me aback; it's given me a whole different perspective. Senator John Harms. When he suffered the discrimination because of his Greek ethnicity, it took him aback. When you catch people with their guard down, they will let you know what they really are. I'm going to tell you all what I know. The people in this Chamber are better than what they're showing themselves to be by the words they're speaking and the position they're taking. They fear political repercussions. Left to express their true view and what ought to be done and nobody would know, this bill would pass easily. You wouldn't have found the tortured discussions that we've had this afternoon, the irrelevancies brought in to deflect our discussion from the simple point that this bill deals with--the right of a person to have a job and not be discriminated against when it comes to obtaining the job, holding the job, procuring advancement based on his or her merit, and not being discharged inappropriately based on sexual orientation. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CHAMBERS: You all don't know whether I'm gay or not. If I told you, like Senator Fulton, I'm a heterosexual man, how do you know that's true? Maybe because I'm gay, I'm always fighting for the rights of gay people because maybe I'm fighting for myself. You don't know that, do you? I've got children and grandchildren, but that doesn't mean anything. A gay man produces semen and sperm. A gay man can impregnate a woman. A gay man can have children. You don't know what I am and you'd probably say, wow, I feel easier about you because I know you're gay than I did

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

about the fact that you're black, because I know some fine white gay men. But what difference has it made? Senator Carlson, now that that question is there, he doesn't like me as much as he used to because if he does, they might think, uh-huh, there's something funny about him; he got sugar in his britches, too. (Laughter) That's the thing these kind of people have to hear; it's what they have to put up with. [LB475]

PRESIDENT SHEEHY: Time, Senator. [LB475]

SENATOR CHAMBERS: Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further senators wishing to speak on Judiciary Committee amendment, AM399? No lights are on. Senator Ashford, you're recognized to close. [LB475]

SENATOR ASHFORD: My! Thank you, Mr. President and members. Let me remind the body that this is an amendment that solely exempts from the provisions of the act religious institutions and related nonprofit organizations. Let me just...I would close there. There's been plenty of discussion. But I was so struck by Senator Aguilar and his comments. I just want to emphasize those. As he said, he didn't think he was going to speak but he was moved to speak, and I thought that his comments were moving. Let me just briefly give you some foundation for this amendment. In my mind, the reason we exempt religious institutions is because many religious institutions consider homosexuality as a sin. They have...those religious institutions have a perfect right to believe that. But when those types of feelings about groups of people translate into a denial of a job, many, many states, 17 states, more states each year have determined, their legislatures have determined and their governors have signed legislation which clearly state that sexual orientation, the denial of a job for sexual orientation is discriminatory and actionable. I thought Senator Wightman actually asked some good questions. I think that's the kind of debate that needs to happen. What are we talking about, what sort of conduct are we talking about, because that's what the courts look at when they determine whether or not...or the EEOC or whatever the...whichever agency is assigned the job of investigating these cases, determine whether or not the job action that was taken was violative of the act. And I thought that was helpful. But at its essence, this amendment simply recognizes that there are religious beliefs that conflict with this statute. And as such and consistent with other statutes across the country, this bill and this committee, the Judiciary Committee, felt that it was appropriate that we make this exemption for the reasons I believe that I stated. With that, Mr. President, I'd urge the adoption of AM399. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing to the Judiciary amendment, AM399. The question before the body is, shall AM399 be adopted to LB475? [LB475]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Call of the house. [LB475]

PRESIDENT SHEEHY: We do have a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB475]

CLERK: 32 ayes, 0 nays to place the house under call, Mr. President. [LB475]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Chambers. All unauthorized personnel please step from the floor. The house is under call. Senators, also please record your presence. Senator Heidemann, Senator Cornett, Senator Wallman, the house is under call. Senator Ashford, as we wait, how would you like to proceed? [LB475]

SENATOR ASHFORD: Roll call vote. [LB475]

PRESIDENT SHEEHY: Senator Wallman, the house is under call. Mr. Clerk, all senators are present. Senator Ashford states that it's okay to go with a machine vote. So the question at this time before the body is, shall AM399 be adopted to LB475? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB475]

CLERK: 25 ayes, 8 nays, Mr. President, on adoption of committee amendments. [LB475]

PRESIDENT SHEEHY: Committee amendment AM399 is adopted. The call is raised. Do you have items for the record, Mr. Clerk? [LB475]

CLERK: Two, Mr. President, thank you. New resolution, Senator Preister, LR215. It will be laid over. And I have a notice of hearing from the Judiciary Committee, signed by Senator Ashford. (Legislative Journal page 1743-1744.) Mr. President, with respect to LB475, the next motion I have is by Senator Erdman. He would move to indefinitely postpone the bill. Senator Chambers, you would have the option to lay the bill over. [LR215 LB475]

SENATOR CHAMBERS: We'll take it up. [LB475]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Erdman, you're recognized to open on your motion, number 82, to indefinitely postpone. [LB475]

SENATOR ERDMAN: Mr. President, members of the Legislature, I thank you. I have been listening to this discussion and to an extent, I can agree with Senator Chambers as to the quality of the debate. I will tell you that as we have embarked this legislative

Floor Debate
May 22, 2007

session on a number of legislative issues, it probably has been...the debate has been more appropriate, I would probably say--use that terminology--than the one that we have engaged in. Part of that, I think, is due to the fact of conceptions or perceptions, and part of that is due to the fact of the nature of the topic. Senator Schimek hands out a sheet that has a great list of employers that currently have in their nondiscrimination policy as a business...excuse me, that they have the policy that says that they shall not discriminate based on, I'm assuming the term is sexual orientation, the language that was handed out just says orientation. But you go through this and you see that there are a number of businesses that have already adopted that policy on their own. I'm not going to make the assumption that every business that's not listed there does discriminate. I'm also not going to make the assumption that every state that doesn't have a policy similar to LB475 discriminates, either. But I think it's appropriate for us to discuss this. And simply what this motion allows us to do is decide whether the support is here to advance this bill or not. There's two ways you can do it. You can put up a motion to indefinitely postpone or you can vote on General File and see where we end up. There are a number of other amendments that are designed to be clarifying to the bill. And if the body decides that there's sufficient votes to go forward with the bill, then we should take this up and spend the necessary time to make the bill better, should it become law. I'm interested, though, in some of the comments that have been made, specifically with the way that the bill is written. Senator Nantkes and Senator Ashford said that the amendments that will follow will clarify the definition that's in the bill. The only definition that I'm aware of that applies to the bill is the one that Senator Chambers gave us the last time we debated this bill. Senator Chambers' definition says that the only class or the only group of individuals that this term "sexual orientation" is designed to address are homosexuals. That was his definition, and I believe the comment was everyone knows that. And yet, as we get up and start discussing what the definitions are, there isn't that common understanding. In fact, if you look at the 18 states that have passed laws dealing with sexual orientation as a protected class, of the eight or nine that actually have written a definition, none of them are identical. So there is some discussion, and I appreciate Senator Nantkes passing out the information from the State Bar Association. I think this is appropriate for us to analyze these issues. We may not agree. We may not agree that this rises to the level of protection. Just because you have something written in law that says that you can't discriminate based on age, race, those areas or those protected classes, doesn't necessarily mean you can't discriminate in those areas either. The courts have ruled on that. But before I go there, I would also point out that previous versions of this bill have had different exemptions in it as well. LB19 was introduced by Senator Chambers, would have prohibited the discrimination against sexual...would exclude the prohibition against discriminating against sexual orientation from any bona fide religious organization or employer who is engaged or responsible for the care of education of children under 18 or residential care facility. There had to be a reason that was in there. Maybe it was political, and I think Senator Chambers understands the political process, and I think that's why the last amendment was proposed. You have to understand the entity in which you're in. But let me go and

Floor Debate
May 22, 2007

talk just briefly about something that I think is a good basis to deal from. And if we as a body decide that we're going to go forward with this bill, we can vote this motion down and we can fix the bill and move on. There are three general distinguishable characteristics or areas that the court will rule under heightened scrutiny that a class must fall under to qualify as a disadvantaged class. One, they have not been subject to discrimination. If they haven't been subject to discrimination, they don't qualify. Senator Chambers and others have displayed examples here on the floor where they believe that that burden has been met. The second one is, they do not exhibit obvious immutable or distinguishable characteristics that define them as a discrete group. I would say that there is a disagreement in this body about whether that burden has been met. Senator Kruse, Senator Avery, and others would tell you that it's a distinguishable characteristic. Others would say that it's not. And in fairness to some, they said it doesn't matter to them. They believe that we should protect this based on what they would like to see done. The third area is that they are not a minority or politically powerless. And the last part, I think, is important--politically powerless. Study after study has done that groups that are politically powerless have been afforded the rights that are generally found in the protected class or a protected class of citizens. I would respectfully argue to you that there are groups, while they may be in a minority, are not politically powerless in today's society, maybe even more politically powerful than those in the majority and maybe that's appropriate. But let me pose a question to you, and we'll see where the discussion goes. Senator Chambers and Senator Carlson have had some very candid exchanges this afternoon. Senator Chambers adequately, appropriately, and exactly pointed out that the church is not a building, that the church is not the stained glass, but the church is the people. And I believe, as Senator Carlson would also say, that the people are the temple, or those who are following the Bible would be the temple, the followers of Christ. And if the argument is that those individuals who attend that church should afford their leadership the opportunity to discriminate because they believe in that doctrine, I have to wonder out loud why that extension wouldn't go to those individuals who attend that church as well. The argument I've already heard back from Senator Chambers is, well, this is a right to employment, therefore they shouldn't be extended that right. Everyone has that right. Senator Nantkes would also argue that LB57, on the contrary to what her position was on that bill, is that everyone has a right to work. Under that bill, you pay your dues. If you don't, you get to go to court. And if you don't want to pay the dues or pay the fines, then you can quit your job. I think those issues are exterior to this debate. We have an exemption in here for bona fide religious organizations. If that's what the Catholic Church wants, fine. If that's what this body wants to accept as part of the other exemptions we provide, fine. But there's always a standard of why the exemptions are applied. If we're going to exempt the church organization but not the temple, not the individuals who hold to that doctrine, I kind of have to wonder out loud why that exemption should be allowed. But I recognize we're in a political body. I have information that I can distribute. But I do hope, in respect to Senator Chambers and others, as I have done in this bill so far, I have tried to engage in an understanding of how the courts will interpret law, what's appropriate for

Floor Debate
May 22, 2007

us to include, and whether there's a demonstrated need. And I look forward to a better debate than we've had so far. Thank you, Mr. President. [LB475 LB57]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Chambers, as the primary principal introducer of LB475, you have 5 minutes to respond. [LB475]

SENATOR CHAMBERS: Mr. President, members of the Legislature, all I'm going to say on Senator Erdman's motion is that it ought to be defeated. These bill should not be killed. It is clear that the groups we're discussing are discriminated against in Nebraska. Some of the people out in the lobby say hateful things out there and other places. One of them even made hateful comments about homosexual people during the committee hearing and said that Martin Luther King would have agreed with him. And I lit into him and said people invoke Martin Luther King's name for a lot of things, but I wasn't going to sit and let him say that what his hateful stuff was, was what Martin Luther King was about. And there were committee members on the Judiciary Committee, and maybe they agreed with this guy, but I wasn't going to sit there and let Martin Luther King, Jr.'s name be besmirched and sullied in the service of some of the most hateful things I've ever heard said by purportedly religious people about other human beings. My concern extends to convicted murderers, Senator Carlson. I would snatch them out of the hand of the executioner and say it's not for one man or woman or group of men and women to kill somebody else. That's how far my concern for human beings will go. And since I know that people who are homosexual or lesbian are discriminated against, I have no choice as long as I'm a member of this Legislature, other than to try to get something into the law that give those people protection and redress. How does it hurt me if somebody has access to the courts to vindicate a right that we all take for granted? And when I say we all, I'm speaking advisedly, because black people are often discriminated against in employment because of our race. We are. But because of what happens to us, I don't need a whole lot of reading of the Bible or the constitution or the Declaration of Independence or social studies, opinion polls, and statistical analyses to know how devastating it can be when people hate you because of what you are. Not only do they hate you and demonstrate it, but they can take action to harm you and your family and they do it. When I see people similarly situated, I want to help them. As I've said about children in school, I want nobody's child of any race to go through what I went through when I was a small child in public school. And even though different circumstances might put a white child in the frame of mind that I was put in by the way I mistreated by teachers, I wouldn't want that white child to experience the emotions that I experienced--isolation, abandonment, helplessness, vulnerability, set upon and attacked by the one you're supposed to respect. But it didn't weaken me. If anything, it made me what I am. Maybe if they had treated me better in grade school, you wouldn't have me trying to help so many other people who have no voice. And I'm not apologetic about anything that I've said. And when people can sit here and be comfortable when others are mistreated by wrongful conduct, why are they going to try to get sympathy when all I use is words and they have an opportunity to... [LB475]

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR CHAMBERS: ...counter my words and deal with me in the same forum where I utter my words? We chafe under words but are so insensitive and lacking in compassion that we feel no empathy toward people who are the victims of mistreatment in America, 2007, the bastion of democracy and freedom, denying people the right to have a job. I think that is pathetic. I think it is pitiful; it is undemocratic. And I'm simply trying to make the promises that have been made to people by this country realities. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have the following senators wishing to speak on the motion to indefinitely postpone: Senator Ashford, Senator White, and Senator Erdman. Senator Ashford. [LB475]

SENATOR ASHFORD: I was out getting a cigarette. That's not true. Thank you. And I would stand also in opposition to the motion for the reasons that Senator Erdman mentioned. He has discussed on the last time we debated this bill, discussed the definition of sexual orientation and brought those issues up. And we, as a response to some of the discussion that we had involving the definition, we have researched the various statutes. And Senator Erdman is absolutely right. Every state--most states--have differing definitions of sexual orientation, though for the most part they are very, very similar. And there have been a number of court cases at the federal level and at the U.S. Supreme Court in the last ten years or so that have affirmed definitions substantially, of sexual orientation, substantially similar to the definition that is in our amendment, the amendment I have filed later on. This is an important debate. I do think there is a significant difference between discrimination against someone who has a large nose or a small nose or is obese or not obese, though there certainly have been civil cases regarding discrimination on the basis of obesity. The difference between those kinds of cases and sexual orientation, of course, is that for centuries gays and lesbians have been discriminated against. And in this century, as I mentioned the other day, we all know about the discrimination that occurred, the state-sponsored discrimination, that occurred against gays and lesbians in Nazi Germany and in the Soviet Union. It just happened. It happened, and it could happen again unless we are vigilant. My concern here is that there are views that are prevalent amongst groups and amongst religious groups, amongst others who, as I mentioned before, who feel, for whatever reason, that homosexuality is a sin. That sort of thinking is within the purview and the right of the individual who believes that. What is of concern is when that translates into action against an individual, whether it's physical injury, we have a law against that. And I know there was some discussion earlier in the day about creating a new class. Well, we already have a class created. This Legislature has already...has determined that there is a definable class of individuals who are worthy of protection against physical injury and that class, homosexuals, others who are injured or

Floor Debate
May 22, 2007

threatened, or where injury is threatened, physical harm is threatened, we have determined that that class exists. There are an abundance of cases, multitudinous number of cases that have upheld those types of statutes, the hate crime statutes. And there are multitudinous numbers of cases that have upheld statutes similar to the one we are proposing here in states other than Nebraska in the area of employment. This is not a new or novel idea. This is an idea that has been tested. It is an idea that has been accepted by many, many states in this country, and it is being debated in other states as we speak. [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR ASHFORD: It certainly is a matter that is worthy of debate. I think all the senators that have discussed the meat of the matter have raised good issues. And we need to continue to debate those issues to come up with a standard that is acceptable to this body and to move forward. But this certainly is not worthy of being indefinitely postponed but is worthy of further debate and discussion. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator White. [LB475]

SENATOR WHITE: Thank you, Mr. President. I am privileged actually to go to my daughter's graduation and will be unable to stay for the rest of the debate and some of the vote, so I wanted to make my position quite clear. I support this bill. In my family, the obligation to work was one of the highest obligations a person has. I think most of us believe that anybody who is able must work. It's part of our obligation in a society that prides itself on self-sufficiency. With that obligation to me comes the right to work. I would urge my colleagues to recognize this does not just protect homosexuals. This protects heterosexuals as well. And in my career as a civil rights attorney, I've seen discrimination on both points. I don't really care what people think as to what the sexual activity of another human being is, right or wrong, sin or not. I think those all can be argued in good faith and held certainly in good faith. But I come down to an immutable principle. In this country, you have not only obligation but the right to work. Thank you. [LB475]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Erdman. [LB475]

SENATOR ERDMAN: Mr. President and members of the Legislature, let me either show my ignorance or display my knowledge and open the opportunity...Senator White stopped and he's going to come back in, so maybe he's going to help me with the knowledge. But the access that you would have for remedy or the opportunity that you would have for remedy--and again, you're talking about different issues--Senator Chambers is right. You can get up and argue constitutional rights. You can get up and argue statutory rights. You can get up and argue these different aspects of law. And

Floor Debate
May 22, 2007

he's right, you don't have to read that and neither do I. But generally, if you go through the process of understanding how classes were arrived at, either through court action or through legislative process, there's generally a distinguishable set of characteristics. And as I mentioned earlier, if somebody is going to try to create a remedy for something that isn't currently protected, they have to meet three general areas in the court. Obviously in the legislative process you don't have to meet a whole lot of burdens, other than the fact that you can distinguish what that class is. And for the purpose of this bill, a definition would have probably helped that. But you can set that class up to be whatever you want so that individuals could not discriminate based solely on that purpose. That doesn't mean that there isn't other remedies, it just means that in this area of employment law, that you would have this protection afforded to you based on the political body of the state of Nebraska, and that's the Legislature. Let me go back to...as a historical matter, these are the three characteristics or these are the three tests, if you will. They have not been subject to discrimination. There are a lot of classes of individuals, whether they're born that way or have chosen or whatever application you want to make to that class of individuals, whether it's obesity, go down that list, or depending upon the debate on nature versus nurture on sexual orientation and those, the definition as we are yet to define, would apply. Have they been subject to discrimination? That in itself does not rise to the level, as I understand the precedents of the courts and their interpretation, of a protected class. It is one of the three prongs that must be analyzed. If the answer to that is yes and you have been discriminated against, then you go to the other two. Or maybe they're not mutually exclusive in this order, but these are the three. They do not exhibit obvious immutable or distinguishable characteristics that define them as a discrete group. There are arguments about whether or not someone is distinguishable in whatever group they may fall into, and as Senator Chambers has pointed out, the complexion of your skin, depending upon which race you may fall into. Others have pointed out examples that are not being protected, nor are they protected constitutionally, such as obesity and other areas. There are different standards, if you will, that may be applicable and may not be applicable as to whether or not they fit within a discrete group. In other words, a distinguishable group that is identifiable. And then finally, they are not a minority, and then there's an "or" that's read conjunctively. They are not a minority or politically powerless. I would argue that if you're going to get, by no understatement, the most powerful member of the Nebraska Legislature to carry your legislation or to take the cause and what you believe is right for your minority, first of all, you're not politically powerless. Second of all, if you look at politics on a national level, numbers of organizations have become involved that are driving national policies reflective of the issues that we're debating today. Some of them are as Senator Chambers is providing to us. It's a matter of fairness. Some are driving them... [LB475]

PRESIDENT SHEEHY: One minute. [LB475]

SENATOR ERDMAN: ...as a matter of acceptance. And others are somewhere in

Floor Debate
May 22, 2007

between in the area of tolerance. The reason why you need LB475 and other states have passed legislation similar to this and my understanding of the law is that because you can't meet the tests that the court would generally apply a protection. As Senator Chambers and I spoke of earlier, the courts, when they determined that the equal protection clause would apply to the states--and I may not have this exactly right--but the courts interpreted a section of the Nebraska Constitution to make that a reality in Nebraska as well. They did not have to have the special legislation to create that situation or to create the remedy for those individuals who are being discriminated against. So these are somewhat different than the other listings that are there. And to be admitted or to admit up front, religion is different, because religious freedom was one of the founding principles of this country. That's both the freedom to worship as you choose or freedom to not worship. And so it is somewhat different. Thank you, Mr. President. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Further discussion on the motion to indefinitely postpone? No lights are on. Senator Erdman, you're recognized to close on your motion. [LB475]

SENATOR ERDMAN: Thank you, Mr. President. Members, again I will tell you that this is a test for us to determine whether we proceed or not. And that's all it is designed to do. If a majority of the members vote in favor of this amendment, that will be a decision. And if the majority of members vote no, that will be the obvious decision, and we can proceed with other amendments that are filed. I have little else to add, and we will wait and see the outcome of this motion. Mr. President, I'd ask for a call of the house, please. [LB475]

PRESIDENT SHEEHY: Thank you, Senator Erdman. There has been a request for a call of the house. The motion before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB475]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB475]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please return to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senator Schimek, Senator Burling, Senator Stuthman, the house has been placed under call. Senator Schimek, Senator Burling, the house is under call. Please return to the Chamber. Senator Erdman, all senators are present. How would you like to proceed? [LB475]

SENATOR ERDMAN: Let's proceed with a machine vote, Mr. President. [LB475]

PRESIDENT SHEEHY: We will proceed with a machine vote. Again, the question

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

before the body is on the motion to indefinitely postpone LB475. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB475]

CLERK: 24 ayes, 15 nays, Mr. President, on the motion to indefinitely postpone. [LB475]

PRESIDENT SHEEHY: Motion to indefinitely postpone fails. [LB475]

SENATOR ERDMAN: Mr. President. [LB475]

PRESIDENT SHEEHY: Senator Erdman. [LB475]

SENATOR ERDMAN: Mr. President, pursuant to the legislative rules, a motion to indefinitely postpone on General File requires a simple majority vote. [LB475]

PRESIDENT SHEEHY: Correction: those in the yeas do prevail. The call is raised. We will now move to the next item under General File, LB570. Mr. Clerk. [LB475 LB570]

CLERK: Mr. President, LB570, a bill on General File, offered by Senator Louden. (Read title.) The bill was introduced on January 17 of this year, at that time referred to the Transportation Committee. The bill was advanced to General File. Committee amendments were presented, Mr. President. That's where the Legislature left the issue, with committee amendments pending. (AM690, Legislative Journal page 871.) [LB570]

PRESIDENT SHEEHY: Senator Louden, would you like to give us a brief summary of LB570? [LB570]

SENATOR LOUDEN: Thank you, Mr. President and members of the Legislature. LB570 would allow the State Department of Motor Vehicles to issue Gold Star motor vehicle license plates. This would require the Department of Motor Vehicles to design a Gold Star family plate to...with the State Department of Military and the State Department of Veterans' Affairs. I introduced LB...a portion of the fees for the plates would go to the operation of the fund of the Nebraska Veteran Cemetery System. I introduced LB570 at the request of constituents who have lost children in the war in Iraq, and they learned of the gold star plate being offered in other states. And as far as I know, the plates are offered in eight other states at this time, and there is legislation pending in seven others. The history of the gold star plates...or, for those of you that would need some background on it, the custom of using a gold star plate to denote a military death goes back many years. It was used during World War I on service flags and on black armbands. During World War II, the practice was continued. Families hung in their windows service flags with a blue star for every person serving in the military. If a serving family member died, the blue star was covered over with a gold star, to show that the family had lost a loved one. Eventually, Congress directed the Department of

Floor Debate
May 22, 2007

Defense to design and distribute a lapel button to be known as a Gold Star Lapel Button, to identify widows, parents, and next of kin of members of the Armed Forces of the United States who lost their lives during wartime. As far as I know, that lapel pin is still issued today if a family member requests it from the Department of Defense. No matter how you personally feel about license plates and their relative importance to you, I would like you to think that LB570 from the perspective of the parents who have asked for the legislation. These parents...to these families, having an option for a Gold Star license plate is important. The cost to the state is minimal. In the age of digital technology, license plate design and manufacturing are not costly. The Department of Motor Vehicles Director Beverly Neth has stated that designing and producing different plates is no longer the expensive undertaking that it once was. Therefore, I believe we can put aside the concerns about the cost to the state to provide Gold Star plates. The bill provides that a portion of the fee will go to the Department of Motor Vehicles Cash Fund to cover the cost of the plates, and the remainder will go to the Nebraska Veteran Cemetery Operation Fund. Those of you that were here last year may remember that the first veteran cemetery is scheduled to be built relatively soon, near Alliance. Though the fees would help support the cemetery operations, I did not introduce LB570 in order to generate funds for the cemetery. I don't think we should look upon the loss of members of the military as a way to put money into a fund. However, the parents who asked me for the legislation suggested themselves that some of the proceeds go toward the veteran cemetery, and I felt that if those who want the plates also wish to send the funds to the cemetery, then I have no objection to that. The bill directs the Department of Motor Vehicles to consult with the Military Department and the Department of Veterans' Affairs to design a Gold Star license plate. The DMV would rule and regulate authority to carry out the provisions of the bill. Persons eligible for a plate would be the surviving spouse, parents, grandparents, siblings, and children of people who died while on active duty in the military service of the United States. The bill provides that the plates will be issued upon presentation to the Department of Motor Vehicles of proof satisfactory to the Department of Motor Vehicles that the applicant is an eligible person. Satisfactory proof may be provided by a number of different documents. I would ask that you support LB570. This is something that, as we have young people perishing in the war overseas, that this is what...is something that would be the right thing to do for these people, to show the respect that we have for the people that have suffered and for those that have lost loved ones in these foreign wars. With that, thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Loudon. Senator Fischer, would you like to give us a summary on the introduction of the committee amendment, AM690? Senator Fischer? [LB570]

SENATOR FISCHER: Thank you, Mr. President and members. As you remember from the previous debate that we started on LB570 and my introduction to the committee amendment, the main purpose of the amendment is to add the word "family" in various

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

sections, so it's the Gold Star Family plates. And with that, I will close. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Fischer. The floor is now open for discussion on committee amendment AM690. Senator Wallman, followed by Senator Chambers. Senator Wallman. [LB570]

SENATOR WALLMAN: Thank you, Mr. President. May I ask Senator Fischer a question? [LB570]

PRESIDENT SHEEHY: Senator Fischer, would you yield? [LB570]

SENATOR FISCHER: Yes. [LB570]

SENATOR WALLMAN: Thank you. By "family," you mean siblings and mother and father? [LB570]

SENATOR FISCHER: Yes. [LB570]

SENATOR WALLMAN: Thank you. I've had many relatives in the service, and also have some gold star people in our congregation that have died for their service for their...in their country, overseas. And I...it's a special time of year coming up. I think it's something we can do for our servicemen. I know we just did probably a very iffy thing here by trying to legislate morality or fairness to all. And we cannot be fair to all; I realize that. But if you give your life for your country, or some people are injured,...I'd even have no qualms about giving plates for that--paraplegics, I know some of those, and they're suffering the ultimate price, probably. And so any kind of a plate we can give, I don't think it's an inconvenience to the Motor Vehicle Department. If it is a little bit, what's a little bit? I'd urge support of this amendment. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Chambers, followed by Senator Langemeier. Senator Chambers. [LB570]

SENATOR CHAMBERS: Mr. President, members of the Legislature, we're back on this emotional, misguided bill. I'd like to ask Senator Loudon a question or two, since he is the champion. [LB570]

PRESIDENT SHEEHY: Senator Loudon, would you yield for some questions? [LB570]

SENATOR LOUDON: Yes. [LB570]

SENATOR CHAMBERS: Senator Loudon, do you have a copy of the bill before you? [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR LOUDEN: Yes, I do. [LB570]

SENATOR CHAMBERS: Would you turn to page 3? [LB570]

SENATOR LOUDEN: Okay. [LB570]

SENATOR CHAMBERS: Have you got it? [LB570]

SENATOR LOUDEN: Yeah. [LB570]

SENATOR CHAMBERS: In line 21, beginning with "a person," it says, "a person who died while on active duty in the military service of the United States." That doesn't just apply to people who died in combat, does it? [LB570]

SENATOR LOUDEN: No. They'd be on active duty. [LB570]

SENATOR CHAMBERS: And it doesn't apply to people who are serving honorably, does it? [LB570]

SENATOR LOUDEN: Say that again? [LB570]

SENATOR CHAMBERS: It does not apply...it also applies to people who were not serving honorably, doesn't it? [LB570]

SENATOR LOUDEN: Well, if they're court-martialed, they won't...they're not...that's a different story. This doesn't apply to someone who's been court-martialed, because they... [LB570]

SENATOR CHAMBERS: Oh, but it does, because they're on active duty. [LB570]

SENATOR LOUDEN: Yeah, but I think once they're court-martialed, then they're out of the service. [LB570]

SENATOR CHAMBERS: If they died while they were serving their time, then it applies. The person must die. I'm agreeing with that. That's what the language says. But if a person...was Timothy McVeigh held in a military prison, the one who bombed the federal building in Oklahoma? [LB570]

SENATOR LOUDEN: They weren't on active duty when they did that. [LB570]

SENATOR CHAMBERS: They what? [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR LOUDEN: They weren't on active duty when they... [LB570]

SENATOR CHAMBERS: Oh yes he was. He was in the military. He was held in a military prison, wasn't he? [LB570]

SENATOR LOUDEN: Yeah, but at the time, he was out, wasn't he? [LB570]

SENATOR CHAMBERS: Was he executed by the federal...by the U.S. government? [LB570]

SENATOR LOUDEN: I suppose he was, because it was a federal offense, the bombing was. That was probably the reason he was on that. [LB570]

SENATOR CHAMBERS: I would like to...there is nobody here who...is there anybody here who was in the military? All right, then I'll just talk. (Laugh) They decided to break camp. The term used in the military when you take off is "decamp." They decamped. That's all I'll ask you, Senator. [LB570]

SENATOR LOUDEN: Yeah, because I thought that was...I thought his first name was John. [LB570]

SENATOR CHAMBERS: Who? You mean Timothy McVeigh? [LB570]

SENATOR LOUDEN: John DeCamp. [LB570]

SENATOR CHAMBERS: Oh, I see what you're talking about. (Laugh) Okay. Yeah, well, some people take different names for different purposes, and he often did "decamp." Members of the Legislature, we had some discussion last time this bill was up along the lines that I'm pursuing now. If you have a bunch of soldiers on a military base and they get into a drunken brawl and one or some of them are killed, their families qualify under this bill, because they were on active duty. All you have to do is die on active duty. You cannot put a civilian into a military prison. So this bill reaches way beyond what people are talking about on this floor, just like in the last bill people were talking about things that were irrelevant to the bill. We're hearing it said repeatedly that these people gave their life in defense of their country, or the suggestion is that they died in combat. That's not true. That's not what this bill is limited to. But there is so much emotional content associated with this subject that there's not going to be any attempt to write the bill as it should be. And I'm surprised that Senator Erdman, who has taken such an interest lately in drafting bills, has left the floor. But I know what Senator Erdman is about,... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

Floor Debate
May 22, 2007

SENATOR CHAMBERS: ...and I think we all do. There is a tendency to pick and choose the issues that will be addressed, and I choose this among many issues that I address on the floor of this Legislature, and I am as opposed to this bill today as I was the other day. And for you all's information, what I suggested would happen has started happening. There are ads appearing in the newspaper, especially put by grocery stores and some furniture companies to make your Memorial Day purchases and the breaks you're going to get. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Louden, followed by Senator Chambers and Senator Langemeier. Senator Louden. [LB570]

SENATOR LOUDEN: Thank you, Mr. President. As you talk about...as Senator Chambers has mentioned on...as he read that part on the person that died on active duty in the military service, I don't have any problem with that, myself. If a mother's son over there got killed over in Iraq driving a vehicle off in a ditch or something, he's just as gone as if he got shot. So I don't have any problem with deciding whether it's combat or otherwise. They're over there, they're in the service, they're in dangerous areas, and something has happened to them, either way. So that part I had no problem with. Part of the reason we left that in there is because it's hard to start sorting it out. Nowadays, with the way these wars are going on in the world, who knows exactly where combat zone is? So that part isn't anything that I would see that would be anything that would take away from the fact that these people are entitled to a Gold Star license plate, and a family plate, or however you want to describe it. I think the whole idea of it is, is to recognize and honor those people that have served. I think here in the U.S. News & World Report, the last magazine out has a whole story on a young man that went over there, and had his pictures, his diary. In fact, he was interviewed, and then he didn't return from one mission one day. Sure, he died in combat and there was no question about it. But then again, you look in the paper at some of these people that have passed away. Every time you look, and I think it's in the Lincoln Journal or one of these papers, there's always a list of the people that have perished over there from different parts of the United States over there. And as I was reading some of them the other day, some of them wrecked their machines that they were driving in, drove them off in a ditch or something like that. Nonetheless, they're just as gone. And as far as I'm concerned, whether they got shot by sniper fire, "blowed" up by roadside bombs, or whether they wrecked their vehicle or whatever, airplane crash or whatever you want to call it, it's...the outcome was the same. And as far as I'm concerned, these families are just as well entitled to having this license plate designation if they so desire. If they do not wish to have it, then that's their choice. It is something a matter of choice. It isn't something that they have to have, I guess. No one tells them to do it. But it's like one of the members of the...Mr. Wolf said, this isn't something that you wish to join and be able to do; this is the last thing that a lot of people would certainly want to have, is the privilege to go buy one of these license plates. I can't imagine what it would be like to do that. But I still think, if these people want recognition and they're entitled to it, then that's the least

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

that we can do as citizens of Nebraska and citizens of the United States, is to honor those people that have went through that type of trauma and have lost loved ones in something like this. I was young enough to remember what it was like for World War II. I remember some of the boys didn't come back. And this was quite a trauma for some of the mothers and fathers that lost sons and daughters overseas there. Some of the ladies...the lady where I boarded when I went to high school, she had her gold star hung in the window, and it hung in there, as far as I know, till she moved out of the house. So this is something that's...I think is... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR LOUDEN: ...needs to be done, and this is something that I don't think should be taken lightly. I think it's something that we need to proceed for. And I really think it is somewhat, like I've said before, somewhat crude that we have to discuss this for hours in order to get something like this done. It's a small thing that we can do for the people that have served from Nebraska. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Chambers, followed by Senator Lathrop and Senator Langemeier. Senator Chambers. [LB570]

SENATOR CHAMBERS: Mr. President, I would like...and members of the Legislature, I'd like to ask Senator Louden a few more questions. [LB570]

PRESIDENT SHEEHY: Senator Louden, would you yield to some questions? [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR CHAMBERS: Senator Louden, why do you keep saying they're over there in Iraq? [LB570]

SENATOR LOUDEN: Well, that's mostly where the headlines are coming from now, and that's mostly where more of the casualties are at the present time. [LB570]

SENATOR CHAMBERS: But you're aware that there are people on active duty who are serving in this country, aren't you? [LB570]

SENATOR LOUDEN: True. [LB570]

SENATOR CHAMBERS: And they're on military bases. [LB570]

SENATOR LOUDEN: Right. [LB570]

SENATOR CHAMBERS: And when they go home on leave, they're still on active duty,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

isn't that true? [LB570]

SENATOR LOUDEN: That's true. [LB570]

SENATOR CHAMBERS: If they steal a car and get shot by the police, then they were killed while on active duty, weren't they? [LB570]

SENATOR LOUDEN: I think they would probably be discharged. I don't think they would be eligible for some of their insurance benefits and that sort of thing if they've been in something like that. I'd have to talk... [LB570]

SENATOR CHAMBERS: But weren't they on active...? [LB570]

SENATOR LOUDEN: Are you sure about that, Senator? Have you talked to some of the people from the Veteran...from the Military Affairs on that position? [LB570]

SENATOR CHAMBERS: Weren't they on active duty when they died? I'm going by the language in the bill. If they're on leave, they're on active duty, aren't they? [LB570]

SENATOR LOUDEN: I suppose they would be. [LB570]

SENATOR CHAMBERS: And if they die while on active duty, then this bill covers them; isn't that true? [LB570]

SENATOR LOUDEN: Okay, that would give the people that...the survivors would have the choice to apply for these plates. It doesn't mean...but I think they've got to apply through the Department of Military...through the Department of Veterans' Affairs and the Military Department in order to get approval to buy these plates. [LB570]

SENATOR CHAMBERS: That's not the issue, because there are some people who don't believe in ostentatious shows or exploiting the fact that a family member died, and they wouldn't apply anyway if the person got a Congressional Medal of Honor. So this is some of that ostentatious display by which the death of somebody is exploited, and it's supposed to bring benefit to the survivors. Are...did you talk to some of the people at the Veterans' Affairs Department about some of these issues that I raised last time? [LB570]

SENATOR LOUDEN: Since then, yeah, we've asked some people from the Department of Veterans' Affairs. But as you'll notice on the page 2 there, you know that some of this stuff has to go through the Department of Affairs in order to...for them to get...to receive their plates, or for... [LB570]

SENATOR CHAMBERS: I'm referring specifically to some of the issues that I raised

Floor Debate
May 22, 2007

about the circumstances under which a person can die and this bill would cover that situation. Did you ask them about that? Did they tell you that I was inaccurate when I said if somebody were court-martialed and sentenced to a number of years in federal prison, or the brig, as they call it, then they're not on active duty, even though they're under...? [LB570]

SENATOR LOUDEN: If I remember correctly, Senator, you asked if somebody was executed or something like that, it seemed like, to me, the way the questioning was. And the answer that I got was that before they're ever executed, they're dishonorably discharged before. And I think the same way when they go into jail; they're dishonorably discharged before they go in. I don't think you go in with your stripes. I think you go in without your stripes. [LB570]

SENATOR CHAMBERS: So these people told you that a person is dishonorably discharged, which makes that person a civilian, then he or she is imprisoned in a military prison? That's what they told you? [LB570]

SENATOR LOUDEN: That's my understanding, if it's in a military prison. [LB570]

SENATOR CHAMBERS: That's what they told you, that that person is put in a military prison while not being in the military? That's what they told you? How can the military have jurisdiction over a civilian? [LB570]

SENATOR LOUDEN: That I don't know, Senator. But it's my understanding that... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR LOUDEN: ...when you go into a military prison, you're probably going to be dishonorably discharged, or you're busted back to a private, or whatever it is. But you don't come out... [LB570]

SENATOR CHAMBERS: Well, if you're busted back to a private, you're still... [LB570]

SENATOR LOUDEN: ...you don't come out of there with your stripes, anyway. [LB570]

SENATOR CHAMBERS: But you're still in the military; isn't that right? [LB570]

SENATOR LOUDEN: That I would have to find out, whether you're in the military when you go in, or whether they wait until you come out. [LB570]

SENATOR CHAMBERS: Well, if you come out of the military prison and you have your stripes, you're still in the military; isn't that true? You're a private. You're still in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

military. You're subject to military law. Isn't that true? [LB570]

SENATOR LOUDEN: That I don't know, Senator. I'm not that... [LB570]

SENATOR CHAMBERS: Okay. [LB570]

SENATOR LOUDEN: ...I'm not that familiar with the military on where it's done. All I've done is research part of it from a civilian's point of view. And most generally, what I've been told is that you would usually be court-martialed, and when you're court-martialed, you're... [LB570]

SENATOR AGUILAR PRESIDING

SENATOR AGUILAR: Time. [LB570]

SENATOR LOUDEN: ...you're out of it. [LB570]

SENATOR AGUILAR: Senator Lathrop, you're next and recognized. [LB570]

SENATOR LATHROP: Thank you, Mr. President. Again, I rise in support of LB570. And you know, I spoke about this issue the last time, and again today it comes up, and we're still arguing over the language. And this...the people that would be entitled to this plate, they refer to them as the group...the club that nobody wants to join. They have lost a son or a daughter or a husband or a wife, someone in the family, in military service. And today we're attempting to pass a bill that will allow them to have a gold star on their license plate to acknowledge the sacrifice of their son or daughter. And I'm having difficulty, as I listen to the discussion that picked up pretty much where we left off, whether the argument is, a license plate should just have numerals on it, perhaps with background, and we shouldn't allow any plates that impart any other information or might otherwise advertise someone's participation in a group; or whether we're arguing over who should be in that group. If the question is, or the issue is, a license plate should just be plain, it should have just the numerals, we shouldn't say, disabled vet, it shouldn't have a gold star, then the best...that argument, reduced to its simplest terms, is that consistency is what we want; the plates should all look the same because consistency has some value. And I will tell you, I think that's a weak argument for not supporting this bill. On the other hand, if the argument is that we haven't sufficiently defined which families would be entitled to that Gold Star plate, then I'd be happy to work with anyone who has concerns about that, over defining it to be the...and better define the class of people or the class of circumstances under which someone serving our country has died that might entitle the family to a gold star. I'm glad, at least, that we're talking about the issue relative to the plate and why it's a good idea or a bad idea, and not off on tangents. And I mean that sincerely, Senator Chambers. If your concern is with how we've defined the class of people that have been killed in the service of our

Floor Debate
May 22, 2007

country, I'll work with you on the language if that will bring you aboard. I kind of suspect that it won't. I don't know. Maybe you can answer that question for me. If we can't make changes to it, then the argument truly is that consistency is the best argument for not supporting LB570. And I think, again, you are the champion of criticizing consistency. And I would, again, offer my assistance in redefining the class of soldiers that we're trying to...whose families we're trying to honor, and otherwise ask you to support LB570. Thank you. [LB570]

SENATOR AGUILAR: Thank you, Senator Lathrop. Next to speak is Senator Langemeier, followed by Senator Louden, Chambers, and Carlson. [LB570]

SENATOR LANGEMEIER: Mr. President, members of the body, and those out watching this on television, because there's not many of us in here. Senator Louden, would you yield to a question? [LB570]

SENATOR AGUILAR: Senator Louden, would you yield? [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR LANGEMEIER: Senator Louden, Senator Chambers has asked you a number of questions about the intent of this language and maybe its need to be narrowed down to actually get right to the heart of what you're doing with this bill. Have you...this is the third time on the agenda. Have you sat down and ever asked if there's wording out there that could be changed? Have you ever had that discussion? [LB570]

SENATOR LOUDEN: With who? [LB570]

SENATOR LANGEMEIER: With Senator Chambers, pardon me. [LB570]

SENATOR LOUDEN: No, I haven't. [LB570]

SENATOR LANGEMEIER: Okay, thank you, Senator Louden. This is the third time we've discussed this. Senator Lathrop has very eloquently--I would agree with everything he said--very eloquently said we've left off where we ended last time. And we have. I think for these bills to come up here, I think there has to be some ability to work with your opponents. However, I don't think anything could be done here to resolve Senator Chambers' issue with this bill. At least, in my three years, he's opposed this every time it's come up. But I think some effort needs to be put into trying to get to a resolution. We do it on every other bill. Yet, we're here to burn hours upon hours upon hours with no effort to do anything, and that I find troubling. And with that, I would yield my time to Senator Chambers. [LB570]

SENATOR AGUILAR: Senator Chambers, you have 3 minutes and 15 seconds.

Floor Debate
May 22, 2007

[LB570]

SENATOR CHAMBERS: Thank you, Mr. President. And thank you, Senator Langemeier. Members of the Legislature, and especially Senator Lathrop, who got here for his first term, I have always opposed this. The suggestion was floated last time that I supported those so-called spirit plates. If you look in the Journal, you'll see I voted against them. I did make a mistake. I said that when I had persuaded the Legislature to have nothing on the plate except the numerals and "state of Nebraska" or "Nebraska," I said they were called...the nickname was "Nebraska-lite." No, they were called plain-label plates. That's what they were called in those days, plain-label. And that's what I believe, and that's what I'll continue to believe, and that's what I'll continue to push for. Until you can persuade me that license plates issued by the state serve any other legal purpose than to show that a person is legally operating that vehicle on the highways of the state, then I'm going to keep this position. If they try to put something for the Shriners, as Senator White suggested last time, perhaps something to honor Malcolm X, I would oppose them. If they tried to put my name on it, I would oppose...wait a minute. (Laughter) A car with my name on it might be the target of hostile fire. But no, I would oppose that, too. The fact that blunders have been made and unwise decisions have been taken by the Legislature in the past has never caused me to say that additional blunders of the same variety should be made now because the door is open and the genie is out of the bottle. The way I function as a politician is to deal with these issues that come up. And because I was outvoted in the past doesn't mean I won't fight against that same thing when it rears its head again. [LB570]

SENATOR AGUILAR: One minute. [LB570]

SENATOR CHAMBERS: And if this goes to a vote, I'll probably be on the short end again. I think the Speaker caved because there was a lot of hostility expressed, especially at me, for having the audacity to be opposed to something like this. All these people that went to Senator Loudon, they can put anything they want to on a bumper sticker. They can paint any sign they want to on their car. Let them do that. That's them. They're expressing their view. They're using their property in the way they please. But even there, they can't do anything that they want to, because if they hang something from their rearview mirror inside the vehicle and it obscures their vision, that violates the law and they can get a ticket. If they put something on the windshields that will obscure the vision of law enforcement officer trying to peek inside, that can... [LB570]

SENATOR AGUILAR: Time. [LB570]

SENATOR CHAMBERS: ...result in a ticket. Thank you, Mr. President. [LB570]

SENATOR AGUILAR: Thank you, Senator Chambers. Senator Loudon, you are next, and you are recognized. [LB570]

Floor Debate
May 22, 2007

SENATOR LOUDEN: Thank you, Mr. President, members. Well, I would certainly agree with Senator Chambers. If they tried to put his likeness on a license plate, I would also be one to help fight that off, too. (Laugh) And certainly, Senator Chambers' views on license plates do. And I...that's his views, and I don't hold that against him, because that's what he thinks, and this is what it's all about. What I've brought forwards is something that I think is something that needs to be done out of compassion, or whatever you want to call it. But I think it's something that needs to be done to...for the people that have had this enormous loss to their families and when they've sacrificed someone in their family to the defense of our country. Now whether it's right or wrong, I do not get into a debate over whether that war is right or wrong, or any wars have been right or wrong. That's something else, somebody, and it's altogether a different argument. The debate here today is, should we do license plates for these people and honor these people that have sacrificed and lost loved ones to these foreign wars and other wars? Now as far as the active duty or how it should be done, the reason this was written in here was because most of the military people told us that it gets very hard to decide who was done on active duty, and if they were on active duty, where there were and what happened. That was the reason that was written into the bill such as it is, was mostly to get away from a lot of research and, what would you say, detective work, I guess, to find out exactly what happened. There's a whole list of ways that the federal government would hand out some of these plates, or the...and they have killed in action and different ideas like that, because some of the terms in different wars, World War II and Korea and the Vietnam War, they were...they could have been...died in...non battle, and injuries in combat, injuries in the line of duty status, died of wounds, died while captured, died while missing, hostile action killed, killed in action, missing, nonhostile, died of illness or injury, nonhostile, died of other, and finding of a death under Public Law 490. So there's other ways, there's many ways. And so in order to get away from a description or describing all the different ways in the bill, to make it a nice, smaller, clean bill that would probably serve the purpose...because hopefully there won't be that many people that have to apply for these plates. It is set up so people that lost loved ones in World War II, Korean War, and Vietnam War can get those plates, too. In the World War II, for example, out of Nebraska, there was nearly 3,000 people that died just out of the Army and the Air Force. Korea, there was over 307; Vietnam, there was nearly 400. Iraq, so far, there's been 37. And of course, as we all know, that's still climbing, which is another argument, as I say, with Senator Chambers. I probably agree with him on that, that this is something that is another debate. But nonetheless, the debate is, is what we do about these people at the present time now. So hopefully there won't be...I would like not to see a whole flock of these plates driving up and down the highway. This is something these people, I think, would like to have that recognition if they so desire. They don't have to have it. Many of the people maybe wouldn't want to have that plate on their cars. Maybe they couldn't...it would be too much of a trauma every time they walked out there and saw that car. The same way with the stones. I'm sure those people, when they walk by the courthouse in Rushville... [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR AGUILAR: One minute. [LB570]

SENATOR LOUDEN: ...and see their son's name carved in stone, that's something else. They're doing this all over in different parts of Nebraska. They are carving into these memorials. The courthouse in Sheridan County has World War I...people that lost their lives in World War I, World War II, and on down through the years. And they have their...I hate to say there's still room on those stones to carve some more names. I would wish that there would always be room on them. Thank you, Mr. President. [LB570]

SENATOR AGUILAR: Thank you, Senator Louden. Senator Chambers, you are next and this is your third time. You are recognized. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I don't see Senator Lathrop, but this is the most hypocritical country in the world when it comes to treating people who served it. You saw what was happening, was it Walter Reed Hospital, and these veterans were treated worse than Cinderella was treated by her wicked stepmother. When men and women came back who had been exposed to Agent Orange, the first thing you-all's government said: That's a hoax, there's no such thing as any ailment coming from Agent Orange. When they suffered posttraumatic shock, the first thing your government said: There's no such thing; they're trying to hustle money from the government. There are widows of men who died in combat who are not being given the amounts of money they should have gotten when one died under those circumstances, because the government doesn't want to deliver. And you all going to look at me because I'm opposing a license plate, and you don't even know about what I'm talking about now because you don't care. You don't keep track of how these men and women are mistreated. They catch hell trying to get medical treatment, even in this state. And you all talking about license plates because it gives you a chance to pontificate and have your hypocrisy on display and make it look like something noble. How many young men, young women--and we won't talk about the older ones--who are wearing prosthetic devices because of injuries they suffered on active duty? Who even cares? When is the last time anybody here went to visit vets in the hospital, since you all care so much about them? If they dead then that's all right, because you can evoke people's emotions. That doesn't cut any ice with me. I look at what really is of consequence. I look at how the living are treated. That's what gives me an index into the character of this country, the government, and the people in this country. Making an appeal to emotions will not get it with me. I'd like to ask Senator Louden a question or two. [LB570]

SENATOR AGUILAR: Senator Louden, would you respond to a question? [LB570]

SENATOR LOUDEN: Yes. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Senator Louden, if you turn to page 3 there is a listing, beginning on line 20. The applicant can be a surviving spouse, whether remarried or not; a parent; a grandparent; a sibling; or child. Suppose one of these persons had been reared by his aunt from the time he was an infant and that was the only parental figure he knew, or she, because young women die too. That aunt could not get these plates, isn't that true, because she's not on the list? Isn't that true? [LB570]

SENATOR LOUDEN: Not unless...not unless she was...he was adopted or was... [LB570]

SENATOR CHAMBERS: Not adopted. [LB570]

SENATOR LOUDEN: ...was appointed. [LB570]

SENATOR CHAMBERS: Not adopted. She couldn't get these plates, could she? [LB570]

SENATOR LOUDEN: Probably not, not unless there was something else written in here that whoever raised the child or something like that... [LB570]

SENATOR CHAMBERS: But that's not in here. [LB570]

SENATOR LOUDEN: Yeah, it isn't in here, or guardian. [LB570]

SENATOR CHAMBERS: Okay. Now people... [LB570]

SENATOR LOUDEN: If you want to put it in, why, we can put it in, a guardian. [LB570]

SENATOR CHAMBERS: People are having children at young ages, so a person could be a great-grandparent without being very old, so you cut it off at grandparents. Maybe that one was the only one who looked after this child, or is the only one left in the family. [LB570]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: So the great-grandparent who loses the great-grandchild cannot get these Gold Stars because an arbitrary list was written by these people in the Military Department, who are not known for their intelligence. Because I was in the army, too, and they...nobody in there was known for intelligence, and while I was in there neither was I. (Laughter) But the point I'm getting at is you make these arbitrary

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

lists and there are people who might have given more to the upbringing of a child than a blood relative, or it could be a blood relative but not on this list, so he or she would not qualify for these plates. This is not a good policy, and I will just have to oppose it for as long as I can or until we've been on this enough hours for Senator Louden to invoke cloture, and then we'll pick it up again on the A bill. How much time do I have, Mr. President? [LB570]

PRESIDENT SHEEHY: Time, Senator. [LB570]

SENATOR CHAMBERS: Oh, thank you. [LB570]

PRESIDENT SHEEHY: Thank you. Senator Carlson. [LB570]

SENATOR CARLSON: Mr. President, members of the Legislature, I appreciate some of the things that Senator Lathrop has said. I do agree that, in regard to this bill, there's a point that Senator Chambers certainly has and that has to do with someone that's just not in good standing at the time that death might occur, and whether or not that then should afford them the...or their family the opportunity for this plate. I'd like to ask Senator Louden a question. [LB570]

PRESIDENT SHEEHY: Senator Louden, would you yield for a question? [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR CARLSON: Senator Louden, I support your idea and effort in this. And this is a simpleminded potential solution, if it would work. If you would...if you look at the bill in front of you there, on page 3, line 21,... [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR CARLSON: ...the last word in that line is "while." [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR CARLSON: So if we go to line 22 and insert three words at the start, "in good standing," and then the next word is "on." [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR CARLSON: Okay. "In good standing on," if I would find out between now and Select File whether that would make any difference, would you be opposed to that on Select File? [LB570]

Floor Debate
May 22, 2007

SENATOR LOUDEN: No, I wouldn't be opposed to that. I think it...as long as it's okay with the Department of Military Affairs, because they're the ones that kind of have the guidelines on that, and that was the reason for that, is so that they can make it so that they don't have a lot of trouble trying to decipher who's going to receive plates and the standing of the soldier. [LB570]

SENATOR CARLSON: Okay. Thank you. I...if it's okay with you, I'll look into that and see if that would help this bill out. Thank you. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Pirsch, followed by Senator Karpisek. Senator Pirsch. [LB570]

SENATOR PIRSCH: Yes, thank you, Mr. President, members of the body. I do appreciate the comments that have gone on here today. I think that it is...Senator Chambers has brought up some questions with regards to the bill that deal with the policy and the application, I guess. I think one helpful thing about bringing this bill forward, possibly unintended, is that, as Senator Chambers has mentioned here today, that there may be another good reason for speaking about this bill here today and that's to raise awareness that there are opportunities for those watching this at home to volunteer. In my district there's the Thomas Fitzgerald Home and they do have opportunities for people from the community to come in and help, and I can tell you, from having gone through it, they, the veterans, just really enjoy even saying a simple thing like thank you for their service. And so that aside, with respect to the...some debate that...conversation that's gone on today, I wonder if Senator Chambers would yield to a quick question. [LB570]

PRESIDENT SHEEHY: Senator Chambers, would you yield for a question? [LB570]

SENATOR CHAMBERS: Yes, I will. [LB570]

SENATOR PIRSCH: Senator Chambers, we talked about some of the policy considerations. Is it limited to policy, your objections, or are there constitutional objections that you have as well? [LB570]

SENATOR CHAMBERS: We didn't go into the constitutional issues very much, but there have been some indications in court decisions that once you open these license plates up to the use of private individuals, then you can't restrict others from getting whatever they want onto the license plate. It could be argued that since some of this has been done already that horse is out of the barn, but the more times you do this I think the greater likelihood there would be that a court could say if somebody wants to put KKK on their license plate you have to let them. You cannot, in other words, say content is going to be the basis of denying somebody what they want on the plate, when others have been allowed to put something based on content on their plate. But that's

Floor Debate
May 22, 2007

not really the main thrust of what I'm talking about today. [LB570]

SENATOR PIRSCH: Very good. I guess I would just echo Senator Lathrop's interest, if it is with respect to the way, as far as policy, the statute is written. Be happy to lend a hand in any way I can to tighten the language to address the concerns that you had earlier with respect to the constitutional...any constitutional objections that may...I think that generally the two type...there are at least two type of factors that courts have been concerned about when it comes to permitting...when it comes to First Amendment rights and license plates, and that's is it a particular private group that is being featured on the plates, and is it...is a portion of the fee or all the fees flowing to a nonstate actor or group. And I guess, in looking at that, I feel comfortable that this is not violative, but I'd be interested in getting your point as well. I think it is important that if we can do this that we do do this. There have been extreme sacrifices made by a member of our armed services and it's not only proper for us to do so, I think it's the least we can do. [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR PIRSCH: I'd yield the balance of my time to Senator Chambers, if he'd like to respond. [LB570]

PRESIDENT SHEEHY: Senator Chambers, about 55 seconds. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Pirsch. Members of the Legislature, if somebody was in the military and lost his or her life under heroic circumstances, let that person be proclaimed a hero, and let there be bands and marches and all the rest. But I still think license plates should serve the purpose that I mentioned and not be a banner or a billboard. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Karpisek, followed by Senator Wallman. Senator Karpisek. [LB570]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Senator Chambers is taking a lot of flack on this issue that he's against veterans, those sort of...the people that died, KIAs, MIAs, anyone like that. I guess I won't speak for Senator Chambers, but his bottom line is he doesn't think that it should be a billboard. If I'm wrong he can (laugh)...that said, and Senator Chambers might be picking himself up that I'm agreeing with him or trying to stick up for him--ah, he's still up--I do believe that it's fine to have these, and I think at the very least that we could do it for our fallen soldiers. I have a Husker plate. We talk about not being able to decide who would have a plate, a KKK, anyone like that. If you have a message plate it has to go in front of the DMV. When I got my message on mine, I had to send in three different messages and explain what they meant, because if it wasn't appropriate I assume it wouldn't be granted. So I think that we can make sure who gets it and who doesn't. I agree that

Floor Debate
May 22, 2007

Senator Chambers has pointed out some problems in the bill. Senator Carlson has been running around, trying to find things out about what active duty means and doesn't mean, so I know that he will find those things out. I also carried a Shriners plate bill this year. I don't believe that the Shriners plate is anywhere near the importance of a Gold Star plate, but I did carry that bill. I think the state can make some money on these plates. We argue about money every day. If we can make some money, maybe even make somebody happy, heaven forbid, it might help out; they may see us in a different light. I am not a vet. I wish I were. I didn't have enough guts or gumption or didn't get made to go when it was my time to go. I try to think that my time here or my time in public office is a little bit of repayment for that. I know it's not even a morsel, but that is one big reason why I've wanted to do these sort of things. I just think we need to do something for these people and these families, and if it would make them feel better and make the state say that we do appreciate it, and the country, whether we agree with the war, not the war, agree with sending our National Guardsmen over to Iraq to be hurt, killed. We don't have to agree with that. We have to agree that they need our support. So with that, I would just like to say that I am very in favor of this bill. And I think that we have...the people that will stand here will talk about it for a long time, but I wish we had a little more time in the session to make sure that can get through this. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Wallman. [LB570]

SENATOR WALLMAN: Thank you, Mr. President. I think the words were mentioned: Agent Orange, Agent Orange. Desert sickness, you know, was probably radiation sickness from dirty bombs. I'm not proud of the way our country has taken care of our veterans. That has nothing to do with license plates. In fact, it ought to make it more important that we do give them license plates. My brother-in-law still has posttraumatic combat syndrome. It don't go away. And does our government...I got a heck of a time getting help for him. And if you can't help yourself, you better know somebody that can help you. We have an excellent service officer in our Gage County, but you have to know who to see. And if the widow doesn't know, or a family member doesn't know,...that is one area I'm definitely not proud of our country. And we should be taking care of our veterans, whether it be peacetime or wartime, because you're given all kinds of shots wherever you go; every year they give you, as Senator Chambers knows, they give you some more different shots, and you may have terrible reactions from that, and if you don't take them, you'll be dishonorably discharged. And all these things you deal with all the time. So if we can do just a little-bitty thing for our servicemen, I'd be proud that this Legislature would pass something that we give them Gold Star plate, because it's important to me. You know, we have a hard time giving them a fishing license or hunting license anymore, because people complain they get special treatment. I want to guarantee you, you're not going to get rich in the military, and you better have a good job when you get out, because unless you're way up there in the officer ranks, your pension is going to be low, and it's going to be slow going, because you have to fight for

Floor Debate
May 22, 2007

everything you get. So please support this bill that Senator Louden put forth. And I want to thank Senator Louden for doing this. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Speaker Flood, you're recognized for an announcement. [LB570]

SPEAKER FLOOD: Thank you, Mr. President, members. Just a note about our evening tonight. It is a late night, as you know from the schedule. And we are waiting for some bills to return from Bill Drafters, in the engrossing process. We will stay in session until certain bills are received. And they're expected to come down between 8:00 and 9:00 p.m. tonight. Until that time, we'll remain on this bill, I would imagine, and would ask for your indulgence and your cooperation, and appreciation...I appreciate how hard everybody is working. But we'll be in session until between 8:00 and 9:00, and possibly later, if unforeseen circumstances arise. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Mr. Speaker. Senator Pirsch. [LB570]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. Just as a point of clarification and edification for the body with respect to the First Amendment issue that I've been talking about, and the constitutionality. The point of that is that should you, under some circumstances, certain types of expressions and by certain groups, were you to allow that, as a governmental body, to have those types of messages on license plates, that that would therefore allow...be deemed to be an opening so that any group who wanted to utilize their First Amendment free speech rights would then...would have to be allowed to use those license plates. And those are the concerns, I think, that Senator Chambers was speaking of. But there is a...that doesn't pertain to all types of groups and all types of speech on license plates. The government can allow certain groups...I'm sorry, certain types of messages on license plates without opening up the content...or, the medium of license plates to be utilized by any groups in society. As long...and that was the two factors that I was referring to. Generally speaking, courts do look at whether or not the fees that are charged for those types of license plates are flowing to an outside group or for an outside use, even a nonprofit use. If it does, then that would certainly tend to make a court more concerned about...or weigh more heavily in favor of allowing outside groups then to also utilize the license plates as a medium for expressing messages. And the second factor, aside from the fees, is whether or not there's a private group or actor behind that is being advertised on the medium. So to the extent that it...that there is a group behind it, say, the American Cancer Society or definite independent outside government groups or actors, that, too, would make a court more likely to say that the content of the...that the message board or the license plate has been opened up and that other groups would then have a First Amendment right to utilize those license plates, as well, to express their message. However, I think in this particular case...and I'll ask...if I can ask a couple of questions of Senator Louden, if he'll yield? [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Senator Louden, would you yield to some questions? [LB570]

SENATOR LOUDEN: Yes, I would. [LB570]

SENATOR PIRSCH: Senator Louden, would the fees that were generated by selling the license...or, people who purchase these Gold Star plates, where would...would those fees flow to government actors or to outside government uses? [LB570]

SENATOR LOUDEN: Okay, part of the fees go to the Department of Motor Vehicles to pay for the plates, and then anything over that, I think there's probably the Department of... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR LOUDEN: ...Transportation or something like that. But they'll be...as it's stated in there, the fees will be...some of it will go to the Veteran Cemetery Operation Fund, and that's a state entity. [LB570]

SENATOR PIRSCH: It's a state entity? Very good. [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR PIRSCH: And secondly, is there an independent agency outside known as "The Gold Stars," or some sort of private entity behind Gold... [LB570]

SENATOR LOUDEN: Well, there's different organizations around that call themselves that, but this particular part has nothing to do with any of them. No, this is just strictly the name of the license plate. It doesn't have anything to do with any of the organizations that are around in different areas. I did have a listing of some of the places and what they call themselves. But this has nothing to do with any kind of national organization. [LB570]

SENATOR PIRSCH: Very good. Thank you for answering those questions, Senator Louden. And... [LB570]

PRESIDENT SHEEHY: Time, Senator. [LB570]

SENATOR PIRSCH: Thank you. [LB570]

PRESIDENT SHEEHY: Senator Louden, and this is your third time, Senator. [LB570]

SENATOR LOUDEN: Thank you. I might mention that...some of the plates that we do

Floor Debate
May 22, 2007

have now, and I think they've been mentioned. I think Senator Karpisek mentioned his Husker Spirit plates, and your name plates, or whatever they call them on there, that we've already sold and they're doing quite well with. They also, as far as service plates for servicemen and women, we have the Disabled American Veterans plates, and we've had those for several years around. The Pearl Harbor Survivor plates, I think they came in probably sometime after World War II. And of course, with those, there are getting to be fewer all the time. At one time I did have the numbers that were left, of people were...of the survivors of Pearl Harbor, survivors that are still left, but they're getting quite...ranks are getting quite thin, and you seldom see a license plate with that on there. I've seen one from time to time here in Lincoln. Also, there are some Former Prisoner of War plates. There's some of those around. And of course, those are plates that I'm sure nobody would wish that they had the privilege to get, but some of the prisoners of war that did get them, those plates are eligible. And at the present time, I don't have the number of plate that are out there avail...that are being sold. The Purple Heart plates, there's quite a few of those around. In fact, this year we even passed legislation so that people could have more than one Purple Heart plate. I think that bill passed through in fine shape. I think Senator Chambers voted for it along with everybody else. In fact, I think it was about 48 to 1 that that bill passed. So it isn't something new that we're coming about that's something new. It happens to be something that, it's a little bit of a change, it's a different one, but it isn't anything that we've...a new course of action that we're taking. We're going across with a different name for them. I think this is probably something that some people don't like to change, I guess. But really, this isn't anything that would be any different than what we've been doing for several years with our license plates. When you talk about them not being a billboard, our license plate is actually a billboard, because every time they make one for Nebraska, they try to promote Nebraska some way or another. Right now, I think we have our Chimney Rock on it, along with our quarter. It's all part of the billing of trying to sell Nebraska, when you go out of state someplace. And it also shows what we do in Nebraska, or what we try bring people back into Nebraska. Same way with these plates--this is something that shows what we would do for the people that are in Nebraska, what they've sacrificed and what they've done, no different than if they were a Purple Heart plate or a Former Prisoner of War plate or a Pearl Harbor Survivor plate or Disabled American Veteran plate. Those have all been something that have been brought forwards. And usually this is something that the Department of Veterans' Affairs usually has something...some consideration to do in there, to have some idea on how they're supposed to be sold and who's entitled to them. So this isn't anything that should be earthshaking new. I think it's just a matter of whether someone has a particular idea and how far they want to take it to force it through, and whether they have...someone would like to not have it happen because of whatever reason they have. Myself, I think it's something that needs to be done. I think it's something that we can do, and I think it's something that... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR LOUDEN: ...could certainly show compassion for what the people in Nebraska have for the people that have sacrificed loved ones overseas or in any wars. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Louden. Further discussion from the floor on AM690? Seeing no lights on, Senator Fischer, you're recognized to close on the Transportation and Telecommunications Committee amendment. [LB570]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I would encourage the members to start making their way back to the Chamber in order to vote on this amendment. As I said in the opening, this amendment is a very simple amendment. It just puts the word "Family" in the bill in three spots so that there's clarification that the plates are called Gold Star Family plates. I think it is not only simple; it's appropriate, and we need to pass the amendment. With that, I would ask for your support. And thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing to the committee amendment, AM690. The question before the body is, shall AM690 be adopted to LB570? All those in favor vote yea; opposed, nay. Senator Fischer. [LB570]

SENATOR FISCHER: Mr. President, I think I'm going to have to have a call of the house. And I do request a call of the house. Thank you. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Fischer. There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB570]

CLERK: 26 ayes, 0 nays to place the house under call. [LB570]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please return to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senator Heidemann, Senator Engel, Senator Nelson, Senator Nantkes, Senator Harms, Senator Kruse, Senator Fulton, Senator Wightman, Senator Synowiecki, the house is under call. Senator Fischer, as we move forward, how would you like to proceed? [LB570]

SENATOR FISCHER: I would take a machine vote on this, please, Mr. President. [LB570]

PRESIDENT SHEEHY: Senator Fischer, we had already begun a machine vote, so call-ins or roll call? [LB570]

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Transcriber's Office

Floor Debate
May 22, 2007

SENATOR FISCHER: Call-ins, please. [LB570]

PRESIDENT SHEEHY: Please continue, Mr. Clerk. [LB570]

CLERK: Senator Nantkes voting yes. Senator Engel voting yes. Senator Howard voting yes. Senator Karpisek,... [LB570]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB570]

CLERK: ...yes. 26 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB570]

PRESIDENT SHEEHY: AM690 is adopted. The call is raised. [LB570]

CLERK: Mr. President, the next motion I have to the bill, Senator Chambers would move to indefinitely postpone. Senator Louden, you'd have the option to lay the bill over or take it up at this time. [LB570]

SENATOR LOUDEN: (Microphone malfunction)...at this time. [LB570]

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on your motion to indefinitely postpone. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I think we ought to observe a moment of silence while the lunch hunters go back to where they came from and resume their sponging and mooching off the lobbyists. And I know my time is running. I'll resume my discussion now. That shows respect that I have for the lobbyists. They're entitled to get their money's worth. They're going to spend money and buy all that food, then the moochers are not going to be there to slurp it up? Mr. President, members of the Legislature, this is a motion to kill the bill. Will it be successful? Undoubtedly it will not. But it gives me the opportunity to discuss this bill, how poorly it's crafted. And Senator Erdman...he's gone now? He had done all that yakety-yakking for the last few days about all these bills, and now all of a sudden he's lost the belly for it. Here he comes. I wonder if he's read this bill. I want to ask Senator Louden a question or two, and then maybe Senator Erdman wants to jump in on this, like he's been jumping in on all these other bills, like the education bill, the sexual orientation bill. Senator Louden, maybe you can help me out. Would you turn to page 3? [LB570]

PRESIDENT SHEEHY: Senator Louden, would you yield to a question? [LB570]

SENATOR LOUDEN: Yes. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Why is it that a person cannot obtain one of these plates for a motorcycle? [LB570]

SENATOR LOUDEN: Say that again? [LB570]

SENATOR CHAMBERS: Why...okay. If a family member mentioned in this bill has lost a relative who was on active duty in the service of the United States and that family member owns a motorcycle, why cannot that person buy one of these Gold Star Family plates for his or her motorcycle? [LB570]

SENATOR LOUDEN: Well, I don't know. Can they buy plates...specialty plates for motorcycles from some of the other plates? I don't know what the Department of Motor Vehicles' ruling is on that. [LB570]

SENATOR CHAMBERS: Is this your bill? [LB570]

SENATOR LOUDEN: Yeah, this part...this bill is. But I...no, we didn't put it in there for motorcycle plates. [LB570]

SENATOR CHAMBERS: Well, do you think that if somebody...because now you're talking about a special plate to honor a special group of family members, a special group of families. Why would you not, since you are doing this, allow such a plate to be procured by somebody who wants to display it on his or her motorcycle? If you own a motorcycle, does that mean you care less or feel the loss to a lesser degree? [LB570]

SENATOR LOUDEN: Ah,... [LB570]

SENATOR CHAMBERS: No, that's not a good enough answer. [LB570]

SENATOR LOUDEN: Ten tons or...I think they have the commercial trucks in there, and they put...and the Department of Motor Vehicles has it so you can't put them on commercial trucks or motorcycles. And I suppose that was the language that they used, so that's the reason it was put in here. [LB570]

SENATOR CHAMBERS: Senator Louden, I wonder where Senator Lathrop and all these others who were so concerned about all these families having the right to honor the dead...we can... [LB570]

SENATOR LOUDEN: Do you want that put in there for the next...if you want to put that in there, that could be put in there, I guess. [LB570]

SENATOR CHAMBERS: I'm questioning. First of all, do you agree that the Legislature can allow these plates to be procured by somebody who wants to put it on his or her

Floor Debate
May 22, 2007

motorcycle? We can authorize that, can't we? [LB570]

SENATOR LOUDEN: True, yes. [LB570]

SENATOR CHAMBERS: Okay. But you didn't have anything to do with that particular language being put in; it was just something like boilerplate that might relate to all specialty plates, more or less, correct? [LB570]

SENATOR LOUDEN: As far as I know, it was, yeah. [LB570]

SENATOR CHAMBERS: Okay, that's all I'll ask you. I wanted to call it to your attention. And I know Senator Erdman is going to get busy and do some checking on this like he's been checking on all those other things, because if he's playing like he's Senator Chambers, then that's what he's going to have to do. He's going to have to work all these bills. Oh, he's gone. (Laugh) He's gone. Here's what I'd sing to him: (singing) Since you've gone. But that's what you all need to pay attention to. I do not think that because blunders have been made in the past, they should be repeated. I don't know whether anybody on this floor has visited a military hospital, a VA hospital, who did not have a relative there. And I'm not saying you have to. You don't have to do anything that you want to. As Senator Harms so correctly pointed out this morning, I don't own him. But in reality, I do, because he ran right out of here after he said it. And that's what I do--I run people out of here. I do own people in this Legislature. But back to this point and this bill. Senator Harms was questioned by me the last time about my objection to this bill and these plates being used as a recruiting blurb, because the design is to reflect support for the United States Armed Forces, not to honor families, but to reflect support for the United States Armed Forces. That's what this is about. You're going to exploit the dead to show...and that's why I can object--and Senator Lathrop needs to pay attention--I can object to the way the military conducts itself, I can object to the war in Iraq, because these license plates are designed to show support for the United States Armed Forces, and I don't support what they're doing in Iraq, I don't support what they're doing in Afghanistan. You put...not you, Senator Lathrop. That language was put in this bill. They raised the issue. And there are many people who are opposed to the way the Armed Forces operate. And they do discriminate against black people, they discriminate against women, and they discriminate against gay and lesbian people. That's what the United States Armed Forces do. And yet, these plates are designed to be designed to show support for the United States Armed Forces. That's in the bill. I didn't put it there. I just read it. Will Rogers, I think, was the one who said, Senator Carlson, all I know is what I read in the newspaper. And he'd be spinning his little lariat, telling jokes, but he was making very pithy observations and commentary on society, the foibles of society, politicians, and the same things that social critics always have done, some more effectively than others. But I raised these issues and people got angry with me, and not one of the supporters brought an amendment to correct any of it. So you all are going to get mad at me. I say you got a cavity in your mouth, and if you don't

Floor Debate
May 22, 2007

use a lot of mouthwash or brush your teeth, your breath will stink. Then you don't brush your teeth, you don't use mouthwash, and people be turning away from you, and you blame Ernie, because if he hadn't said that, they wouldn't have noticed. Senator Harms said he didn't like that language in the bill. But I don't see on the gadget a proposed amendment by Senator Harms. See how you all treat me? See what they do to me, Senator Carlson? But I just press right on. It's not my bill. There are others, and they shall remain nameless, who said that they would work to tighten the language in this bill and correct some things. Well, maybe they agree that the department should create designs reflecting support for the United States Armed Forces. I don't think that should ever be done by any state. That is not what the Department of Motor Vehicles is about. And you all may think it is, so you go for this. [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: But I think it's not, so I go against it. And this language alone is sufficient reason for this bill to be killed. And if you kill it, I will agree to do my rendition of "Taps," and then we'll give it an appropriate military burial, because that's what they do to a lot of the men and women who die--they put them in a box, they put them in the ground, give the flag to the family, and that's it. They don't even register on anybody else's radar screen, except some members of the family. And some are happy that the person was killed, whether you all believe it or not. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Louden, as the introducer of the bill, you have five minutes to respond. [LB570]

SENATOR LOUDEN: Thank you, Mr. President. I certainly oppose this indefinitely postpone this, because I think this is something that needs to be done, and I think this is something that we can do, and we should go on from here. When you talk about the different bills that are out there, I mentioned there's Ex-Prisoner of War plates and Pearl Harbor Survivor plates and some of those like that. Present time, there's only 17 Pearl Harbor Survivor plates sold in Nebraska. And you want to remember, that was, what, December 7, 1941, and I don't know if there was very many of you around can remember when that happened. How many of you knew Pearl Harbor survivors? I knew two. They were both brothers and both sailors, and one of them spent the entire war in a hospital after Pearl Harbor. So that was quite a trauma back then, and they...if they wanted to buy those survivor plates, they certainly, as far as I'm concerned, were entitled to it. Your Disabled American Veterans, there's many of those around, 418 license plates that are sold last year in 2006 to those. And there's...the DAV is quite a popular organization. They do a lot of good work around for...in the areas of the service clubs that's quite well known in civic circles. So there's a lot of different ways out there that this is being done, and I think the survivor...the family Gold Star license plate is just one more way to do it. I don't see where there should be that big of a problem to add something like this to the list. You have your Purple Heart plates; there's about 921 in

Floor Debate
May 22, 2007

2006 that were sold. And those are an ongoing situation where people that want to buy them. And I think the legislation we passed this year was so that people could buy more than one plate, because they had more than one car and they wanted to display them on more than on one automobile. So with that, I would like to continue on with this LB570. I think this is something that can be done. It isn't something that's going to be outlandish. This is something that the Department of Motor Vehicles will design plates for. And as far as representing...support the United States Armed Forces, I certainly support the United States Armed Forces. I knew soldier boys from World War II, I knew some from Korea, I had relatives in the Korean War, and of course, I had many friends that was in the Vietnam War that were younger than myself that went to the Vietnam War. So I have no problem with supporting the Armed Forces. I think they're doing a great job. As far as what we're doing now is something else to be debatable. But war is war and it isn't always for us to decide which is the best way, because usually, where the position we are, we do not know what exactly all is going on in those areas. We can always have opinions, but that's...and we should voice our opinions. And certainly, Senator Chambers has voiced his opinion on the position of the war and what the Armed Forces are doing. But I think we must support our Armed Forces. Those people rely on our support, morale, and anything else that comes about. That's what happened in Vietnam. There was mistakes made, and they lost the support and the morale of the people at home, and it was a fiasco when it was finished up, and it was that way until people took ahold of the thing and brought the thing back out of it and went from there. So where we are today on wars is somebody else's debate to have, and so I don't wish to get into that part of it. I like to continue on LB570, the idea of having Gold Star Family license plates... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR LOUDEN: ...for members that so desire to wish to have them. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Louden, your light is on as the next speaker. [LB570]

SENATOR LOUDEN: I'll waive. [LB570]

PRESIDENT SHEEHY: Okay. Senator Chambers. [LB570]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I've got to talk about the Armed Forces. My Lai are two words that mean something to people who paid attention to what was going on in Vietnam. And William Calley is a name that people are aware of--slaughtered a village of men, women, and babies, in the United States Military uniform. There are soldiers in Iraq and Iran murdering civilians, raping young women, fabricating circumstances to make it look like they were attacked,

Floor Debate
May 22, 2007

commanding officers covering up. What was Abu Ghraib? What did that refer to? Weren't there people in United States Military uniform sicking dogs on people, stripping men naked, taking photographs, laughing and joking? Not everybody in the military serves honorably. And you all let the scales cover your eyes, and you pretend that because somebody puts on a uniform they're great. Did you see that one out of four of the veterans, or maybe higher than that, who are in jail are there for sexual predation? They are giving a lot of the troops in Iraq tranquilizers and Viagra. What are they giving them Viagra for? Oh, they've got rifles that sag, and they need to inject some Viagra into those rifles so that they stand at attention and will shoot straight. Is that why they give them Viagra? The United States government, and they have an attitude and a policy against gay men and lesbian women, and they're giving these guys Viagra. Who are they going to rape? The cover-ups...you read something in the paper almost every day, and these crimes are not treated with the severity they ought to be treated. There was a very high percentage of these honorable troops who said if they saw one of their fellow soldiers murdering civilians or abusing them, they wouldn't even report it. That's honor? United States Army teaches honor? Don't tell me. Tell the little children who go to the show and believe everything you tell them. They had a movie called Protecting...or, Rescuing Private Ryan, and not a black man or Latino was anywhere to be seen. That's what happens when white people put these things together. And you don't want me to talk about it, do you, while you're talking about putting license plates out there that are designed to reflect support for the United States Armed Forces? Maybe you all don't read the newspaper, or you don't believe what you read. Even Chuck Hagel tries to tell you things. Even "Repelicans" have had a bellyful. Not because they have such high morals, but there is so much news coverage from all over the world that the atrocities committed by American troops with the complicity of commanding officers can no longer be hidden. It's out there for the world to see. Other nations are telling your country, you don't have the moral high ground, you don't speak with any moral authority in this world; we look at what you do. Now they got 4,000 people searching for three guys who are supposed to have been captured. That's a good way to take a whole lot of American troops out of action, isn't it? Tell them,... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: ...we got a guy that we captured, and then thousands are taken off the battlefield, taken out of their positions to search for one person. And they say, well, that's the way America is, because every life is important, unless it happens to be numerous lives of Iraqi men, women, and babies. Was it John Donne, the white guy, who said, every person's death diminishes me? Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Kopplin, followed by Senator Chambers. Senator Kopplin. [LB570]

SENATOR KOPPLIN: Thank you, Mr. President. Members of the body, last Friday my

Floor Debate
May 22, 2007

community buried a 21-year-old man, just a kid, not long out of high school--left a mother, a father, a brother, and a wife that he married just last Valentine's Day. He died in Iraq. He didn't ask Senator Chambers whether he was protecting a black man or a white man. He just felt a need, a need to serve America. His mother worked for me for years. I knew him his whole school life. I salute him. Thank you. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. Senator Chambers, and this is your third time. [LB570]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I've had family members who died in combat. I've had friends who died. All of us who are here did not die. All of us have had those experience. But that doesn't alter the reality. Who sent these young men and women over to Iraq? Bush. Who said we're going to have a new surge of more young men and women into a quagmire, where all they can do is die? Bush and Cheney. And I'm supposed to swallow all that and say, let the conditions continue so that there will be more young men dying in the way that the young man died that Senator Kopplin talked about? You all look only at the bad result and say, what can we do? Moan, moan, groan, groan. We need people who will stand up and say it's got to be brought to a halt. Don't keep sending them over there. Don't keep creating widows, parents who have lost their sons and daughters. Stop it. But Bush and Cheney tell you, this is what you're going to do. Bush sends Cheney over to Iraq and says, you guys got to stay here a lot longer. We told you you're going to be here 12 months; now we're going to make it 15. When these young men and women talk about a loss of morale, they don't say Ernie Chambers, Senator Kopplin; they say their President and their generals, who made a promise to them and a contract that you'll be here for a certain amount of time, and when you've served that time, they say, forget the contract, it means nothing, it runs one way, you will stay there for the time you say, but you're not going to come home when we told you you'd come home. Why? Because America is a country without honor, and the people are sheep, and you go along with this stuff because your President and your Vice President send these young people to die. Their lives are being wasted. They're not over there defending America. Iraq is no threat to this country. They can't fly a plane over here and drop a bomb. They don't have a navy. They don't have missiles. They're not going to walk across the ocean. You have to say all of these things to feel a justification, to find a reason and an explanation for all these young people dying, really, in vain--dying in vain. And now they're talking about building outposts throughout Iraq and stationing several thousand troops for an indefinite period of time, and they'll be cocoonized. They won't leave those outposts. They'll be sealed in. They won't participate in any patrols or anything else. They'll just be there, because the politicians in the Bush administration said that's going to be the latest approach. And in the meantime, I pick up the paper--seven young men and women died from a roadside bomb, three killed through small arms fire. And then there are accidents, and they're killed by friendly fire, too. But these things are not faced in a forthright manner, because everybody has got to play the game and pretend that reality is not what it is. But I'm not

Floor Debate
May 22, 2007

going to play that game. And when you all bring this stuff to the floor of the Legislature, I'm going to talk about it. Design reflecting support for the United States Armed Forces. I thought they were family plates. You all just adopted an amendment that called them Gold Star Family plates. But the design is to reflect support for the United States Armed Forces, not to honor the fallen that you all keep talking about, not to assuage the grief of the ones who lost the one who fell, but to reflect support for the Armed Forces of the United States. And you all swallow it and get choked up and emotional. Be that way for those who fell, but look at what you're doing with these license plates. But your emotions have you blinded, but I'm not. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further discussion on the floor on the motion to indefinitely postpone LB570? Seeing none, Senator Chambers, you're recognized to close. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, the problems that exist in this world are largely the doing of the United States of America. They've blundered everywhere. They brought down Tony Blair. And what I resent in that whole thing is, they call him "Bush's poodle." I don't know of a single thing that the poodle family have done to justify being demeaned and abased in that fashion. They brought him down. A lot of politicians in Bush's party are jumping off the bandwagon. They're not going to let him bring them down also. There are young men who are certifiably insane at the time they are shipped to Iraq. They are under psychiatric care and they are administered psychotropic drugs by the United States government so that they can appear to be sane long enough to be sent over to Iraq. And they don't always have enough medication to keep them sane, and they do things that people with their minds messed up will do, and they don't distinguish friend from foe. And they might hear voices telling them things, and all that happens over here is the pretense that this is a great war for democracy and protecting America, and these young women and men are heroic. They are being victimized. Thanks to a bill I persuaded the Legislature to adopt, Nebraska cannot execute mentally retarded people, and you have to give consideration to a person's mental state at the time they committed a crime. If somebody is certifiably insane, they cannot be sent to prison. But they can be sent to Iraq. Instead of this government and all of you all saying, these are sick people, treat them like sick people, not cannon fodder; uh-uh, give them some drugs so that they look like they're all right. And if you put the camera on them, their eyes are glittering like diamonds, glittering, and focusing on nothing. And they are going to make a choice and a decision to go to Iraq and die for Halliburton? And you all, if you've just occasionally and casually followed the news, will be aware of hundreds of millions of dollars that have been stolen by Halliburton and other corporations. That's all they're interested in--getting the money. And these young people are dying, and you all talking about, put some license plate out there with a gold star. And all of these circumstances and conditions that generate more deaths will not be looked at, and there's offense taken when it's spoken. Well, be prepared to get offended at me, brothers and sisters, because I'm going to be here for a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

while and I'm going to talk and talk and talk. And you can get up and walk and walk and walk. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the closing on the motion to indefinitely postpone LB570. Senator Louden, for what do you rise? [LB570]

SENATOR LOUDEN: Call of the house, if you would, please. [LB570]

PRESIDENT SHEEHY: There was a request to place the house under call. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB570]

CLERK: 25 ayes, 0 nays, Mr. President, to place the house under call. [LB570]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Heidemann, Senator Cornett, Senator McGill, Senator Nelson, Senator Harms, Senator Kruse, the house is under call. Senator Harms, the house is under call. Senator Chambers, as we wait, how will you desire to proceed? [LB570]

SENATOR CHAMBERS: With all deliberate speed, Mr. President. I will accept a machine vote. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Louden, we're unable to locate Senator Harms at this time. How would you like to proceed? [LB570]

SENATOR LOUDEN: We can proceed. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Louden. The question before the body is on the motion to indefinitely postpone LB570. Senator Chambers has requested a machine vote. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB570]

CLERK: 1 aye, 38 nays, Mr. President, on the amendment. [LB570]

PRESIDENT SHEEHY: The motion to indefinitely postpone fails. The call is raised. [LB570]

CLERK: Mr. President, the next motion I have is by Senator Chambers, FA129, Senator. (Legislative Journal page 1744.) [LB570]

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on FA129.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

[LB570]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this amendment, if you call it up on your gadget, says the following. On page 2, line 8, strike the words "reflecting support for the United States Armed Forces." Now, I probably made you so angry you won't strike these words, and that's fine with me, because you play into my hands. These plates are not about honoring some young man or young woman who fell, or some old person who died in one of the long-ago wars but happens to have a child still doddering around here. This is about recruiting and reflecting support for the United States Armed Forces. That was a clever maneuver by the militarists. And they got the legislators to go along with it. But I want to call everything to a screeching halt and offer some amendments. What are these plates supposed to do? I'm going to get some help. I'd like to ask Senator Louden a question or two, in the hopes that he can improve my education. [LB570]

PRESIDENT SHEEHY: Senator Louden, would you yield to some questions? [LB570]

SENATOR LOUDEN: Yes, I would. [LB570]

SENATOR CHAMBERS: Senator Louden, what is the aim of these plates, as far as you're concerned? [LB570]

SENATOR LOUDEN: Probably to honor the people that lost loved ones, or for those people to show that they have lost loved ones, and to get the recognition that they would perhaps desire. [LB570]

SENATOR CHAMBERS: And that's what you've been saying throughout. Thank you, Senator. Thank you. That's all I have to ask you. I'd like to ask Senator Friend a question. [LB570]

PRESIDENT SHEEHY: Senator Friend, would you yield to a question? [LB570]

SENATOR FRIEND: Yes. [LB570]

SENATOR CHAMBERS: Senator Friend, without asking you any questions about whether you've read the bill, have you heard some of the discussion, either today or the last time we were on the bill or on parts of both days? Have you heard discussion about this bill? [LB570]

SENATOR FRIEND: Yes. [LB570]

SENATOR CHAMBERS: Based on what you've heard, what is your impression as to the purpose of these plates? [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR FRIEND: Well, to signify...and I did read it, too. But my...the way I read it, and based on the debate, to signify that there was a fallen soldier being honored. I mean, that's the debate, that's what I'm hearing, and there was nothing in my reading that would indicate that that's not the intent, I guess. [LB570]

SENATOR CHAMBERS: Thank you. [LB570]

SENATOR FRIEND: Sure. [LB570]

SENATOR CHAMBERS: I would like to ask Senator Pirsch a question. [LB570]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to a question? [LB570]

SENATOR PIRSCH: I will. [LB570]

SENATOR CHAMBERS: Senator Pirsch, do you agree with what the last two speakers said as to their understanding of what the purpose of these plates is? [LB570]

SENATOR PIRSCH: If you could refresh my recollection? [LB570]

SENATOR CHAMBERS: To honor the fallen person by allowing the designated family members to obtain these Gold Star plates, to recognize that one who fell and the surviving family members. [LB570]

SENATOR PIRSCH: And you're asking me if that's my purpose in so doing? [LB570]

SENATOR CHAMBERS: Is that your understanding of what the purpose of the bill is? [LB570]

SENATOR PIRSCH: I would say, in great measure, yes. [LB570]

SENATOR CHAMBERS: Thank you. Members of the Legislature, based on the discussion, that is what the purpose of the bill is designed to be. I'd like to ask Senator Wallman a question. [LB570]

PRESIDENT SHEEHY: Senator Wallman, would you yield? [LB570]

SENATOR WALLMAN: Yes, I would. [LB570]

SENATOR CHAMBERS: Senator Wallman, have you read this bill? [LB570]

SENATOR WALLMAN: Not for a while. [LB570]

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Okay, then I won't ask you this question, because it might be unfair. I'd like to ask Senator Louden a question. [LB570]

PRESIDENT SHEEHY: Senator Louden, would you yield? [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR CHAMBERS: Senator Louden, do you...can you point me to language anywhere in this bill that says the purpose of this bill is to honor the fallen person and the family of that person? Can you show me language which says that's the aim of this bill? [LB570]

SENATOR LOUDEN: I don't think there's language to that effect in there. The underlying idea was that these families could have these plates, and that would therefore reflect their position. [LB570]

SENATOR CHAMBERS: But we are adding that thought to it as to what the purpose is. That language is not specifically in the bill, is it? [LB570]

SENATOR LOUDEN: Not that exact language, that this is dedicated to the...to honoring people that have lost loved ones. No, that's not in the language,... [LB570]

SENATOR CHAMBERS: All right, I... [LB570]

SENATOR LOUDEN: ...and I don't know if it was necessary to have it in the language. [LB570]

SENATOR CHAMBERS: Why then did you put into the bill the specific words, the department shall create designs reflecting support for the United States Armed Forces, but there's nothing that explicitly says it's to honor the fallen ones? Why is that language in here? [LB570]

SENATOR LOUDEN: My understanding, the reason that language is in there, so that when they did put in a plate, it would designate that it was from the...someone from the Armed Forces; it wasn't someone that got killed in a regular traffic accident or something like that. That was to signify, just like your DAV plates or some of your Pearl Harbor plates, they have something signifying something from the Armed Forces, and that's the reason that was put in there. [LB570]

SENATOR CHAMBERS: But this language makes no reference to the fallen person. It talks about support for the United States Armed Forces, not those who fell in the service of this country. Isn't that true? [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR LOUDEN: The reason for that is, is taking the context of it, is that what the design of the plate should follow, is the reason...my understanding, is the reason we put that in there, so that we would know what way to go with the design of the plates. [LB570]

SENATOR CHAMBERS: You know what support...showing support for something means, don't you? Like when you run for office and somebody wants to show support for you, you know what that means, don't you? [LB570]

SENATOR LOUDEN: I guess I don't follow you on that. Yeah, I know...you mean, yeah, if they're going to give monetary support or they're going to give verbal support, something like that, yeah, that isn't hard to understand. [LB570]

SENATOR CHAMBERS: Right. They express that they support you. [LB570]

SENATOR LOUDEN: Yeah. This here is set up in there so that the license plates, they aren't designed with, for instance, mountains, or something like that. It has to be something that...so that it will be notified...noticed that it belongs...this person belonged to the Armed Forces. [LB570]

SENATOR CHAMBERS: That's not what this says. It doesn't say anything about the person. It says, reflecting support for the United States Armed Forces. If that language were taken out of this bill, how would it hurt the bill? [LB570]

SENATOR LOUDEN: Well, I would...that I don't know. I would think the Department of Veterans' Affairs would have a problem with that, because this is... [LB570]

SENATOR CHAMBERS: Who cares about them? We're the ones doing this. [LB570]

SENATOR LOUDEN: Well, I care about the Department of Veterans' Affairs. I work with them very closely. I have a lot of veterans. I've known a lot of veterans who work with the Department of Veterans' Affairs. So... [LB570]

SENATOR CHAMBERS: So if they tell you that the Legislature... [LB570]

SENATOR LOUDEN: ...I don't mind working with them to craft this legislation. [LB570]

SENATOR CHAMBERS: So if they tell you that these plates ought to be designed to show support for the United States Armed Forces, that's what the Legislature ought to do, in your opinion, correct? [LB570]

SENATOR LOUDEN: Well, I certainly believe that their input was quite valuable in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

something like this. [LB570]

SENATOR CHAMBERS: But it doesn't have to be in the statute, does it? [LB570]

SENATOR LOUDEN: I don't know. If they...if the Department of Motor Vehicles had some other idea, I suppose it wouldn't have to be. But my understanding, when we were doing this, that this is kind of what the Department of Motor Vehicles and probably the Veterans' Affairs, we all agreed on as we were crafting this bill, because they all...we put this by both departments to make sure that this is something that they agreed on. We certainly didn't want to craft something that they weren't agreeable with. [LB570]

SENATOR CHAMBERS: Thank you, Senator Louden. Members of the Legislature, this is mandatory language. The purpose of the design, the design, is to reflect support for the United States Armed Forces. The Armed Forces are the ones whose policies, missteps, and blunders resulted in the death of these young people. [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: When that young trooper named Tillman was killed by so-called friendly fire, the Armed Forces fabricated a lie, an elaborate, sophisticated lie, told it to his family and to the world, knowing it was a lie, intending it to deceive. And that's what is to be shown support for on these license plates. Preposterous. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the opening to FA129. We will now move to floor discussion. We have Senator Louden, followed by Senator Chambers. Senator Louden. [LB570]

SENATOR LOUDEN: Yes, thank you, Mr. President, members. While I don't know as I can support this amendment, I guess one thing I would ask Senator Chambers, if this was taken out of there, then would he support the bill and move it forward? So...he's shaking his head "no," so... [LB570]

PRESIDENT SHEEHY: Senator Chambers, would you yield to a question? [LB570]

SENATOR CHAMBERS: Yes, I will. [LB570]

SENATOR LOUDEN: Yes, you will what? Support it if we take it out...? [LB570]

SENATOR CHAMBERS: I will yield to the question. [LB570]

SENATOR LOUDEN: Okay. The question, Senator Chambers, is if this amendment passed, then would you support the bill then, in the way...with that amendment onto it?

Floor Debate
May 22, 2007

[LB570]

SENATOR CHAMBERS: No, and that shouldn't be the condition for you accepting the amendment. Either it has validity or it doesn't, regardless of what I might do afterward.
[LB570]

SENATOR LOUDEN: So, anyway, thank you, Senator Chambers. So consequently, until I...at the present time, I would not support this amendment, because it...this was worked out with the two different agencies here in the state, state agencies, and so I don't think I could do something that would counteract that we're not supporting the Armed Forces. This is something that we have to support the Armed Forces, I think, and if you don't support the Armed Forces, then I guess you have other issues. It isn't something that we want to do in...with our license plate. If this is what the department was asking for at the time when we crafted this legislation, I have no problem with leaving it in there. And I don't see where there is a problem with it of that magnitude. I think, as you look through the bill, you can probably find parts in there that could be improved on. I'm not saying that...I would certainly be willing to improve on it if it is. But when we do improve on it, I think it should be done with consultation from some of the state agencies involved, because you certainly want to have it done about right. So I have...I would at the present time be against this amendment that has been brought up. With that, I think we have to remember where we're going. I think, as you talk about the issues, whether or not we're in Iraq or whether we're into war other places, have...to me, that isn't part of the debate. All wars have been hell. When you talk about people sent over there and they left for an extra three months, I grew up around men that were...that went in in 1940 and they didn't get out until 1945, and they were only supposed to be in for 18 months. So that isn't an issue that happened to be new. That was done by, I think, FDR, and he was supposed to be declared one of the better Presidents that the United States ever had. So it depends on when you are and where you are and whose ox is being gored. At the present time, I do not intend to make policy for the United States government. I intend to work to get this bill passed so that we can honor those families that have lost members in the service. I think this is our number one issue, and this is what I will try to discuss and work toward. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Chambers. [LB570]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm smoking them out now. The thrust of the bill has changed, and it is to show support for the United States Armed Forces. It's not to honor these fallen people. It's not for the family. And according to Senator Louden, you all don't have sense enough to make a judgment for yourself; you've got to wait and talk to these departments that he talked to, to tell him what to do, and because he couldn't figure his way without them telling him, you can't figure your way either. He reminds me of a joke that was told during the Civil War. There was this young private who was captured, and they asked him, what are you

Floor Debate
May 22, 2007

fighting for? He said, I don't know, but there be them above me, and they know. That's Senator Louden. He doesn't know what's going on, but there's somebody in one of these departments, and they know. And they told him what to do, and he dare not change anything without getting their permission, and that is the rule imposed on this Legislature. I'm giving you the opportunity to change something. But you dare not, because Senator Louden hasn't gotten permission from the Department of Veterans' Affairs. And now he's letting us know that these plates have got to show support for the Armed Forces. That's where his stress is. That's what he's concerned about, so all this "yow-yow." It's too bad Senator Lathrop isn't here so I could mock him for being caught in their web of deceit. They tricked him into thinking he was talking about his nephew or whoever it was that was in the military that he mentioned to us. And Senator Kopplin thought this was about honoring the family and the young man who died and was buried not long ago. But now I forced the truth. You all ought to call me Ernie "Polygraph" Chambers, because I bring the truth out. And now Senator Louden is having to tell the truth. These plates are recruitment blurbs, Senator Aguilar, for the military. That's what you suckers have been suckered into going for. Senator Louden go walking here the next day with one of them funny little caps that they love so well, an old World War II uniform, and a poster with an old white man with a long beard and a red and white tall hat on his head, pointing and saying, Uncle Sam wants you. And then, in small letters under the bottom: sucker. And that's what this Nebraska Legislature is about. I can stand on what I've said during the entire debate, because I said the bill should not pass. And you all, thinking it was meant for one thing, said that it should. But I knew you'd be too embarrassed to backtrack. You've got to go along with having these plates. And remember this: It is mandated that the design "shall" reflect support for the United States Armed Forces. How you going to do that? How you going to show the support? Go out and join the military. Here comes Senator Lathrop. I wish he'd been here so he could have heard Senator Louden acknowledge that the main thrust of this bill is to show support for the Armed Forces, and we can't do anything--you all can't--until he gets approval from the Department of Veterans' Affairs, who helped him draft this bill, and also the Nebraska Military Department. These agencies know everything. [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: And they've told him what to put in here, and you all can't change it. I've got an amendment up there to strike the words "support"... "reflecting support for the United States Armed Forces." But it cannot be accepted. And poor Senator Harms and I the other day agreed that it should not be for the purpose of reflecting support for the Armed Forces, but for these fallen young men and women and their families. And you all even voted on an amendment to put "Family" in this thing. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Kopplin, followed by Senator Friend, Senator Wightman, Senator Lathrop, and Senator

Floor Debate
May 22, 2007

Chambers. Senator Kopplin. [LB570]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I'm going to oppose this amendment. I don't understand where Senator Chambers is coming from, and I don't really care. But I do care about the young men and women and the fallen soldiers and their families. Maybe a license plate isn't a great thing, but if it means something to that mother to put it on her car, God bless her. Thank you. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. Senator Friend. [LB570]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. You know, I wish I would have been a little more attentive when I wasn't...to the Legislature, when I wasn't actually part of the Legislature, because I'm sure that you could read the signs, you could read the patterns. I mean, even Senator Chambers isn't so masterful that there's not a big, long blueprint associated with his activity and his actions. He...and it's funny. It's like a guy with nun-chucks. He's just waiting for you to walk into the room and just whack you over the head with them: Uh, Senator Friend, will you yield to a question, please? He weaves this web and then he wants you to walk into it, and lure you with, I don't know, whatever, you know, a deadly spider is going to, you know, lure you in with. (Laugh) But then he goes to sections of the bill: Senator Friend, what did you see...when you heard this debate and you read the bill, what did you see? Did you see...and you tell him what you've seen, but none of it matters, right, because he's going to manipulate it and set it up the way he wants it. Okay, look, here's my point. Section 3 of this bill talks exactly, specifically, about that fallen soldier. Now, when I was sitting up in the penalty box, listening to it, I remember him trying to dissect that piece. And I might add, he was successful for a while. But then, I don't know if it was Senator Lathrop or others that fended him off quite well. Look, you figure we're into this for, what, another couple hours maybe? Till Flood gets his amendments back. (Laugh) Somebody just said they got the amendments back. I don't think there's any reason to get riled up. You didn't misread this bill. He can tell you you did, but you didn't. He can make all of us feel foolish, but you're not. You know what it says. And I think we know what the intent of this bill is. So I guess what I'm saying...I've been caught in his web, I know. It's tough to get out. But don't worry about it. I mean, you know, we're at the, what, the 85th day? What are we? Tempers are running short. He's got us right where he wants us. All he has to do is weave that web and start saying, you're misreading this bill. Well, you're not. We know what this bill is about. We get to the point where we have some full and fair debate, bust right through his web and jam the Gold Star bill across to Select File. It's really simple, without getting, I think, frustrated and trying to second-guess the motives and the activities of the people who sponsored the bill and possibly the folks that have set it up from a drafting standpoint. [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR FRIEND: I'm saying we're here anyway, it's 7:30. Would I like to be doing something else? I'm not really sure--probably get a call that would tell me that there are other things to do at home. But this is all part of the process. And if you haven't lost faith in this bill or the sections that are in there that explain what we're trying to do, reread it, go through it again. You'll be able to bust through that web pretty easy, I think. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Wightman. [LB570]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I don't know about you, but I'm offended at the fact that it's even suggested we take out the language that we are showing our support for the Armed Forces. I would hate to go home and speak to our veterans. I would hate to go home and speak at a memorial service on Memorial Day and say that I had voted to amend the language of this bill to take out the mention of the fact that we pledge support or that we are supportive of the United States Armed Force. I just can't even imagine that. Do I agree with everything that our country is doing? No, and I don't suppose anybody here agrees with everything that they're doing. But we have a representative government. Certainly Mr. Chambers, Senator Chambers, and people who oppose the war have every right to make that argument. I think it was suggested earlier that maybe we have the right to make those arguments because of the fact that we do have a representative government and a democracy that supports those rights. But to suggest that we don't support the armed services, it seems to me, is saying we would agree to anarchy because I think that's where we end up. I doubt that Senator Chambers would take the position that he didn't support the Army at the time that the Civil War was fought. Maybe he would. I'm not going to speak for Senator Chambers in that regard. Does Senator Chambers have a higher intellect than I? Probably. I wouldn't question that. But I have...I'll state right now that I do support the Armed Forces. That doesn't mean I support every action they take. It doesn't mean that I haven't had some second thoughts with regard to the Iraq situation. But I support not only our Armed Forces, but I support the servicemen and I certainly support the families who have seen their members of their family lost in the service of this country. And I think they've all been fighting at least what they believed in to be a just cause at the time they did it. And so I certainly stand in opposition to FA129 and in support of LB570. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Lathrop. [LB570]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I oppose FA129. I think that we should honor not just the families of the people who have given their lives for our country, but the Armed Forces. My father, when he was just a teenager, lived in Carroll County, Iowa, when the Japanese bombed Pearl Harbor. And he immediately enlisted in the Navy and signed up for submarine duty in the Pacific Ocean. And if you've studied the Second World War, that was not a safe place to be. My younger

Floor Debate
May 22, 2007

brother Bob has retired from the United States Air Force after 23 years of service to our country. My brother Dave was in the Navy. My brother Chris was in the United States Marine Corps. And my nephew is a lieutenant in the Anbar province in the United States Marine Corps. And I'm very proud of each one of them. The argument to stand on the floor of this Legislature--we are not going to debate the war in Iraq or in Afghanistan--it's not the place. We are not the Congress; we don't control our military. The fact that we've taken this discussion to talking about some bad situations that have happened in our military is a distraction. It's a distraction from the fact that the only argument against LB570 is that our plates should be white and have numerals on them or be some color and have numerals on them. That's it. The lone opponent to this measure thinks that we should just have numerals on our plates and nothing else. That is a weak, sorry, trivial answer to this bill. Senator Chambers, you do have the right to stand on this floor and say anything you want, and I'll defend your right to say anything you want. But I can tell you, when it comes to LB570, I've sat here and listened to it. And all of this talk about our military, all of this talk about the bad things that some, a few have done while wearing a uniform, is a distraction from the fact that the best argument you got against LB570 is consistency. And consistency is a hobgoblin of a small mind. Those are your words, and they are perfectly applicable to this bill and this argument today. Thank you. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Chambers, followed by Senator Aguilar. This is your third time, Senator Chambers. [LB570]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Lathrop is a white man. Senator Aguilar is Hispanic or Latino. There's a white man making a documentary about the war and he left all the Hispanics out. And when they protested, then he backed up and they said, oh, well, we're going to make changes and include them. Senator Lathrop doesn't want to deal with these realities. Senator Wightman asked me about the war, the Civil War, and the Army then. The South was kicking the North's rear end and Abraham Lincoln issued the Emancipation Proclamation so that black men could then fight on the side of the Union. And because you all are so lacking in understanding and knowledge, I'm going to bring you copies of the words from Abraham Lincoln's works where he told a white man who has objecting to black men in that war, that if we give up all the land, the territory that these black troops have won for us and now hold for us, we can give up the war because we will lose it in two weeks. Black men provided the balance of power. I'm not a black man who's going to accept this nonsense that these white people are always putting out, that white men fought to free black people. Black men saved this Union and Abraham Lincoln, who was there, acknowledged it. He acknowledged it over and over and over again. Senator Lathrop and other white people may not like what I say as a black man, but they always speak as a white man. Always! And they look at it from a white person's perspective, and what other perspective can they have? But I'm not going to adopt a white man's perspective. I'm going to speak from mine and I will say this language

Floor Debate
May 22, 2007

about these plates, showing support for the Armed Forces is not what all the discussion has been about. And Senator Friend hasn't understood anything, if he means what he said, because he said what his understanding of what the bill is, then I read what the bill at the outset says is to happen. The design is to express support for the Armed Forces of the United States. How are you going to do it? And you can talk all the emotional things that you want to, but that's not going to change me. I don't need the mob on my side. I've never had it that way; I've had the mob after me. But I'm not going to yield. Senator Kopplin said he's concerned about those who fell. All of us are, all of us are. But this bill is not about that. It's about reflecting support for the Armed Forces of the United States. That's in the bill. Now you all don't want to deal with that. You're all mad at me. Well, be mad. It doesn't hurt me. And I'm going to provoke you, and I'm going to make you deal with these issues that I think are important. And I will discuss them. You're talking about showing support for the Armed Forces. Well, I'm telling you things that the Armed Forces have done and it has a direct bearing on the language in this bill, because I read the bill and I think that language ought to be taken out of the bill. Senator Friend talked about read Section 3, and you will see where the triggering mechanism is that somebody dies while on active duty. That's not talking about the thrust of this bill, Senator Friend. The thrust of the bill is to show support for the Armed Forces. It doesn't say show support for those who fell. [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: The ones who fell are the triggering mechanism. It's for those who are still walking around and driving around, and they want to make an ostentatious display and exploit the death of somebody. And because you all disagree with my position, I'm supposed to fold up and go home? Uh-uh, I'm going to express my views in the way that I think that I should, whether you all like it or not. I don't like a lot of what (laugh) you all say. But see, I suffer through it and then I counterattack. I don't sit and grump and moan and complain and want people to feel sorry for me. If you push me, I push back. If you push me hard, I'll push back hard. That's just the way it goes. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senators wishing to speak on FA129, Senator Aguilar, followed by Senator Wallman and Senator Kopplin. Senator Aguilar. [LB570]

SENATOR AGUILAR: Thank you, Mr. President, members. I've been listening to this amendment for a while now and with a little bit of confusion. And I think I've narrowed it down. I think I've sorted out in my mind where I'm at on it. And I don't mean to speak for Senator Chambers; I'll give him some time to correct me if I'm wrong. But I think when he's talking about the term "supporting the Armed Forces," to him I think that means the establishment, the leadership, the people that make the decision. When I hear the term "Armed Forces," I think about the soldiers, the men and women who have died, the

Floor Debate
May 22, 2007

ones that are over there fighting today. That's the difference between the way he's probably thinking and the way I'm probably thinking. But that's where I'm at, and that's why I support the bill. And we'll keep talking until the amendment comes down, and then we'll vote and we'll pass the bill. But in the meantime, you know, anybody that wants to turn their light on, get up and share their opinion, it's a good thing to do. Because it scares me to think that Senator Chambers might lose his voice in talking too much, and I'm going to give him the rest of my time to see if that can happen. (Laughter) [LB570]

PRESIDENT SHEEHY: Senator Chambers, about 3 minutes, 50 seconds. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Aguilar. And I will not parse words or explain what I mean. I'm going to deal with the words that are in the bill. "Design to reflect support for the United States Armed Forces" should not be in the bill. Take out anything that takes away from focus on the ones who fell and their families, if that's what this is about. If that's not what it's about, then leave that language in. How are you going to show support for the Armed Forces? You're going to have a lot of stars, you going to have a picture of Uncle Sam on the license plate? How are you going to show support for the Armed Forces? That's what is mandated by this language. So you can talk emotionally all you want to. I'm agreeing people are sorrowful when somebody dies by whatever means, if they cared about the person. But there is a sleeper in this bill, and I'm trying to wake it up and get it out. If you don't have that language, it's not going to hurt this bill. It will sharpen the focus on what you all claim is your interest. And that's why I asked Senator Friend and these other people what it is that they understand the purpose of the bill is. This language does not go to the carrying out of that purpose. Nobody has even discussed this part, except me. Obviously it is not relevant, it has no great significance, nobody has invoked it to make their point. You all don't read. You ought to read what your leaders in the military are saying, what your congresspeople are saying, what your citizens are saying. You all think because a few of you on this floor have this attitude and think you can overpower me with your numbers, that what you say is what everybody else is saying. But the way I feel, even if it is what everybody else is saying, I'm going to express my view, and my view is that these words ought not be in this bill if you're being honest and you're not dissembling when you say that the purpose of this bill is to focus on those who fell. That's not the focus of this bill. You don't need these words. But I provoked you to the point where you're so angry at me that you don't do what you know you ought to do. You know this bill shouldn't be about campaigning for the United States Armed Forces. But you've got to go along with that program. I don't. I enjoy... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: ...a freedom that the rest of you all don't, not because somebody gave it to me but because I take it. And I'm going to do and say what I think I ought to in the face of everybody on this floor being opposed to it. Means nothing to me.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

But fortunately, there are people outside this Chamber who observe what it is we're discussing, and there are people with questions as to why you would put in this bill reflecting support for the Armed Forces if the thrust of the bill is to honor these, as you say your intent is. What you express as your intent is contrary to the language in the bill, and you don't like me to say it. So instead of getting right, you get mad. But it means nothing. And you will get your bill, and I will mock and I will taunt you and I will point out what you put in here. All the yakety-yak about one thing when something else is what the bill is about. [LB570]

PRESIDENT SHEEHY: Time, Senator. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Wallman. [LB570]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I appreciate your comments, Senator Chambers, but I want to say one thing. These people died in the Armed Forces, and I'm proud of these people. I give speeches sometimes in high schools that are interested in the Armed Forces. And I tell them very up-front, it's a commitment. You may lose your life and you may not. It's a risky job and you're doing it for your country. And I'm proud of the young people that do sign up. I am not afraid to tell them that because it's up to your own personal commitment. And whoever wants to choose this commitment and he happens to die in this profession called the Armed Forces, it is tremendous, tremendous. It means tremendous feelings to me in my own heart because a lot of my relatives did serve in the Armed Forces. And like I said, two Purple Heart victims in my own personal church. They would like a little more recognition and they feel like the country, ever since Vietnam, we've kind of dumped on them. And we can blame our Armed Forces for these things, but it was our political leaders. Who voted these leaders into office? People that didn't vote. They die for us to vote. And just think about it, just think about it. National political elections--how many people vote? Does that bother you? It bothers me. And so that Armed Forces in that bill, I think it should stay in there, so I oppose the amendment and I'm for the bill. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Kopplin, followed by Senator Friend. Senator Kopplin. [LB570]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. This really is not an insignificant bit of language in this bill. At least, it has a significance now because if you should happen to vote to take this out, it means you were bullied and cajoled into doing something you really didn't want to do. This isn't about license plates for Senator Chambers. It's about making you do something that he wants you to do just for the heck of it. You know what? I don't care what Senator Chambers thinks. I believe in the Armed

Floor Debate
May 22, 2007

Forces. I believe in the people that are serving us. And God bless them all. Thank you. (Applause) [LB570]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. Senator Friend. [LB570]

SENATOR FRIEND: Boy, I never got an applause. Thank you, Mr. President, members of the Legislature. I don't think Senator Chambers ever...I'm amused every day by his activity and actions. I think...before I came down here I think I used to kind of...I tried not to, but I think I walked around life with blinders on. But every morning, I think, even though I might be able to predict it, I'm thinking, oh boy, what will he say or what will he try to make me think today? And he thinks he knows how to bait me or do whatever. I think he probably does, I've said that before. This isn't baiting. I've gotten better from him in committee hearings. This is nothing. What, he thinks I can't read a bill? That's insulting in itself. I can read this bill, Senator Chambers, and I'm not mad at you but I'm telling you it's insulting in itself to think that you're going to tell us that there's a thrust of this bill--somehow, oh, I'm missing the thrust of the bill. Oh, yeah, yeah. So Section 3 is not as important as Section 2? Where does it say that Section 3 is not the thrust of the bill? If anybody has taught me how to read a bill, it's you. And quite frankly, you are culpable because I can see through this garbage. Section 2 and Section 3 are both thrusts of the bill, okay? And the fact of the matter is, we can dice this up any way we want. If you want to eliminate Section 3 of this legislation, then he has kind of a point because there's only one thrust of the bill left. Am I wrong? Do we want to see hands of people who read the bill, and do we want to continue to be mocked because you haven't read it? You know, I don't really care if you haven't read it. I think by the time we get to Final Reading (laugh) it would be a good idea, but right now at this point the understanding needs to be this. The understanding (laugh) needs to be this. Quit looking at me. The understanding needs to be this. Section 60-301, Section 60-301 to 60-3,220 and Sections 2 and 3 of this act shall be known and may be cited as the Motor Vehicle Registration Act. They're both pertinent; you need them both in order to make this work. So in other words the thrust, as Senator Chambers likes to call it, includes both. It's insane, it's ridiculous. I'm not caught in the web. I'm free and I'm running. And he didn't bait me onto this microphone. He knows how to bait me--this wasn't it. I'm just sitting here waiting to do something. Yeah, sure. I am good. (Laughter) I'm thrashing Senator Chambers on the mike at this moment. So if you'd all step back and give me some time. How much time do I have, by the way, Mr. President? [LB570]

PRESIDENT SHEEHY: One minute, 40 seconds. [LB570]

SENATOR FRIEND: I haven't even broken out my bow staff yet. Look, he thinks it's like taking candy from a baby. He can...I mean, I may not be able to read as fast as him. What am I missing here? He can't tell us what we're missing. All he can do is say that we're too stupid to be able to look at this and figure out what the bill does. I'm not going to run away. I'd actually like to hear what he has to say next--should be entertaining.

Floor Debate
May 22, 2007

Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Friend. Further senators wishing to speak on FA129? Seeing none, Senator Chambers, you're recognized to close on your floor amendment, FA129. [LB570]

SENATOR CHAMBERS: Mr. President, members of the Legislature, you know what all this reminds me of? I will read the Public Pulse, and they will be excoriating the newspaper for writing about anything I say. They will say you ought to ignore him, but they won't ignore me. That's what they do. This bill is designed, Senator Friend, and your colleagues, to reflect support for the Armed Forces of the United States. That's what it says. That's what the design of the plate is for. And by the way, I know the Clerk had to go to the peanut gallery, but when they behave in that fashion, it makes me no difference. They gave applause to their spokesman, Senator Kopplin, because they think that means something to me. All it means is that I own them. That's all that means. That's all that they can do. In their feeling of frustration, helplessness, and total ineptness, they clap. Let them have that little bit. That's all that they have; that's all that they can do. But I tell you what. The other day when Senator Harms and I were talking about this very issue, he saw it the way that I see it. Probably not now because he's in a different milieu. But if you read the language of the bill, it says what I said that it says because I read it. And Senator Friend talks about me trying to remove Section 3 from the bill. I'm not interested in taking any section from the bill. I'm interested in focusing attention on what the language of the bill is, and it doesn't comport with all these things that have been said. I probably should back off some and not frustrate my colleagues so much and cause them to lose such control. Sometimes I forget myself, Senator Aguilar, and perhaps I'm cruel. I'm not trying to be cruel, but I'm going to say what I have to say. And upon analysis, it would be clear that based on all of the arguments given as to what this bill is designed to do, the language that I'm trying to strike has nothing to do with taking this bill where those who have argued for it have said it should go. And Senator Kopplin is right. I did make you vote the wrong way. That's what I'm doing. He's right about that. You all are like those kids. I want you to go across the street so I say you better not go across the street, and there you go, right where I wanted you to go. So then I say you better do this, then you do the opposite. You got to learn how to be able to think through what's happening, and then make a decision on the basis of that. This amendment ought to be adopted. But it won't be. Others have expressed the fact that changes can be made in this bill. Not one has offered an amendment. If they see difficulty with the bill, why don't they offer amendments? They're not going to, so I offer an amendment. Then you get offended. Senator Wightman is offended. Senator Kopplin is offended. I don't know where Senator Friend is for sure. To be honest, I don't know whether he's really speaking for me or against me. [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Oh, he doesn't know for sure right now either because he doesn't remember what he said. (Laugh) Mr. President, members of the Legislature, I have additional amendments that I'm going to offer, and I'm going to stay on this bill until Senator Louden invokes cloture. And when it comes up again, I may do the same thing again. And we do have other bills that we are going to discuss. So if you think that you're rid of me and quit of me, you got another thing coming. And Mr. President, I will ask for a call of the house and I'll accept a machine vote. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You have heard the closing on FA129. We also have a request for a call of the house. The question is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB570]

CLERK: 26 ayes, 0 nays, Mr. President, to place the house under call. [LB570]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Heidemann, Senator Nantkes, Senator Kruse, Senator Rogert, Senator Pankonin, the house is under call. All senators are accounted for. The question before the body, shall FA129 be adopted to LB570? By a machine vote, all those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB570]

CLERK: (Record vote read, Legislative Journal page 1745.) 0 ayes, 35 nays, Mr. President, on the amendment. [LB570]

PRESIDENT SHEEHY: FA129 is not adopted. The call is raised. Items for the record, Mr. Clerk? [LB570]

CLERK: Mr. President, I do. Thank you. I have a report from the Appropriations Committee regarding the recommendations on overrides for LB321. I have a motion from Senator Rogert with regard to an override on LB321. An amendment, Senator Dwite Pedersen, LB142; Senator Lathrop to LB573 to be printed. Mr. President, Senator Chambers would move to reconsider the vote just taken with respect to his amendment, FA129. (Legislative Journal pages 1745-1750.) [LB321 LB142 LB573 LB570]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Chambers, you are recognized to open on motion 84 on reconsideration. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. For the record, this amendment would say on page 2 at line 8, strike the words "reflecting support for the United States Armed Forces." I would like to ask Senator Wightman a question. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

PRESIDENT SHEEHY: Senator Wightman, would you yield? [LB570]

SENATOR WIGHTMAN: Yes. [LB570]

SENATOR CHAMBERS: Senator Wightman, what does that term "United States Armed Forces" mean to you? [LB570]

SENATOR WIGHTMAN: It means, to me, the fighting men that make up the Armed Forces. But I think it could mean either and I still would be supportive, whether we're talking about the institution or whether we're talking about the members that make it up. [LB570]

SENATOR CHAMBERS: And the command staff, you include them... [LB570]

SENATOR WIGHTMAN: I would. [LB570]

SENATOR CHAMBERS: ...because they're a part of it. [LB570]

SENATOR WIGHTMAN: I think it can mean either, quite frankly. [LB570]

SENATOR CHAMBERS: All of them, though. You mean all of them, right? [LB570]

SENATOR WIGHTMAN: All of the Armed Forces that are out there, the fighting men and women. I think you can take it to mean, if you want to, the institution... [LB570]

SENATOR CHAMBERS: And the generals who mismanage... [LB570]

SENATOR WIGHTMAN: ...organization... [LB570]

SENATOR CHAMBERS: ...the generals who have mismanaged prisons in Iraq. You support them, too; correct? [LB570]

SENATOR WIGHTMAN: I am supporting the armed services, Armed Forces. If... [LB570]

SENATOR CHAMBERS: And whoever... [LB570]

SENATOR WIGHTMAN: ...there are people that do wrong in the Armed Forces, you know, that I'm not supporting obviously, not their actions, but I still support the Armed Forces. [LB570]

SENATOR CHAMBERS: Thank you, Senator Wightman. Members of the Legislature,

Floor Debate
May 22, 2007

this is like saying that you don't support what the Nazis did as a political party, but you support the troops and the others who carried out those policies because anybody who is at war and doing what his country told him to do is honorable. That's what you've got to say, because even Senator Wightman is well aware of many dishonorable things that have been done by people in the United States military uniform. And he knows that there are generals who have been implicated. When you have general officers involved in this kind of inappropriate conduct, they are acting for that United States Army or Navy or Marine Corps or whichever one it happens to be. But you want to give the impression that somehow you can separate out the good as you see it and just push the bad aside and say that has no part to play. Well, if you like the heroes, the villains are a part of it, too. And nothing is being done to take away and end that villainy. These plates are not being pushed primarily to honor these fallen people but to show support for the Armed Forces of the United States, and that is not what they should do. If that is what they're going to do, just let them do it. Senator Louden never mentioned that during the whole time he was talking. Senator Lathrop did not mention it. Senator Wightman did not mention it. And Senator Friend did not mention it. It was mentioned only when I brought it up. They were talking about something else, and that something else is not given as prominent a role as this thing of reflecting support for the Armed Forces. There's nothing in there that says this is to honor the young people who have fallen. It tells you that the triggering event would be somebody who died while on active duty. That's just a passing acknowledgement. But you explicitly say support for the Armed Forces. Why don't you say the purpose of these plates is to express support for the families of those who have fallen? You all have put intent language into statutes before. I have done it. You can always find it. If the intent is to honor those, why don't you put it in as intent language? Is Senator Louden somewhere around? [LB570]

PRESIDENT SHEEHY: Senator Louden, would you yield? [LB570]

SENATOR LOUDEN: Yes, go ahead. [LB570]

SENATOR CHAMBERS: Senator Louden, you're familiar, I'm sure, with many bills that we enact into law that contain intent language. Isn't that true? [LB570]

SENATOR LOUDEN: Yeah. [LB570]

SENATOR CHAMBERS: In the same way that it says the design of these plates is to express support for the Armed Forces, you could have put intent language that stated that the purpose of these plates is to express support for these families and to honor those who have fallen. That could have been put in as intent language, couldn't it? [LB570]

SENATOR LOUDEN: Yeah, I suppose it could have. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Why wasn't it? [LB570]

SENATOR LOUDEN: Well, at the time, I probably didn't think about it, I guess. [LB570]

SENATOR CHAMBERS: That's an honest answer. I agree with you. [LB570]

SENATOR LOUDEN: And I mean... [LB570]

SENATOR CHAMBERS: You just didn't think about it. [LB570]

SENATOR LOUDEN: ...you can't think of everything all the time, so I suppose this is how it's a work in progress. And as time goes on, you try to make them better. [LB570]

SENATOR CHAMBERS: That could be done now, couldn't it? [LB570]

SENATOR LOUDEN: Well, not now, I don't think, because I would like to be able to take time to craft it right and get some of the people around... [LB570]

SENATOR CHAMBERS: Oh, when I say now, I don't mean right this minute, but I meant while working on this bill. That bill can have some intent language put into it that states explicitly what the purpose and thrust of this bill would be. Isn't that true? [LB570]

SENATOR LOUDEN: That's true. That could be put in there someplace. [LB570]

SENATOR CHAMBERS: Thank you. That's all I will ask you, Senator Louden. Members of the Legislature, what you want to do, you can find a way to do. All I do is make you all angry; I don't make you think. And those that I make think are too afraid to say anything so they'll mumble and say, well, I know that's right but I'm not going to do anything about it. But at least I put forth effort, won't I? I'll put mine right out there, and I'll tell you why I think it ought to be a certain way. And it would be persuasive if somebody else had asked you or if I had been nicer about it. But we're all adults. If you offer something and I agree with it, I don't care what your tone of voice is. You don't hear me ever say around here, I reject that because I didn't like the way he or she said it. Why, that's so adolescent and juvenile, and when an adult does it, it's asinine. But my colleagues do it on a regular basis. And then Senator Friend, speaking for everybody, going to say I don't own him or some such nonsense as that. My stamp is on Senator Friend. As much as if I had heated a branding iron red hot and stuck it right on him. He bears my brand. (Laugh) This is a serious amendment, and the discussion is not limited to this room. I still would emphasize that if the real purpose is to honor somebody or some persons, honor the living--they're the ones. "Parson" Carlson would tell you that when somebody croaks, there's nothing there but a pile of dirt; that's all, earth. Dust they are, to dust they'll return. But the living who are walking, talking, who have wounded bodies, broken minds, who are forgotten, warehoused in some of these Veterans Administration

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

hospitals, warehoused in some of these old veterans homes. But then we come to something like this where the politicians can make hay and everybody is so patriotic and everybody is so heated up. I didn't hear Senator Wightman or anybody else make a comment about the way those soldiers are being mistreated in that hospital. Roaches and mice running around, paint peeling, dirt, men needing to have their bandages changed and they were not. Maybe the reporters were too delicate to say that maybe they had defecated or urinated in their bed and nobody changed them. They may not say that. We all know what happens when people are in that condition and they're helpless. Did you hear all that outbreak of patriotic fervor in here or anywhere else? No. People don't care. But a license plate, they can... [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: ...grasp that; they can get their mind around that. And then all these other notions are folded into that. But a license plate is a license plate, and it serves a function. And that function should not be as a billboard. I say again: People can get bumper stickers and put anything on those stickers that they choose. But the license plate should not be that billboard, and that's what this plate is going to be--a billboard for the United States Armed Forces. And you can get as nostalgic or whatever else you want to; that is not what a Nebraska license plate should do. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Carlson. [LB570]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to address a question to Senator Chambers. [LB570]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB570]

SENATOR CHAMBERS: Yes, I will. [LB570]

SENATOR CARLSON: Just for information, Senator Chambers, I've talked to Senator Loudon about this. I don't know that this is correct, but would you on your gadget go to page 2 in line 8? [LB570]

SENATOR CHAMBERS: Yes, I'm on... [LB570]

SENATOR CARLSON: You've got the bill. [LB570]

SENATOR CHAMBERS: You mean in the green copy of the bill? [LB570]

SENATOR CARLSON: Yes. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

SENATOR CHAMBERS: Yes, I've got it. [LB570]

SENATOR CARLSON: Okay, line 8. Do you see the two words "for the" in the middle of the sentence? [LB570]

SENATOR CHAMBERS: Yes, I do. [LB570]

SENATOR CARLSON: After "for," insert "those who died while serving in good standing in the..." [LB570]

SENATOR CHAMBERS: Wait a minute, let me get with you now. In line 8, after which word? [LB570]

SENATOR CARLSON: For. [LB570]

SENATOR CHAMBERS: All right, say it again. [LB570]

SENATOR CARLSON: Those who died while serving in good standing in. [LB570]

SENATOR CHAMBERS: That would be in line with what people have said the purpose of the bill is. But what you're talking about here is a design. And if you put that language here, it would cover the thing that I've been critical of. [LB570]

SENATOR CARLSON: All right. And I believe that the design has to be such that, for the family's sake, they certainly could relate it to a portion of the armed services. I have another suggestion on page 3. [LB570]

SENATOR CHAMBERS: Where at? [LB570]

SENATOR CARLSON: Line 21. [LB570]

SENATOR CHAMBERS: Yes. [LB570]

SENATOR CARLSON: The last word is "while." [LB570]

SENATOR CHAMBERS: Yes. [LB570]

SENATOR CARLSON: And then at the front of line 22, insert "in good standing." [LB570]

SENATOR CHAMBERS: Oh, I had heard you say that earlier. I'm not going to say necessarily that those words are the best way you can express it. But as far as the idea, yes, that would be appropriate, and it would cover all of those contingencies that I

Floor Debate
May 22, 2007

mentioned where perhaps this bill should not apply. [LB570]

SENATOR CARLSON: Okay. Thank you, Senator Chambers. And I indicated to Senator Louden I would try and see if that was acceptable between now and Select File. Thank you, Mr. President. [LB570]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Chambers. [LB570]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Carlson didn't get mad; Senator Carlson got busy. And in the same way that Senator Louden had said that he wouldn't want to try to craft something right this minute, I think Senator Carlson has suggested that he will work with Senator Louden or whoever is going to work on this to get the words that will express that idea. And if those words were here in the first place, I would not even have an amendment such as this, because he is putting the focus squarely on the ones whose sacrifice, as you all call it, is to be recognized. And why it's so hard for your colleagues, Senator Carlson, to see what I'm talking about is beyond me. But I know why they didn't see it. There used to be a program on the radio called "The Shadow" and he went over to one of these eastern countries and said he learned a secret by which he could cloud men's minds so that they could not see him. He didn't disappear. He clouded their minds and they were unable to see what was before their eyes. I cloud my colleagues' minds. They get so angry at what I say, they don't understand or pay attention to what is being discussed. Now I wonder how many would object to the words or the concept that Senator Carlson is expressing here where you, in fact, turn the focus of this design language to the ones who are to be honored and not the Armed Forces. I know Senator Wightman is probably mad at you. And if he was dead, he would be rolling over in his grave. I saw him coming down the aisle; I wanted to let him know I haven't forgotten him. This still, for the reasons that I gave before, is not a good bill in my opinion, because it's doing something I think shouldn't be done. I'll tell you something else that I think is surplusage but it was put there, I'm sure, by the Department of Veterans' Affairs. In lines 10 through 12, this language is found: the Department of Veterans' Affairs shall recommend the design of the plate to the Department of Motor Vehicles. If the ultimate decision is going to be made by the Department of Motor Vehicles, you don't need that language because the language above says that the department, meaning the Department of Motor Vehicles, shall create designs in consultation with the Department of Veterans' Affairs and the Military Department. So you don't need this about the Department of Veterans' Affairs shall recommend the design of the plate. That doesn't need to be there. Let them consult and then the Department of Motor Vehicles is going to make the ultimate decision. During their consultation, they can work something out. Nothing should be put in here to give the impression that the Department of Veterans' Affairs has any veto power or that they must agree with what the Department of Motor Vehicles says or that they're at some kind of impasse. The Department of Veterans' Affairs, based on what Senator Louden told us, had a heavy hand in the drafting of this language. They're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

looking out for their own interests. There's some ego involved. I'd like to ask Senator Louden a question. [LB570]

PRESIDENT SHEEHY: Senator Louden, would you yield? [LB570]

SENATOR LOUDEN: Yes. [LB570]

SENATOR CHAMBERS: Senator Louden, which of these two departments is more directly involved in military action: the Military Department or the Department of Veterans' Affairs? [LB570]

PRESIDENT SHEEHY: One minute. [LB570]

SENATOR CHAMBERS: And the Military Department is where the National Guard is housed. Which one has the more direct involvement with military action? [LB570]

SENATOR LOUDEN: Well, the National Guard part would happen with military action, but I don't think we contacted them that much. We were working with the Department of Veterans' Affairs. [LB570]

SENATOR CHAMBERS: Well, this says...oh, so you didn't consult with the Military Department but they will...the Department of Motor Vehicles will have to consult with them on this design. But you didn't talk to the Military Department in drafting the bill? [LB570]

SENATOR LOUDEN: I think on that part where we talked with them probably was to be who, was to decide how the eligibility would be decided. And then the Department of Veterans' Affairs, they was...I mean, yeah, we consulted with both of them and it was all on...mostly the design of the plate would be left up to the Department of Motor Vehicles. The Department of Veterans' Affairs would have some input in it. But with them, it was mostly to decide... [LB570]

PRESIDENT SHEEHY: Time, Senator. [LB570]

SENATOR LOUDEN: ...who would be eligible. [LB570]

PRESIDENT SHEEHY: Mr. Clerk, do you have messages, reports, announcements, or items for the record?

CLERK: I do, Mr. President. Your Committee on Enrollment and Review reports they have carefully examined and engrossed LB641 and LB641A and find them correctly engrossed. An amendment to LB551 by Senator Flood to be printed. Unanimous consent request that the Health Committee conduct their hearing Tuesday, May 29, at

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 22, 2007

8:45 rather than 9:45 a.m., Mr. President. And I do have a priority motion. Senator Friend would move to adjourn until Wednesday morning, May 23, at 9:00 a.m. (Legislative Journal pages 1750-1752.) [LB641 LB641A LB551]

PRESIDENT SHEEHY: We do have a motion to adjourn until Wednesday, May 23, 2007, at 9:00 a.m. All those in favor say aye. Opposed, nay. The Chair says the ayes have it. We are adjourned.