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Transcriber's Office

Floor Debate
May 19, 2011

[LB151 LB152 LB397 LB400 LB529 LB589 LB590 LB617 LB629 LB642 LB667 LB667A
LB669 LB690 LB700 LB701 LB702 LB703 LB704 LR102 LR332]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-second day of the One Hundred Second Legislature, First Session. Our chaplain today is Reverend Robert Hall, Cathedral of Love, Omaha, Nebraska, Senator Council's district. Please rise.

PASTOR HALL: (Prayer offered.)

SPEAKER FLOOD: Thank you, Reverend Hall. I call to order the eighty-second day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

CLERK: I have a quorum present.

SPEAKER FLOOD: Thank you, Mr. President. Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: No corrections.

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

CLERK: Enrollment and Review reports LB700, LB701, LB702, and LB400 to Select File, some having Enrollment and Review amendments. And your Committee on Enrollment and Review reports LB529 and LB590 as correctly engrossed. That's all that I have, Mr. President. (Legislative Journal pages 1693-1694.) [LB700 LB701 LB702 LB400 LB529 LB590]

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, if you could make your way to your seat as we prepare for the first item on the agenda. And before you absolutely have to sit in your seat, we'll begin with legislative confirmation reports. Mr. Clerk.

CLERK: Mr. President, Government Committee reports on the appointment of Timothy Schulz to the Accountability and Disclosure Commission. (Legislative Journal page 1628.)

SPEAKER FLOOD: Senator Avery, as Chair of the Government, Military and Veterans Affairs Committee, you are recognized to open on your first confirmation report.

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. The

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

Floor Debate
May 19, 2011

Government, Military and Veterans Affairs Committee is pleased to report favorably the appointment of Timothy Schulz, a Secretary of State appointment to the Nebraska Accountability and Disclosure Commission. This is a new appointment. A hearing was held on Tuesday, May 17. The committee voted 7-0 in favor with one member absent. Mr. Schulz will serve on the A&D Commission from July 1, 2011, to June 30, 2017. The committee felt that this individual was well qualified for the position. He is from Fremont. He graduated from Nebraska Wesleyan University and he is also a graduate of the University of Nebraska School of Law. He is affiliated with the law firm of Yost, Schafersman, Lamme, and he's been there several years. He has also served in the Lancaster County Attorney's Office. He has practiced a wide variety of both criminal and civil law. Over the years he was very involved in the Fremont community. The committee asks the Legislature to confirm this appointment. Thank you, Mr. President.

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening to the confirmation report. Turning to discussion, Senator Janssen, you are recognized.

SENATOR JANSSEN: Thank you, Mr. President and members. I rise in strong support of this confirmation of Tim Schulz. I've known Tim for quite awhile and he's also an outstanding attorney, both things I hope you will not use against him in voting for him this morning. I'd like to echo that Tim has been very active in the Fremont community. We've served on several boards and commissions together throughout the years, and he's looking very forward to serving in this very important role. Thank you very much.

SPEAKER FLOOD: Thank you, Senator Janssen. There are no other lights on. Senator Avery, you're recognized to close. Senator Avery waives his opportunity. The question before the body is, shall the confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 1694.) 36 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. (Doctor of the day introduced.) Mr. Clerk, the next item on today's agenda is the Executive Board report.

CLERK: Mr. President, the Executive Board recommends the reappointment of Mr. Marshall Lux as the state Public Counsel. (Legislative Journal page 1611.)

SPEAKER FLOOD: Senator Nelson, as Vice Chair of the Executive Board, you are recognized to open on the reappointment of the Ombudsman.

SENATOR NELSON: Thank you, Mr. President. I am pleased to rise today to ask for your support for the reappointment of Marshall Lux as the Public Counsel for the state of Nebraska, or as it is better known, the state Ombudsman. The Public Counsel is

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

Floor Debate
May 19, 2011

appointed by the Legislature to serve a six-year term after a recommendation by the Executive Board. On Tuesday, the Executive Board met and voted unanimously to recommend Mr. Lux to the Legislature for another term. Mr. Lux has held this position since 1980, and has done an outstanding job. I would ask for your support to confirm Mr. Lux. A two-thirds vote is required.

SPEAKER FLOOD: Thank you, Senator Nelson. Turning to discussion on the reappointment of the Ombudsman, Senator Lathrop, you are recognized.

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I am standing in support of this appointment, and I wanted to...you know, we go through, the first thing in our day, sometimes while we're talking and milling around, we do these appointments, and occasionally we'll stop and talk about a particular person to be appointed or reappointed. I wanted to take this occasion to stop and express my appreciation for the Ombudsman's Office and Mr. Lux in particular. This is our guy. He serves us, the Legislature. And the Ombudsman's Office, if you don't have any contact with them, you ought to learn who they are and what they do, because they do really, really significant and important work. When we worked on the Beatrice State Developmental Center issues, the Ombudsman's Office was there. And when we changed the direction of BSDC and there were a lot, a good deal of issues that followed on an individual family, to an individual family basis, the Ombudsman's Office was there. They were up at BryanLGH when the medically fragile were moved out of BSDC. They do incredible work for people who don't have a voice. They investigate and, more importantly, they give people a sense that someone is listening to them. And I can't adequately express my appreciation for the work they do, for Mr. Lux and the people in his office, and I would encourage your support of his reappointment. Thank you.

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Pahls, you are recognized

SENATOR PAHLS: Thank you, Mr. President and members of the body. I also agree with Senator Lathrop. That office has been so important to some of the concerns that are brought forth by my constituents. It is amazing how they have really helped myself and my office out with some questions that we do not have the expertise to follow up on. So I commend them because this is another good example of how government can and does work. And that office more than has fulfilled the needs of my office and myself as a state senator to help me with my constituents. Thank you.

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Council, you are recognized.

SENATOR COUNCIL: Thank you, Mr. President. And I rise in joining the chorus in support of the reappointment of Marshall Lux as the Ombudsman and want to take this opportunity to publicly express my appreciation to Marshall and the members of his staff who provide us invaluable assistance in my office in responding to questions and

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

Floor Debate
May 19, 2011

concerns posed by constituents from my district as well as those from across the state. I don't know how we could respond to all of the inquiries that we receive on a daily basis if we did not have the assistance of James and Jerall and Gary and the other members of the Ombudsman's staff who devote all of their time and energy to making sure that the concerns raised by residents of the state of Nebraska are addressed and that they know that their government is responsive. And with that, again I rise in full support of the reappointment of Marshall Lux.

SPEAKER FLOOD: Thank you, Senator Council. Senator Ken Haar, you are recognized.

SENATOR HAAR: Mr. President and members of the body, I too will be a member of that choir saying thank you to the Ombudsman's Office and congratulating them on the work and the help they give to us. Sometimes we have found that the answer comes back to as "no" to a constituent, but at least they know that government is listening to them. And I think that's so important. We've done a lot of work with constituents. And the Ombudsman's Office doesn't always give us the answer that our constituent wanted, but they make every effort, reaching out to every possible resource, and I want to congratulate them and thank them for that.

SPEAKER FLOOD: Thank you, Senator Haar. Senator Krist, you are recognized.

SENATOR KRIST: Thank you, Mr. President. And again another member of the choir. But I have to take an opportunity both to thank Marshall and Barb Brunkow for her efforts. The Ombudsman's Office has done wonderful things. When I'm asked what the best part of my job is here, I tell people it's listening to people and being able to every once in awhile tear down that brick wall. And in every case, in every success in terms of helping the citizens of this state, I can truly say that it's been the Ombudsman's Office that has been a key to that success. Thanks for what you're doing and keep up the great work.

SPEAKER FLOOD: Thank you, Senator Krist. Members, there are no other lights on. Senator Nelson, you're recognized to close on your reappointment of the Ombudsman motion.

SENATOR NELSON: Thank you, Mr. President. The board certainly appreciates the chorus of strong support for Marshall Lux, and I ask for the body's confirmation. Thank you very much.

SPEAKER FLOOD: Thank you, Senator Nelson. Members, you've heard the closing. The question before the body is, shall the Legislature reappoint the Ombudsman? This does take 33 votes. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record.

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

Floor Debate
May 19, 2011

CLERK: 39 ayes, 0 nays, Mr. President, on the motion as offered by the Executive Board.

SPEAKER FLOOD: The motion is successful. Mr. Lux is reappointed as the Ombudsman of the Legislature of the state of Nebraska. Mr. Clerk, we now proceed to Final Reading. The first bill is LB151. Members, please find your way to your seats in preparation for Final Reading. Members, the first vote will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB151]

ASSISTANT CLERK: 42 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB151]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB151]

ASSISTANT CLERK: (Read title of LB151.) [LB151]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB151 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB151]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1695-1696.) The vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB151]

SPEAKER FLOOD: LB151 passes with the emergency clause attached. Mr. Clerk, we now proceed to LB589. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB151 LB589]

ASSISTANT CLERK: 42 ayes, 0 nays to dispense with the at-large reading. [LB589]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB589]

ASSISTANT CLERK: (Read title of LB589.) [LB589]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB589 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk. Mr. Clerk, please record. [LB589]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1696.) The vote is 45 ayes, 0 nays, 4 excused and not voting. [LB589]

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

Floor Debate
May 19, 2011

SPEAKER FLOOD: Thank you, Mr. Clerk. LB589 passes with the emergency clause attached. Mr. Clerk, LB617. [LB589 LB617]

ASSISTANT CLERK: (Read LB617 on Final Reading.) [LB617]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB617 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB617]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1697.) The vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB617]

SPEAKER FLOOD: LB617 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB151, LB589 and LB617. Mr. Clerk, any items? [LB617 LB151 LB589]

CLERK: Mr. President, I have nothing at this time. Thank you.

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Next item, Mr. Clerk.

CLERK: Mr. President, proceeding to Select File. Senator Larson, I have Enrollment and Review amendments with respect to LB667. (ER135, Legislative Journal page 1604.) [LB667]

SENATOR CARLSON: Senator Larson for a motion. [LB667]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB667 be adopted. [LB667]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB667]

CLERK: Mr. President, Senator Flood would move to amend with AM1466. (Legislative Journal page 1684.) [LB667]

SENATOR CARLSON: Senator Flood, you're recognized to open on your amendment. [LB667]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. AM1466 contains the E&R amendments that were just adopted and other technical changes.

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

Floor Debate
May 19, 2011

This amendment also contains a substantive change regarding the State Boat Act that was made after several conversations with Senator Schumacher. This change has to do with the legal grounds required before an officer may require that a person submit to a preliminary breath test in certain situations related to boating. The exact language begins on page 18, line 21 of the amendment, where it reads, "Any peace officer who has been duly authorized to make arrests...may require any person who has in his or her actual physical control a motorboat or personal watercraft under propulsion upon the waters of this state to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person," and here is the new language, "is under the influence of alcohol or of any drug." The previous version stated that if the PBT was allowed "if the officer had reasonable grounds to believe that such a person had alcohol in his or her body." I think this is a reasonable accommodation regarding the State Boat Act. Senator Schumacher is okay with this. It follows the concerns he raised, which I think were legitimate, on General File. And I think we can move forward with this being adopted and feel reasonably comfortable this has been handled. So the other changes, as I mentioned, are technical in nature, and I would ask for your continued support of the bill. Thank you, Mr. President. [LB667]

SENATOR CARLSON: Thank you, Senator Flood. Members, you've heard the opening on AM1466. The floor is now open for debate. Are there senators wishing to speak? Seeing none, Senator Flood, you're recognized to close. Senator Flood waives closing. The question is, shall AM1466 be adopted? All those in favor vote aye; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB667]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB667]

SENATOR CARLSON: AM1466 is adopted. [LB667]

CLERK: I have nothing further on the bill, Mr. President. [LB667]

SENATOR CARLSON: Senator Larson for a motion. [LB667]

SENATOR LARSON: Mr. President, I move that LB667 be advanced to E&R for engrossing. [LB667]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Mr. Clerk. [LB667]

CLERK: Mr. President, LB667A. I have no amendments to the bill, Senator. [LB667A]

SENATOR CARLSON: Senator Larson for a motion. [LB667A]

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

Floor Debate
May 19, 2011

SENATOR LARSON: Mr. President, I move that LB667A be advanced to E&R for engrossing. [LB667A]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Mr. Clerk. [LB667A]

CLERK: Mr. President, LB152. Senator Larson, I do have Enrollment and Review amendments. (ER136, Legislative Journal page 1675.) [LB152]

SENATOR CARLSON: Senator Larson for a motion. [LB152]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB152 be adopted. [LB152]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB152]

CLERK: Senator Lathrop would move to amend with AM1503. (Legislative Journal 1698.) [LB152]

SENATOR CARLSON: Senator Lathrop, you're recognized to open on your amendment. [LB152]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. A very simple amendment. AM1503 addresses a technical issue raised by the Workers' Compensation Court Administrator. Currently, there are no diagnostic related groups related to trauma services. Accordingly, this term has been removed from LB152 with this amendment. I would encourage your support and I'll waive close. Thank you. [LB152]

SENATOR CARLSON: Thank you, Senator Lathrop. You've heard the opening on AM1503. Are there senators wishing to speak? Seeing none, Senator Lathrop waives closing. The question is, shall AM1503 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB152]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB152]

SENATOR CARLSON: The amendment is adopted. [LB152]

CLERK: I have nothing further on the bill, Mr. President. [LB152]

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

Floor Debate
May 19, 2011

SENATOR CARLSON: Senator Larson for a motion. [LB152]

SENATOR LARSON: Mr. President, I move that LB152 be advanced to E&R for engrossing. [LB152]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. The bill advances. Next item, Mr. Clerk. [LB152]

CLERK: Mr. President, returning to General File. Senator Sullivan would offer LB629. (Read title.) Introduced on January 19 of this year, at that time referred to the Natural Resources Committee for public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1465, Legislative Journal page 1610.) [LB629]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Sullivan, you're recognized to open on LB629. [LB629]

SENATOR SULLIVAN: Thank you, Mr. President. And good morning, colleagues. And I must say, I'm glad to be saying good morning instead of good evening. (Laughter) And first and foremost, I want to thank the members of the Natural Resources Committee, thank them for bearing with my persistence for quite a few weeks--several months, in fact--for offering suggestions on amending the bill, because as you will see, it has been significantly amended, and of course, most of all, for voting the bill out of committee 8-0. I have literally worked on this legislation all session. And in the process, there have been lessons learned. I've learned that nothing is ever as easy as it seems. And just because there's been a detailed interim study conducted by Senator Dubas and myself, it doesn't mean all our questions have been answered. And not everyone is going to agree with me, surprisingly enough, and particularly for some of those outside the glass they will say this bill just doesn't satisfy me and it doesn't do enough. But here we have what I affectionately call my pipeline bill. And it is in a very amended form from when I first began, but that's a good thing. Why? Because even though in this state we have miles and miles, over 20,000 miles actually, of pipeline that currently exist, we have virtually no legislation on the books relative to pipelines. This is a start and I will remind you of that several times. It is a beginning of...and you will see me stand up here in future sessions, hopefully, talking more about this subject. And I will say, too, that I would venture to guess that many of you have received phone calls, e-mails, personal conversations with many citizens across this state who are concerned with the current situation of an oil pipeline traversing our state, and that has caused some concern. It's also given the topic a lot of media attention. And in the process of all of that, I think there's been a lot of confusion. Confusion over what the state can do, what is federal oversight versus state oversight. And actually, the focus has been on that present situation of an oil pipeline company that's coming in to our state as we speak. My bill focuses not only on the here and now but going forward, because this is not only the

Floor Debate
May 19, 2011

start of legislation, but there will be much more pipeline activity in this state and we have to be on top of it. I think before I get into some of the details, too, it's also important for you to know and be clear about what I'm not attempting to do. I'm not trying to stop this pipeline. This legislation does not deal with siting nor does it suggest a change in the route of the proposed pipeline that I refer to, nor am I interested in seeing this legislation amended beyond what is currently the committee amendment that Senator Langemeier will be speaking about shortly. And I know he will go into details about it, but I want to tell you very briefly what the Pipeline Reclamation Act includes. It defines reclamation as restoration of an area through which a pipeline is constructed, reclamation that returns the land as close as reasonably practicable to the condition, contour, and vegetation that existed prior to construction. It says that reclamation costs include but are not limited to the cost of that restoration of real and personal property, of the restoration of our natural resources, rehabilitation of habitat or wildlife, and the cost of revegetation. It also says that the pipeline carrier is responsible for reclamation during the construction, the operation, and maintenance of the pipeline, in essence, for the life of the pipeline, until it's decommissioned or removed. And it sets minimum standards, but those minimum standards will not supersede a negotiated contract between an oil pipeline company and a landowner. It also allows state agencies, counties, cities and villages to pursue reclamation costs for maintenance and repair of roads, bridges, infrastructure that's been related to the pipeline construction, maintenance, and operation of the pipeline. And it includes the emergency clause. I will say, when we say reclamation in the broad sense, you have to also keep in mind as this pipeline, the current one or others for that matter, travel across Nebraska, the geography will change, the topography will change and reclamation efforts will change. And it will also be determined by the individual contract that is agreed upon between the landowner and the pipeline company. And I wanted to be careful that my efforts in this bill didn't supersede those that might in fact be harsher and more detailed standards than what are required of the minimum standards in this act. As I said, this is a beginning. And quite frankly, in spite of the fact that we have so many pipelines, pipeline legislation is a new frontier for Nebraska. And pipelines can be a good thing not only for our economy of this state but also countrywide. But they have to be a good thing and we have to manage them correctly. And as a state and as state senators we have a responsibility. We were sent down here to help protect our citizens, to protect the natural assets of our state, and that's what I'm trying to do. Granted, this legislation is broad. It still requires that a landowner has to take a company to court if they're unhappy with the reclamation. But you know what? It's not going to be needed if a pipeline company is a good neighbor and uses best management practices, as they say they will do. So as I said in closing, I was sent down here to work for the citizens of this state and that's why I've been so persistent with this pipeline bill. It means a lot to me, as do the citizens of this state and as do the natural resources. I'm very concerned about doing my part to protect them. And I think in a small way, and in some ways potentially very big ways, LB629 does that. Thank you very much. [LB629]

Floor Debate
May 19, 2011

SENATOR CARLSON: Thank you, Senator Sullivan. As the Clerk stated, there are amendments from the Natural Resources Committee. Senator Langemeier, as Chair of the committee, you're recognized to open on AM1465. [LB629]

SENATOR LANGEMEIER: Mr. President, members of the body, first of all, I'd like to thank Senator Sullivan and the committee. We've been talking about this issue pretty much in-depth this entire session, up until now. And it's been a really good conversation, and they did an interim study and we learned a lot. We have mountains of information within our office on this issue. Senator Sullivan did a pretty good job of doing the introduction on the committee amendment, and I'm going to go through it again just to put it in some different words, I guess. The amendment creates the Oil Pipeline Reclamation Act. It requires that a pipeline carrier owning, constructing, operating and maintaining a pipeline throughout the state for transmission of oil be financially responsible for reclamation costs related to construction, operation and management of the pipeline. So they put the line through, they're going to put the ground back afterwards, they have a problem, they're going to replace or repair when they're done. This act does not prohibit governmental entities from pursuing reclamation costs related to road damage, bridges or other infrastructure that might be damaged in the process of putting a pipeline through. The act does not affect any agreements made between landowners and pipeline carriers and it is not to affect the pipeline carriers' duties under the federal laws or any permits granted thereof. The rest of the introduction Senator Sullivan did a good job on. What I want to go to now, and you got a letter passed out, is to talk about the hierarchy over who monitors pipelines. The hierarchy starts with the Department of State with a Presidential Permit. At that level, we have the National Environmental Protection Act, we have the environmental impact statement that comes from them and that's where the pipeline company applies to. We have the National Historic Preservation Act. Those all fall under the Secretary of State. And then under that we have the Department of Transportation and the Office of Pipeline Safety. And under that, you've heard me say many times, PHMSA, which is the Pipeline Hazardous Materials Safety Administration. Under that they have the Pipeline Safety Act, 49 CFR 194 and 195, and 49 U.S.C. 601. They have it to create an emergency response plan through the Department of Transportation and PHMSA, and with that they have 57 special conditions that apply to pipelines. Then under that you have the Federal Regulatory Commission and they deal with all tariff charges in the U.S. for pipelines that go through the Environmental Protection Agency. Under that you have their Emergency Management Plan, and under that you have the National Oil Hazardous Substance Pollution Compact Plan. And further under that you have the Clean Water Act and Oil Pollution Act of 1990 that they have to do. Now you have all those. Where does the state come in? The state comes in with the Nebraska Department of Environmental Quality. They have some real responsibilities under all those federal laws that we, as a state, designate them to look at and enforce. You'll see we passed out a letter that we inquired, for this debate, to the Department of Environmental Quality. And it has just a number of questions that we wanted to have

Floor Debate
May 19, 2011

out there to what is DEQ's response going to be if there's a leak? What is their responsibility for a number of things? And we passed that out to you to review as you go through. And so I'd ask you to read through that. It's a great piece of information from the questions to the answers and it's in great detail how that all starts and what's the process if there is a leak within the state of Nebraska. So for now, I'm going to stop with the introduction of AM1465 and I'm more than happy to answer questions. Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Langemeier. Members, you've heard the opening on LB629 and the underlying amendment, AM1465. The floor is now open for debate. Senators wishing to speak are Fulton, Dubas, Coash, Larson, Lathrop, and others. Senator Fulton, you're recognized. [LB629]

SENATOR FULTON: Thank you, Mr. President, members of the body. I would like to yield my time to Senator Dubas. [LB629]

SENATOR CARLSON: Senator Dubas, 4 minutes 50 seconds. [LB629]

SENATOR DUBAS: Thank you very much, Mr. President. Thank you very much, Senator Fulton, for that professional courtesy. He came over and told me he was first in the queue. I said that's fine. He said, well, you've worked on this a long time so I would yield you my time if you'll give me yours. So I do appreciate that acknowledgement because this has been a project that Senator Sullivan and I and our staff have invested a great deal of time in. So I would like to acknowledge our staff also and the staff of the Natural Resources Committee for all the work they did. As I stated, this has been a long time coming. It started way last year when Senator Sullivan and I introduced an interim study resolution that we cochaired. And the objective of that interim study was to try to gather objective information about not just the pipeline that is currently proposed to go through the state, but pipelines in general. There was a lot of information being floated. We were hearing from constituents on both sides of this issue. And it was...trying to sift through all that information to find out wherein does the truth really lie, and so we conducted that interim study resolution where we met with all of our state agency directors, we met with experts in the Sandhills and in water and those issues from the university. We met with the federal delegation and federal officials. We really tried to be very broad in our approach to that interim study resolution. And we do have a report that is on the Legislature's Web site under the Natural Resources Committee link. So if you would like to look through that report, there is a great deal of very good and timely information on there. And one of the questions we were looking to answer was, does the state of Nebraska have any authority to interact with projects such as this or even should we have any authority? And I think it came out, in my mind anyway, is that we do. And so it's just making that decision as to what we want that authority to look like. I introduced a bill along with Senator Sullivan's bill and Senator Haar introduced a bill. I thought from the git-go, when this first all started, it seemed like the Public Service

Floor Debate
May 19, 2011

Commission was the logical place to go to have some type of oversight or interaction with pipelines such as this because they deal with a lot of pipelines. They deal with intrastate pipelines, natural gas pipelines, they have interaction with FERC. And I have passed out a chart that shows you the types of requirements that natural gas pipelines have to comply with through FERC, and it's very detailed. There are a lot of protections and checks in place for natural gas pipelines. That's why this, Senator Sullivan's bill as well as the bill I introduced, did not deal with natural gas pipelines, because FERC does put a great deal of requirements in place as far as governance and permitting and oversight and protections after the pipeline is in place. My question was...and I really did feel that if these types of oil pipelines had to comply with what our natural gas pipelines have to deal with, we probably wouldn't be having this discussion or not this detailed of a discussion. Through our interim study we looked at, well, what do other states have in place? How are they dealing with these types of pipelines? And every state, as you would guess, deal with things in different ways. And again, part of my bill that I put together kind of cherry-picked what I thought were the appropriate things out of various states' laws that would serve us well in Nebraska. My bill created a permitting process through the Public Service Commission and also dealt with eminent domain. And that's an issue we're hearing from our constituents a lot about too. And under my bill, you would be able to... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR DUBAS: ...you wouldn't be able to use eminent domain unless you had received a permit from the Public Service Commission. I'll continue to work on my bill. Hopefully, have something that I can get agreement with the committee on and come out with next year. There are a lot of gray areas in what we're dealing with through this. This isn't just a national project, this is an international project. So you have the Department of State and a lot of other federal agencies that are involved in this. And so it did create that grayness as to really how much can the state get involved. There are a lot of different types of permits: there's construction, there's siting, there's maintenance, there's operation, there's an emergency response, abandonment, just a whole long list of the types of permits that they have to go through in order to be able to move forward with construction. So again, looking at what other states have done, trying to decide... [LB629]

SENATOR CARLSON: Time. [LB629]

SENATOR DUBAS: Thank you, Mr. President. [LB629]

SENATOR CARLSON: Senator Dubas, you're recognized. This is your time. [LB629]

SENATOR DUBAS: I would yield my time to Senator Fulton. [LB629]

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Transcriber's Office

Floor Debate
May 19, 2011

SENATOR CARLSON: Senator Fulton, 4 minutes 50 seconds. [LB629]

SENATOR FULTON: Thank you, Mr. President, members of the body. Thank you, Senator Dubas. When I first came here, whenever it was, 2007, there were a couple of senators who I met with, one of whom was Senator Loran Schmit. And he shared with me this story about the power that state senators have. And many of you know Senator Schmit. He was trying to mentor a young senator. Well, maybe two, three days after that, I was speaking with Senator Chambers. Now we didn't always fight. What he said to me, he said, and you can just about hear him, the way he said, he said, kid, you have no idea, you have no idea how much power people have given you as a state senator. And I remember that. Those two fellows were trying to provide some frame of reference. Senators, we have enormous power. We have been given a great deal of power by the people. The word sovereign, you heard me talk about it when I brought this Tenth Amendment resolution last year or whenever it was, two years ago or last year. I looked it up. One possessing or held to possess supreme political power; one that exercises supreme authority within a limited sphere; and the synonyms that were listed for the word sovereign: autocrat, potentate, ruler, monarch. In the fourteenth century the word first came to be and it was a reference to kings. Today, the sovereign in our country is the people. That supreme power that existed for kings and monarchs exists in the people today, the people situated within a state, that's us, Nebraska. The people of Nebraska are the sovereign. And I have to tell you, it is troubling when a company from another country can come in and dictate to the people of a sovereign state what's going to happen on their own private property. And if we as senators believe that we don't have the authority to stand against such power, I ask you to consider, who holds the authority to govern in this state? It is the people and they express themselves through us. I say all of this to put us in a frame of reference. I'm proud of the Natural Resources Committee for putting this out. And to Senator Sullivan and Senator Dubas, bravo. The people who want to have voice do not have voice unless it comes through their elected officials. The sovereignty of Nebraska is exercised through us. It should be communicated clearly that the landowners who might be threatened with eminent domain have means of recourse. This is a serious business. I have friends who own land who received a letter, and I'll call it that letter, and it is disgusting to think of that a company who I respect, I worked in this industry in oil and gas, that's why I took an interest in this issue last year, this is a respected company, TransCanada. Let's not beat around the bush, that's what we're talking about here. But their interests are different than the interests of landowners, perhaps even in the interest of Nebraska. And when a company from another country has the ability... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR FULTON: ...to come in and intimidate and cajole and take that which is not theirs, we have an obligation to say something. Now what it is that we say, that's up to us. But I am proud of the Natural Resources Committee for putting this thing forward.

Floor Debate
May 19, 2011

And we should give voice to those who do not have voice otherwise, it's part of our job, it's part of that power that some years ago some veteran senator said to a young senator: you don't have...you have no idea, the power of a state senator. The Secretary of State of our country is going to make a decision as to whether this is in the national interest such that this pipeline will go through the path that's proposed. The Secretary of State speaks on behalf of our country. We speak on behalf of Nebraska and we have some skin in this game. We are a sovereign state and we should not be pushed around by the Secretary of State or a company from another country or any company, for that matter. So I'm hopeful that that at least... [LB629]

SENATOR CARLSON: Time. [LB629]

SENATOR FULTON: Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Fulton and Senator Dubas. (Visitors introduced.) Senator Coash, you're recognized. [LB629]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. Following Senator Fulton's speech, that's a tough one to follow. But I want to talk a little bit about the amendment that becomes the bill and about reclamation and why this is important. Kind of like Senator Lautenbaugh reminds people that he's a former election commissioner, I like to remind people that I grew up in the Sandhills, spent my life there before I moved to Lincoln. And reclamation, which is what this amendment does, is kind of a different animal when you talk about the Sandhills. Where I grew up, 100 yards from my backdoor there is an old...we called it the pioneer dump. It was a place where the Sooners and people in covered wagons that had come through, they stopped and they unloaded a bunch of garbage. And they dug a hole so some of it wouldn't blow away. Now you might ask, how do I know that that's there? Let me tell you how I know. The hole is still there. There is no vegetation over the place where those pioneers dug into the ground to put some of their waste. And as a kid, we'd go out there and we'd dig through it to try to find things that they had thrown away. We found metal milk jugs, we found toys, we found broken dishes that were over 100 years old. And every couple of years or so I go back and I can find more things because the hole has gotten bigger and it's exposed more litter that is over 100 years old. Reclamation is important to address and I'm glad that that's being addressed in this bill. According to a report by our own professors here, revegetation following a disturbance in the Sandhills is much more difficult than normally encountered by projects like this, but it is doable with adequate planning, with adequate resources and by putting forth the effort. And because of these specific concerns surrounding the fragile nature of the Sandhills, it is important that we as a Legislature set our minimum expectations: that reclamation occur following construction of any pipeline going through our state. AM1465 and the underlying bill is a small step and it's the right direction. But I hope we as a body do not wipe our hands and say, this is all we need to do to make sure that we protect our resources. This is

Floor Debate
May 19, 2011

what we're going to do this year. But we're not going to take our eyes off the ball, we're going to pay attention to what's happening. And if we need to do something else, we'll do it, it's our responsibility to do it. Right now, we've got reclamation as part of what's been advanced from the committee. I support it and I urge my colleagues to support it. We need to keep it as it is. But we cannot take our eyes off the ball. It is too vital to our resource of water. It's vital to our resource in the Sandhills. But we must keep our eyes on it. And I do trust our Natural Resources Committee and I trust Senator Sullivan and I trust my colleagues that we will not take our eyes off of this issue. And I would yield the remainder of my time to Senator Sullivan. [LB629]

SENATOR CARLSON: Senator Sullivan, 1 minute. [LB629]

SENATOR SULLIVAN: Thank you, Mr. President, and thank you, Senator Coash. And I do stand committed to continuing to work on this and I will. There have been a couple of questions that have come forward, one with respect to the fiscal note. The way the bill has currently been amended by the committee, there is no fiscal note. So we don't have to worry about that. Senator Dubas also mentioned that the three...the interim study that we talked about, there were three things, basically, that came out of that that perhaps the state should look at carefully: one being liability, one being reclamation, and one being siting. You literally have to pick apart all three of those and look at them separately and so I chose to look at reclamation. I think it's very difficult to try to lump them all together into one piece of legislation and also very difficult to find out, as Senator Dubas alluded to, what we can and can't do. And if you've got any particular... [LB629]

SENATOR CARLSON: Time. [LB629]

SENATOR SULLIVAN: Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Sullivan and Senator Coash. Again, senators wishing to speak are Larson, Lathrop, Adams, Loudon, Hansen, Gloor, and others. Senator Larson, you're recognized. [LB629]

SENATOR LARSON: Thank you, Mr. President, members of the body. I have a direct interest in this issue as well. Part of the first pipeline goes through the eastern half of my district. And later today we'll be debating redistricting bills and if the committee's proposed bill passes, it will go through the new western half of my district, though we're yet to decide those. And I'm sure that will be fun later. As I said, I rise in support of the amendment to LB629 because it does address a main concern of my constituents and my future constituents possibly. In my district there has been positive feedback. From the first pipeline construction, constituents in Cedar County have talked about the increased economic activity and the responsible practices of TransCanada. There has not been any incidents or spills or leaks, nor have there been any problems relating to

Floor Debate
May 19, 2011

the restoration of the ground disturbed during construction. I've had a few constituents talk to me but they said TransCanada has been very, very helpful if they've had problems and working with the citizens. So that's...that eases my mind. However, the landscape through the Sandhills is different than that in Cedar County. Constituents in Holt County, which is included in the proposed route of the new pipeline, have expressed concerns that the land will not be adequately restored to its current state. The fragility of the Sandhills is a serious concern. And this amendment clearly sets out the guidelines for TransCanada or any other business who wishes to construct a pipeline carrying these liquids. Furthermore, while there has been some recent news of land not being appropriately restored along the pipeline in Montana, TransCanada has pledged to address the problem because of regulations in Montana. This kind of regulation will ensure that an oil company will be responsible and will have to fix any ongoing or future land restoration issues. TransCanada has been working with experts on the ecology of the Sandhills, and I'm confident that they will address the concerns of my constituents within the guidelines of this amendment. The pipeline has created a positive impact thus far in Nebraska and this additional route can result in similar positive impacts. The committee amendment is the right step to ensuring that. Again, I support AM1465 and LB629. And if Senator Sullivan would like the remainder of my time, I'd happily yield it to her. [LB629]

SENATOR CARLSON: Thank you, Senator Larson. Senator Sullivan, 2 minutes 15 seconds. Senator Sullivan waives. Senator Lathrop, you're recognized. [LB629]

SENATOR LATHROP: Thank you, Mr. President. Colleagues, good morning once again. I'd like to ask Senator Sullivan some questions if I might. [LB629]

SENATOR CARLSON: Senator Sullivan, would you yield? [LB629]

SENATOR SULLIVAN: Certainly. [LB629]

SENATOR LATHROP: Thank you. Senator, as I look through the bill and the amendments, I have a question for you. We talk about reclamation, and when you build the pipeline reclamation would mean covering it up, planting some seed, making it look like the topography looked before. Is that the case? [LB629]

SENATOR SULLIVAN: Yes and no. Would you like me to expound on that a little bit? [LB629]

SENATOR LATHROP: Yes, without burning up my whole five minutes. [LB629]

SENATOR SULLIVAN: Okay. The bill says, yes, that as reasonably practicable to return the land to its original contour, vegetation, all of that. However, it also says we're not going to supersede the negotiations and the agreement that has taken place between

Floor Debate
May 19, 2011

the company and a landowner. So that could include some additional features. For example, in the Sandhills when they open up that ground, cover it back up once the pipeline is in, they're going to have some issues, as Senator Coash said, with restoring that vegetation. So it could very well involve fencing so we don't have cattle going across that area. So there are going to be variations in how the reclamation is taking place. [LB629]

SENATOR LATHROP: What if there's a leak? What does your bill do in the event there is a...this pipeline sprouts a leak, as they do from time to time? [LB629]

SENATOR SULLIVAN: Well, Senator Langemeier mentioned earlier there are federal...in the federal permitting process, part of the responsibility for oversight in the event of a leak is given to the Department of Environmental Quality, not only to respond when a leak is identified, but then to oversee the recovery and reclamation. So my bill deals just with reclamation. But that's not to say that the pipeline company will not have responsibility to do some of the recovery, they will under the federal permitting process overseen by DEQ. However, in addition, since my bill deals with reclamation, if you think about it, okay, there is a leak, it comes out onto the land. The Reclamation Act as it now is proposed covers the life of the pipeline. And so if there is oil on the land that is in the area of the pipeline, that will have to be reclaimed. And that's covered under this bill. [LB629]

SENATOR LATHROP: Okay. So between the federal statute and your bill we provide for returning the land to its original state after the pipe has gone in. We can preserve the pipe or the area around it if we need to with a fence; if there's a leak, the pipeline company will be responsible for cleanup and restoring the land. And then when the useful life of the pipe is exhausted or there is no longer enough oil up in Canada to transport it through this pipe are they responsible for taking the pipe out of the ground and restoring the Sandhills back to their original state? [LB629]

SENATOR SULLIVAN: The act says, for the useful life of the pipeline and until it's decommissioned. And that decommissioning can be achieved in a couple of different ways. In some cases, as I understand it, the pipeline may just remain in the ground. And then there is some sort of different liquid that is put through the pipeline. However, in some cases the pipeline would be removed and in that process of decommissioning, yes, they disturbed the land and they have to reclaim it. [LB629]

SENATOR LATHROP: If they're not going to run water, molasses, whatever they're going to run through the pipeline, after they're done running oil through it do we make them take the pipe out of there or can it... [LB629]

SENATOR CARLSON: One minute. [LB629]

Floor Debate
May 19, 2011

SENATOR LATHROP: ...may it sit there in the Sandhills until it rots? [LB629]

SENATOR SULLIVAN: As I said, that very well may be the case. It's not covered in this legislation. Will it rot? I don't know, I'm not an engineer. And as I said, the decommissioning can be handled in a number of different ways. And I would suspect that could possibly be one of the areas that we look at in future legislation is abandonment or decommissioning of pipelines. [LB629]

SENATOR LATHROP: Do you think we can regulate...I mean, right now, we're at the beginning of the process and they haven't put the pipe in the ground. Isn't that the time to set up what we should do at the end of the useful life of the pipe rather than legislate it in the middle of the life of the pipe? [LB629]

SENATOR SULLIVAN: In a perfect world, yes. And as I said, I did what I could as far as getting something out here on the floor. [LB629]

SENATOR CARLSON: Time. Thank you, Senator Lathrop and Senator Sullivan. Senator Adams, you're recognized. [LB629]

SENATOR ADAMS: Thank you, Mr. President and members. I've been in this body five years now and all five years I have had to deal with TransCanada. And I don't say that in a negative way. One pipeline has already been completed and runs through my district and now we're on to number two. And the reason I point that out to you is because I want to explain to you what I see my relationship to having been with them and some of the obstacles that my staff and I have had to deal with, not obstacles necessarily imposed by TransCanada, by federal law, by federal law. My staff and I have met multiple times over the course of five years with TransCanada. They've answered all of my questions. Did I always get the answer that I wanted or a constituent wanted? Not necessarily, but they've answered them all. They've answered questions about safety. They've answered questions about liability. They've answered questions about reclamation. Again I say, did I always get the answer that I wanted? Not necessarily. We've probably lost track of how many constituent e-mails and phone calls we've had in my office over this issue the first time the pipeline came through and now the second. And they're all very legitimate concerns that constituents have: concerns about the aquifer, concerns about the Sandhills, even though they're not in my district, but concerns nonetheless, concerns about leaks, concerns about if there is a leak who is going to clean it up. Who sited this pipeline? Who said it ought to run through a well field of a second-class city? What power do we have in this state? Where's DEQ? Does the Public Service Commission have a role in all of this? What about natural resources? What can we do? And I don't want to sound like I've resigned the legislative powers here, but quite honestly, from my perspective after five years, there isn't a whole lot that we can do on interstate pipelines. Once the Department of State has said, here it goes, there isn't a lot. And two years ago, I thought, well, I'm going to bring forth legislation.

Floor Debate
May 19, 2011

And we listed tons of things and went through every one of them in my office, thinking can we do this, or is it preempted by federal law, or are we just throwing gravel in the machinery? And if that be the case, what are we doing it for? If we're not really going to gain something from legislation that we pass here regarding these pipelines, I don't want to do it just so we can say, well, the pipeline came in, but we sure did make it tough on them. I don't want to do that. I think this bill has merit, it's something. And from my understanding of what we can do, this is something that we can do. And the siting business, I think back to my days as a mayor. And whenever you put a water line in or a street line in or high line in, or whatever, it's always: why in my yard? And... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR ADAMS: ...couldn't we take and move that pipeline over just a little bit? I have seed corn producers in my district. Seed corn production in my district is probably as big as the airline industry is to Wichita. And TransCanada is struggling with how to deal with that but they're confronting it. All said and done, I'm about out of time. You know what my biggest concern is? Maybe it ought to be water, maybe it ought to be reclamation, maybe it ought to be my seed corn producers. My biggest concern is eminent domain. You can't get it done without it, it's not been permitted yet. With the number of constituents that I have that feel as though, right or wrong, that they have in effect been pushed to the edge and said, sign the easement agreement or we're going to court, all right, that is how eminent domain works. But you haven't been permitted yet. I struggle with that. [LB629]

SENATOR CARLSON: Time. [LB629]

SENATOR ADAMS: Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Adams. Senator Louden, you're recognized. [LB629]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this bill and then as Senator Adams talks about the issues that he's worked with, I guess the first thing I think of is a quote from Winston Churchill when the British won the battle at El Alamein and he said, this isn't the end and this isn't the beginning but it is the end of the beginning. And this is where I think we are with this bill here. This is a bill that we can go forward with because any of you that's ever been around any of the coal mining in Wyoming or Texas or anyplace, they're required now to put that land back exactly like it was before they took the sem coal out. You can do the same thing with the reclamation in these pipelines. And this is where we have to work to make sure that our environment on the top is the same as it was prior to that, that they can't go in there and literally tear that whole countryside up and walk off and leave it. Senator Lathrop asked, are we going to make them dig that pipeline back up? Well, at the present time, nobody

Floor Debate
May 19, 2011

has done that. A case in point is look at the abandoned railroads that we have across the state of Nebraska and no one has made them go back in there and level off those grades that they built maybe 100 years ago or so and put the land back like it was. So at the present time, the pipeline will probably stay in the ground as long as it doesn't disturb anybody on top of the ground. So I think this bill has merits. I'll support the bill. But I think we have to go ahead with it and work on it again next year and the following year because we are going to see more mining and more of these things happen in Nebraska, these rare minerals or something that's coming about. There could be huge mining and different kinds of ways of separating rare minerals, all the way from the Sandhills of Nebraska, all the way down here at Elm Creek, wherever it is that they're putting in a mine. We don't have any regulations to cover any of that. A lot of that is covered by the federal people and it's also...at the present time we have a letter here from Linder from the Department of Environmental Quality that covers some of those issues with spills. We worked with that in the Natural Resources Committee years ago when I was down here, all the way from hog lots to leaking storage tanks to everything else. So we do have some regulations to address part of the problems. But I think this is a work in progress, and I think Senator Sullivan has probably done quite well by bringing forth what she has. Another point I would make out is when we talk about TransCanada and somebody mentioned it's another country. I don't know how many of you were around long enough, but years ago in the Sandhills, when that got settled, many of those settlers that were done homesteading in the Sandhills went to Canada. I have a lot of neighbors that have relatives that went on up into Canada and homesteaded. And if you'll read some of the history, the reason the Transcontinental Canadian railroad was...Trans Canada railroad was built was because they had a fear that there was enough Americans going up into Alberta and Saskatchewan that that country, that part of the country would actually try to connect to the United States. Several years ago, when we were doing a lot of well drilling out in western Nebraska for oil and gas, those were Canadian firms that came down from Alberta and were drilling in western Nebraska. Now they were Canadian firms, but they were owned by Texas oilmen at the time because the lease and stuff we got came from the Texas oilmen, but they were Canadian companies down there drilling. So there's quite a... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR LOUDEN: ...a relationship between the central United States and Canada. And that's the reason we're even working for this Heartland Expressway. We used to get catalogues all the time from Regina, Saskatchewan for farm machinery. And any of you that have bought farm machinery, take a look at it sometime and see how much of it is made in Canada, especially the short line stuff. So I support this. I think we need to keep working on it. This is just, as I say, this is just the end of the beginning. We need to begin...we need to work on it continually. And I support the amendment that the Natural Resources Committee has done. Thank you, Mr. President. [LB629]

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Transcriber's Office

Floor Debate
May 19, 2011

SENATOR CARLSON: Thank you, Senator Louden. Senator Hansen, you're recognized. [LB629]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I, too, stand in support of the amendment. I do have one question for Senator Langemeier, if he would yield. [LB629]

SENATOR CARLSON: Senator Langemeier, would you yield? [LB629]

SENATOR LANGEMEIER: I would. [LB629]

SENATOR HANSEN: Senator Langemeier, in the original bill had an appropriation of \$500,000 a year because the Public Service Commission did not have the expertise to do what the bill asked it to do. Can you explain if that still stands or where that went to? [LB629]

SENATOR LANGEMEIER: You know, the original bill would have required the Public Service Commission to take an active role in the oversight of pipelines. That was new to them, so they created a fiscal note. I'm not sure what they based it on, so you always base it a little higher than natural, I would assume, to be safe. With the amendment, they don't have any responsibility generated because of this bill. And I would assume and I can say with good authority that fiscal note will disappear. [LB629]

SENATOR HANSEN: Okay, appreciate that. At the same time though, the handout from Senator Dubas, and at the top it says, "Pipeline Regulation Comparison." On the front page, number 20, it says, under operation of these pipelines, that the "service interruption reports to FERC and state Public Service Commission." So what would the state Public Service Commission do with that report? [LB629]

SENATOR LANGEMEIER: They would have to take that over to DEQ because DEQ is the agency that's going to do any oversight. FERC is going to be the main location you would report to. [LB629]

SENATOR HANSEN: Okay. (Laugh) Do I dare ask what DEQ would do with it? [LB629]

SENATOR LANGEMEIER: Should I say nothing? Is that what you mean? [LB629]

SENATOR HANSEN: No. No. No, what will they do with...I mean the Public Service Commission is still in this loop, but the fiscal note was taken away, \$500,000 a year. So their sole purpose in this whole regulatory process is just to convey what FERC tells them to a state agency then? Is that the line of command? [LB629]

SENATOR LANGEMEIER: Well, first of all, the Public Service Commission won't have

Floor Debate
May 19, 2011

anything to do with the pipelines. Let me refer you back to the document you previously mentioned, line 20, operations to FERC and the Public Service Commission, and the X is in the natural gas column. Public Service Commission has extensive natural gas authority. In the pipeline or the crude oil, there's no X, so we are not involving the Public Service Commission in this at all. So if they do get a call because somebody doesn't know who to call, they're going to refer them over to DEQ. [LB629]

SENATOR HANSEN: Okay. Thank you. That makes a difference. And Senator Dubas came back here and corrected my thought process also that it only deals with natural gas. I am in support of the bill. I'm a "Sandhillier." I've lived there all my life. I don't have the history that Senator Louden reported to us today and that was good, but if you would look at the area of the Sandhills, and it's a big area, there's a lot of variety in that group of Sandhills too. There are places where the aquifer comes to the surface and those are called Sandhills lakes. I would assume that the people I've talked to up in that area, where they're going through some of that Sandhills area, when they come to a lake I can't see any purpose of going through that lake. It looks like when the aquifer is that shallow, at the surface, that they would go around that lake just for ease of installing a pipe. I think that's more than likely why those easements on those ranches up there were so large that they can site that line in when they get there. And I'm sure they have maps, they know where those lakes are. Those lakes do come and go. In dry years they're not there. The reclamation part of it... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR HANSEN: Thank you. The reclamation part of this bill is by...or this whole concept is by far the biggest concern because there is no topsoil in the Sandhills, maybe two inches. You can't scrape two inches off and put it back on. It will be mixed with sand. It will look like raw sand, just bare sand when you get done. And the reclamation part of this is huge and if it's not done right and the Keystone pipeline crew that they have in, subcontractors don't do this right, you're going to be able to see that thing from space. It's going to show up like the Great Wall of China. Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Hansen and Senator Langemeier. Senator Gloor, you're recognized. [LB629]

SENATOR GLOOR: Good morning, Mr. President, members, Mr. Chair, Mr. President. I will be supportive of the Natural Resources' amendment and Senator Sullivan's bill, and I appreciate the effort that she and Senator Dubas and others and the Natural Resources Committee has put into this. But with the e-mails and letters and conversations I've had with people about this particular pipeline, I had a flashback to a wandering through a bookstore that I did in Denver five, six years ago, and I ran across a book in an out-of-the-way place that just caught my eye and it was called Black Swan.

Floor Debate
May 19, 2011

I began to read it and got caught up in it and walked away from it and came back to it and walked away from it and came back to it. Pretty soon, I think I'd read very quickly about a quarter of this book, which relates to the fact that most major events that happen in our lives and happen in history are unexpected, except when we look at them in hindsight we say, well, they were predictable and we convince ourselves that this unexpected event was in fact predictable. The banking crisis recently fits into that mode of everybody saying hindsight, mea culpas, look what happened here, and yet in fact that sort of crisis was unexpected. And I had that in the back of my mind as the discussion occurred with the pipeline because it's a man-made mechanism and we worry that something unexpected is going to happen. Black Swan theory would say, yes, it will happen and it will be unexpected, and in hindsight we'll go back and say had we only done this, that or the other thing we might have been able to prevent it. That may not be true. With that and knowing that this bill is about reclamation, I still have a few questions. I wonder if Senator Langemeier would yield to a question. [LB629]

SENATOR CARLSON: Senator Langemeier, would you yield? [LB629]

SENATOR LANGEMEIER: Yes. [LB629]

SENATOR GLOOR: Senator Langemeier, I really do appreciate your walk through the hierarchy and I appreciate the handout sheet as I look through here and I understand that there are different responsibilities folks have. But when there is a problem with the pipeline and we have a problem getting that issue resolved, who ultimately is accountable? I mean can DEQ ultimately go to the Department of State for relief? Is it only the courts that can settle disputes that are out there? You know, in any event, you feel comfortable if you know when push comes to shove somebody, some agency is ultimately accountable. Is there some agency that fits that category? [LB629]

SENATOR LANGEMEIER: It's going to start with DEQ. DEQ is our local enforcement on the federal level, and then that goes up the chain of command and it goes, you know, the ultimate responsibility on the federal level at the very, very top is going to be the Secretary of State's Office because they've signed on, on this, and so they are the ultimate authority. Now there's lots of little agencies under them that I talked about before that are going to handle components of it, but if you want to say I'm calling it the top, you're going to start with the Secretary of State. [LB629]

SENATOR GLOOR: And if...so, as an example, a problem might, through a number of different fingers, work its way up, if it spilled into the Platte it might find its way through water, if it spilled on land it might find its way through another entity, but ultimately the Department of State would be in a position to help resolve an issue? [LB629]

SENATOR LANGEMEIER: Right. Our DEQ is going to work your way up...work you up that chain. [LB629]

Floor Debate
May 19, 2011

SENATOR GLOOR: So the DEQ really is the beginning of the funnel... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR GLOOR: Thank you, Mr. President...where we would start. But through the DEQ, other agencies, specifically federal agencies, could and would be involved so that we're not sitting around wondering who do we go to for redress in this. [LB629]

SENATOR LANGEMEIER: Correct. [LB629]

SENATOR GLOOR: Okay. Thank you. Again, I would offer my support for AM1465 and LB629. I don't think there's any way we can ever have reassurances. It's the reason I mentioned the Black Swan event. On the other hand, I know there are a lot of entities who have a concern about this who watch out for us. It's making sure that those entities are, in fact, held to task and come into play that is always a challenge we have in any problems that involve the environment. Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Gloor and Senator Langemeier. (Visitors introduced.) Senator Avery, you're recognized. [LB629]

SENATOR AVERY: Thank you, Mr. President. I have a question for all of us to ponder. It's a rhetorical question. I'm not going to ask anybody to yield to a specific question. Is this the best we can do? Is LB629, with the amendment, the best we can do or is this the most we're willing to do? Let me just list a few of the things that this bill and the amendment do not do. It does not, in my reading of it, does not adequately address liability issues. It does not address siting concerns. And it is clear that states do have a role to play in the siting of pipelines that go across their state. Montana requires, when pipelines are built across Montana, they require that the pipeline builders offer three options to the state and the state gets to pick. We could do that and we could...in the process we could make sure that it does not cross the aquifer. The High Plains aquifer is an important resource to this state. It also does not provide for adequate dispute resolution. I can't find anything in this bill that deals with dispute resolution. Does it adequately deal with the financial responsibility for environmental damage? I don't think it does. What it does do is raise a pretty serious question about a sovereignty issue that Senator Fulton touched on. We have here a foreign corporation that can actually invoke eminent domain, eminent domain action against private property interests of Nebraska citizens. That ought to cause us to pause. Under Nebraska law, eminent domain is to be used to achieve a public objective, a public purpose, not to pave the way for a private foreign entity to achieve private gain. TransCanada's use of public domain, I believe, is way out of line with Nebraska law, and I believe Senator Adams addressed the issue of negotiations with landowners being conducted before the permit has even been issued. And it's my understanding that in many cases TransCanada is threatening landowners:

Floor Debate
May 19, 2011

If you don't agree to these terms, we will declare or we will take eminent domain action. This is in my mind a violation of Nebraska's eminent domain law. If we're going to allow the taking of property without the consent of the property owner, then it needs to be done according to Nebraska practices. This bill does not address that and I think that is a very serious problem. Now I'm willing to support the bill not because it's the best we can do, because it appears to be the only thing we're going to do and I think we need to do something. With that, I would be willing to yield time to the introducer of this bill, Senator Sullivan, if she would like to have what remains. Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Avery. Senator Sullivan, one minute. [LB629]

SENATOR SULLIVAN: Thank you very much, Mr. President. And thank you, Senator Avery, and I, based on your comments that you just made, I hope you will join me this next summer as we diligently work on additional legislation that you so eloquently spoke of the fact that we needed. But I will also remind you of one of the things that you've said several times on this floor that we often have to do in this body: We get some things we want and we don't get some things that we want. We have to compromise and that's exactly what I've been trying to do for the last four months. And, no, it's not a perfect bill and, no, we're not doing everything. But I would also tell you that it's not as easy as you make it out to be. So we can say we have siting authority. Well, who are you going to give that siting authority to? And I would venture to guess that if we wanted siting authority over TransCanada, we would have had to have started this process probably in about 2006, long before I got here. It's not... [LB629]

SENATOR CARLSON: Time. Thank you, Senator Sullivan. Senator Ken Haar, you're recognized. [LB629]

SENATOR HAAR: Mr. president, members of the body, I rise in strong support of LB629 and AM1465, and I will probably be at the mike two or three times. First of all, watching Senator Sullivan operate through this whole process, I went to my thesaurus and I found these adjectives: tenacity, doggedness, perseverance, persistence. I want to thank her for all of those qualities; also Senator Dubas and her staff and fellow members of the Natural Resources Committee. I've never been on the side of stopping the pipeline. I have some real concerns about where it's being sited. But we have a really dogged...I'm sorry, using that word, we have a really daunting task ahead of us. We're up against an international corporation, and I appreciate Senator Fulton's remarks. And if you'll look carefully at the pipeline regulation comparison that Senator Dubas and her staff worked out, it's really a great piece of work. Again, it is not an exhaustive list, but she talked and I talked to people from natural gas. And the natural gas pipelines, for whatever reason, early on have had much more federal regulation, which in a case of pipelines is a real advantage because they have all the resources. So

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

Floor Debate
May 19, 2011

take a look again at that pipeline regulation comparison. In terms of natural gas, there are preconstruction kinds of federal regulations and there are construction and operation and abandonment, all those things are covered by federal agencies. And you know what? When I talked to the people in Omaha, and I think it's Northern Natural still, they don't have any problem with this. They've been dealing with this for a long time. They accept it and it works very well. Then if you look at the crude oil side of that spreadsheet, this gives you some idea of where our challenge lies. We have a lot of work to do this summer. And so as been said before, the bill is about reclamation, so important, so important. It sets baseline standards across the state and it's a first step and certainly not the last. So again, I want to say I strongly support LB629 and AM1465. How much time do I have left? [LB629]

SENATOR CARLSON: Two minutes. [LB629]

SENATOR HAAR: Okay. So knowing that and in no way diminishing the work that Senator Sullivan has done, because, again, I admire her ability to work with other senators, to compromise, to get accomplished what can be done now. And as she said, we need work in the future. Here's my list of things we need to look at. And by the way, I agreed not to bring any amendments forth, there were a lot of compromises in this committee, and I won't. But these are the things we need to look at. First of all, this is not a siting bill. And I, frankly, disagree with Senator Adams when he says there's nothing we can do...well, he didn't say that but he said there's not much we can do, I believe, in terms of some of these things. I want to read to you... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR HAAR: Thank you, and I'll continue with this. From the Congressional Research Service, a letter of September 20, 2010, to Lee Terry, and in one of the sections on this is oil pipeline siting authority. Now some people will say, oh gee, it's just a Research Service, but we have many other indications the Research Service is nonpartisan. In Congress, it's highly regarded. And on oil pipeline siting authority it says: In the absence of federal government siting authority, state laws establish the primary siting authority for oil pipelines, including interstate oil pipelines. Now I'm not going to beat us across the back or try to criticize anybody for not being there sooner, but we have this authority if we take it. And if you open the constitution, this great little document, Article X, which says... [LB629]

SENATOR CARLSON: Time. [LB629]

SENATOR HAAR: Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Haar. Those still wishing to speak include Schumacher, Dubas, Krist, Wallman, and others. Senator Schumacher, you're

Floor Debate
May 19, 2011

recognized. [LB629]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. In listening to this discussion and trying to put it all into context, I'm reminded of the biblical story of the little boy trying to spoon the ocean into a hole. This is about energy policy, it's about the titanic financial problems we find ourselves in, and about a Legislature of what Senator Fulton calls a sovereign state trying to deal with its small place in the world. We're dealing with a multinational company, \$30 billion market capitalization. Multinational companies can be purchased back and forth on the open exchange, subject to whatever regulatory authority the federal government might have. We deal in a world where we know that the Chinese and the Indians will be adding three-quarter of a billion new vehicles to the world fleet in the next few years. We know that oil and energy are limited in precious quantities that go to the highest bidder. We know that those folks in Beijing have two or three trillion dollars' worth of our money to bid against us on the international market. We know they're going to have more of it. We also know that the energy resources that we would hope would save us, solar and wind, are marginal at best and we're down to nuclear and to hydrocarbons, natural gas, oil, and we probably should do as little as possible to hinder the development of those resources hoping that we will at least be able to retain some of them in the presence of rather overwhelming market power by our financiers in Beijing. That being said, I look at this particular bill and I do have a couple questions for Senator Sullivan of a practical nature. Section... [LB629]

SENATOR CARLSON: Senator Sullivan, would you yield? [LB629]

SENATOR SULLIVAN: Yes, I would. [LB629]

SENATOR SCHUMACHER: Senator Sullivan, on page 2, Section 4, it says the pipeline carrier shall be responsible for the reclamation necessary as a result of constructing as well as operating the pipeline. Then there's a comma and it says "except to the extent another party is determined to be responsible." Let's say that a terrorist organization blows up big chunks of this pipeline. [LB629]

SENATOR SULLIVAN: Uh-huh. [LB629]

SENATOR SCHUMACHER: They're clearly the responsible party. Does this absolve the pipeline company from liability? [LB629]

SENATOR SULLIVAN: As I understand it, it doesn't relieve them of the responsibility for going in and cleaning up the problem but it does...if it's an active...a third party, a terrorist or someone, could be other, maliciously trying to destroy the pipeline, then the pipeline company has to take care of the problem but then they can go back on the other individual for damages or potentially, yes, I mean they aren't responsible

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

Floor Debate
May 19, 2011

financially for it. [LB629]

SENATOR SCHUMACHER: Well, I can see a case where without this particular language one can say, whoa, you know, we should have expected, as anybody knows operating a pipeline, that somebody who has no money, who's just in a terrorist mood and goes, you know, organizes with a few other cats of similar nature to blow up this line, it should be anticipated. There should be the proper stops, proper guards or whatever in order to stop this thing from happening or address it. And if they don't have that, since this is an anticipated kind of event,... [LB629]

SENATOR SULLIVAN: Uh-huh. [LB629]

SENATOR SCHUMACHER: ...they would be responsible for the mess. [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR SCHUMACHER: But this says except to the extent the other...another party, the guy with no money,... [LB629]

SENATOR SULLIVAN: Uh-huh. [LB629]

SENATOR SCHUMACHER: ...is determined to be responsible. I think we might want to address that. And then briefly, in the last part of my time here, it says in Section 6, "The act is not meant to affect the obligations of a pipeline carrier provided for in a negotiated agreement with a landowner." Let's suppose I'm a greedy landlord or landowner and say, look, for an extra million, I don't care what you do on my property. Who...I mean can I, as a landowner, do that? [LB629]

SENATOR SULLIVAN: I suppose you could. But again, this bill addresses minimum standards irrespective of what might have been the arrangement between the landowner and the pipeline company. So he doesn't care what's done with his ground but there are still minimum standards for revegetation and reclamation. [LB629]

SENATOR SCHUMACHER: We might want to look at that language and that exception. [LB629]

SENATOR SULLIVAN: Okay. [LB629]

SENATOR SCHUMACHER: Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Schumacher and Senator Sullivan. (Visitors introduced.) Senator Dubas, you're recognized. [LB629]

Floor Debate
May 19, 2011

SENATOR DUBAS: Thank you, Mr. President. This bill is a very, very small step but yet a very, very important step to assure our citizens that we, the Legislature, the state of Nebraska, will look out for their best interests. I think Nebraska, in my opinion, will continue to be a prime location for pipelines such as the one that's being proposed right now. Oil lies to our north and the refineries lie to our south, and so it just makes sense that with us being in the center of the nation we will be approached again in the future. And I think again that's why we need to start to take these steps to put appropriate statutory authority in place so that we are prepared for any future such projects. And to date we have nothing in place that gives us any authority to do anything. So again, the importance of this bill is that it opens up that door. It begins to give us that ability to look at permitting and to look at siting and to deal with eminent domain and all of the other things that many other states already have in place. And the proposed pipeline right now complied with those regulations in those other states that are in place, so by that example and observation we do have the ability to put something in place for our state to deal with. Those who don't learn from history are doomed to repeat it, and I think especially in the Sandhills region we learned in the '40s and '50s and '60s what happens when you disturb the Sandhills and how long it has taken to reclaim that Sandhills region and in some places is still being reclaimed, as Senator Coash pointed out with his example. I think that was very important. The interim study really shined a light on the crown jewel of Nebraska and that is the Sandhills region and the Ogallala aquifer that lies underneath it. It is...I asked this question at the interim study to one of the professors who is definitely a leading expert in this environment. It is the most unique ecosystem in the world, not just in the nation, in the world, and I think we should take every precaution in our power to protect this environment and those citizens who really do love that land. Those ranchers out in the Sandhills area know that land better than anybody in the world. They know it. They depend on it for their livelihood. I think what they're telling us should raise to the highest level of listening and interjecting their concerns into this conversation. And again, hopefully we learned a valuable lesson when we tried to farm that area of the state and understand that it is no simple task to reclaim it once it's been compromised. We've talked about eminent domain, and that discussion has definitely been elevated during the interim study and the ensuing work that we've done on our bills. And again, my bill did have a component in it that deals with eminent domain. You know, I've heard from landowners who have received these letters. I mean there's...try to put yourself in their place. I can't believe there's anything more disturbing than to receive a letter in the mail saying, well, we are going to begin condemnation, the process to take your land. This is...that land is a part of who they are and so I don't think we can minimize the impact that those letters are having on these citizens. And I don't think it's out of line for us to look at our eminent domain laws and how they work or don't work, and so I am committed to continue to do further investigation on that particular issue as well as others that my bill does entail. This is an issue that has received constant media attention. [LB629]

SENATOR CARLSON: One minute. [LB629]

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

Floor Debate
May 19, 2011

SENATOR DUBAS: I think it's great that we're finally having this discussion on the floor of the Legislature. Our citizens deserve that full and fair debate and discussion on this issue. It's up...no matter which side of the issue you're on, it's an issue that's impacting us at the state level. It deserves to have that statewide attention and the Legislature's participation in a discussion, and I am so glad that we are having this discussion today and appreciative of the support that's been given to Senator Sullivan and her bill. One of the things that I've heard on other issues is, well, you know, I've heard on this issue, well, the federal government is there, the federal government will take care of the permits, the federal government will have the adequate protections in place. But I've heard on multiple other issues where the federal government is involved that that's not someone we want to entrust with the best interest of our state or our state's citizens, and I feel very strongly about that in regards to this issue. This is Nebraska. This is Nebraska's environment... [LB629]

SENATOR CARLSON: Time. [LB629]

SENATOR DUBAS: ...and we need to look after it. Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Dubas. (Visitors introduced.) Senators still wishing to speak include Krist, Wallman, Fulton, Brasch, and others. Senator Krist, you're recognized. [LB629]

SENATOR KRIST: Thank you, Mr. President. I'm wondering if Senator Langemeier would yield for a question. [LB629]

SENATOR CARLSON: Senator Langemeier, will you yield? [LB629]

SENATOR LANGEMEIER: I will. [LB629]

SENATOR KRIST: The original copy of LB629, as it was introduced by Senator Sullivan, Dubas, and Haar, has been replaced in total by the Natural Resources amendment. Is that correct? [LB629]

SENATOR LANGEMEIER: If adopted, yes. [LB629]

SENATOR KRIST: Okay. And the other amendment that's posted on our gadget is introduced by Senator Sullivan, will be pulled or is pulled. Is that correct? [LB629]

SENATOR LANGEMEIER: It is actually to the bill so it comes after the committee amendments, but our understanding is that will be withdrawn when we get to it. [LB629]

SENATOR KRIST: Okay. Thank you. So what we're reading in the committee

Floor Debate
May 19, 2011

amendment is what we will be voting on today. And I just wanted, for the record, to establish during my time a few things. The first we talked about off the mike and that is that this is not something that begins today. It is anyone who has pipeline, manages pipeline, operates pipeline or leases pipeline that might currently be in the ground in the state of Nebraska and any future pipeline. Is that correct? [LB629]

SENATOR LANGEMEIER: Correct. [LB629]

SENATOR KRIST: Okay. Thank you, sir, and thank you for yielding. I passed out to you a black-and-white image. Only Senator Haar can pass out color copies, I understand. So the black and white gives you two white lines that run down. One is dotted and one is solid. Now many of you may have seen this before. There's only one senator in this Chamber that was here when the Keystone pipeline started doing its thing and the countries of Canada and the United States State Department settled on this as a priority for oil and pipeline passing through this country. So for us to imagine that we could have done something before, none of you were here. We have to do what we can do today and we have to do what we can do today moving forward. Now you might ask yourself why the State Department is involved in this kind of negotiation and why we have or we will have these pipelines that will connect. The solid line actually is a factor of Phase I and Phase II, which brings the oil from Hardisty down to refineries that exist in Illinois and connects with a proposed connection that goes down to the Gulf of Mexico, which in essence would be an exporting process if it gets down there, to Port Arthur and to Houston where there are also additional refineries. So just for a matter of record, so that the people of Nebraska understand completely, we're not talking about a new deal here. There's pipeline in the ground. And if you look at where it passes, it will affect aquifers on the eastern edge of Nebraska and does today. The difference is the people in the Sandhills, arguably very protective of their environment and natural resources, feel that passing over or through sand is a much more vulnerable position for the pipeline to go through, and with that I would say, having no engineering background but reading much about the pipeline structure, I would agree, although I'm not qualified to make that assessment. I will tell you, though, and I don't want to make this drama-filled, but as we approach these issues, and I commend Senator Sullivan, Dubas, and Haar for bringing it forward and for Natural Resources to have kicked it out in its present form, but as we move forward, realize many, many, many young people who serve this country... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR KRIST: ...have lost their lives in the last three to four decades over a geopolitical concern of oil. Let that sink in for just a second. What we're talking about here is one step closer to geopolitical independence when it comes to the North American continent being able to supply oil and resources into the future. Keep that into perspective, ladies and gentlemen, because I think it's important to bring those young

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

Floor Debate
May 19, 2011

folks home. Thank you again, Senator Sullivan, Dubas, and Haar for bringing it forward and for Natural Resources. I think it's a wonderful first step. [LB629]

SENATOR CARLSON: Thank you, Senator Krist. Senator Wallman, you're recognized. [LB629]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I appreciated Senator Krist's comments. And Canada is a friendly country to the United States of America last time I heard. And I have lots of pipelines in my district, a big storage facility south of town fed by pipelines, and as far as I know there's never been a major catastrophe. But I appreciate Senator Sullivan's bill here and we definitely want to protect the landowners. Would Senator Sullivan yield to a question? [LB629]

SENATOR CARLSON: Senator Sullivan, would you yield? [LB629]

SENATOR SULLIVAN: Yes, I will. [LB629]

SENATOR WALLMAN: And this is in regard to easements. How many years are these easements for, do you know? [LB629]

SENATOR SULLIVAN: For the life of the pipeline. [LB629]

SENATOR WALLMAN: Life of the pipeline. So there's no year on there, huh? [LB629]

SENATOR SULLIVAN: No, uh-uh. [LB629]

SENATOR WALLMAN: The railroads, if you lease land from them, a lot of times it's 99 years. And so I thank you. And do you feel the landowner is totally protected here, if a catastrophe does occur, with livestock or buildings or...? [LB629]

SENATOR SULLIVAN: As I said earlier, there's nothing perfect about hardly anything and so,... [LB629]

SENATOR WALLMAN: Yeah. Yeah. [LB629]

SENATOR SULLIVAN: ...to that extent, I can't say fully that there's total protection. Secondly, some of it is dependent on the contract that has been agreed upon by the landowner and the pipeline company, and I would hope in all instances that landowner has gone to the greatest extent he or she feels comfortable with legal assistance in the process to put together a really tight contract that protects them. Beyond that, we have minimum standards for reclamation in this bill, and then, whether you want to believe it or not, you have the indication of good will by the company that they will stand behind what they say in terms of protecting the rights of the landowner. [LB629]

Floor Debate
May 19, 2011

SENATOR WALLMAN: Thank you. And then regards to testifiers, I know some of them that have land in that area, so I appreciate that. But the Chamber of Commerce opposed this. What was their reason? [LB629]

SENATOR SULLIVAN: Well, I think probably any business entity is looking after the favorable impact that a project like this will have on job development in the state and they want to make sure that nothing stands in the way of that. And I will say, unless you've got some other questions,... [LB629]

SENATOR WALLMAN: No. Nope. You can expound on that if you'd like. [LB629]

SENATOR SULLIVAN: You know, I have some constituents in my district that are very excited about the pipeline coming through. You know, it traverses four of the eight counties in my district and there will be jobs created when the pipeline is under construction. To give you an example of a favorable impact for the local public power district, one of the five pumping stations will be located in my district. That pumping station alone will use as much electricity almost as currently used in that public power district. It will double the load. That will mean income for that public power district. [LB629]

SENATOR WALLMAN: And that is in regard to Senator Karpisek's district also. So the pipeline goes through my southern area and all the people in my area want the pipeline. I haven't heard anybody against it so...but we do have to be careful that we protect the landowners and I appreciate you bringing forth something. And I would yield the rest of my time to Senator Ashford. [LB629]

SENATOR CARLSON: Senator Ashford, a minute and 20 seconds. [LB629]

SENATOR ASHFORD: Thank you. Thank you, Mr. President. I don't...and thank you, Senator Wallman. I just...I don't want to talk particularly about the bill and the details, but I was just struck by listening to the discussion this morning how impressed I am with Senator Sullivan. You know, we, all of us, get ourselves involved in issues and sometimes it's easier not to dip our toe in the water at all, just forget about it totally and think it's going to go away. And I was... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR ASHFORD: ...I was jotting down some of the...and all of us do this, but just in my experience in the last few years, it was Senator Carlson on the water issues; Senator Langemeier on wind power; my goodness, Senator Lathrop, labor issues; Senator Howard, Dubas, Campbell, McGill on safe haven. I mean we have a tendency to dip our toe in, excuse me, the water. That's not intended to be euphemistic, but in

Floor Debate
May 19, 2011

issues that, you know, sometimes it would be a lot more comfortable for us to forget it, just let somebody else do it, or let things go along. That's not our style or that is not...and we are a great Legislature and a great state because of that. So I just want to take a moment just to commend Senator Sullivan for her willingness to put in the work on this issue, and it means a lot, I think, to the entire state certainly, as has been said this morning. Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Ashford, Senator Wallman, and Senator Sullivan. Senator Fulton, you're recognized. [LB629]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would...well, before I ask Senator Sullivan if she'd yield to a question, I want to be fair about this and I'd like the record to reflect what my position is with respect to this pipeline. I am pleased that TransCanada has chosen to come through Nebraska. I just wish they would have chosen a different route. But I'm glad that Senator Sullivan and Senator Wallman were able to get that in the record, there's going to be financial benefit to Nebraska and for that we should be thankful. Okay. Would Senator Sullivan yield to a question? [LB629]

SENATOR CARLSON: Senator Sullivan, would you yield? [LB629]

SENATOR SULLIVAN: Yes, I would. [LB629]

SENATOR FULTON: Okay. With respect to the amendment, which I do support and which I will continue to support, I'd like to get some meaning into the record here. I'm on page 2 of the bill, of the amendment, AM1465. This is in Section 4. It's on...beginning in line 8, "except to the extent another party is determined to be responsible." Could you comment on that? And I'll ask the question, responsible for what? [LB629]

SENATOR SULLIVAN: Okay. It kind of ties in line with the question that Senator Schumacher had asked earlier and I had given him a page out of the supplemental environmental impact statement that covers liability. And also with respect to my legislation, I think the words that are important with respect to the responsibility of the pipeline company, the words "own," "construct," "operate," and "manage." So any activity under those terms the pipeline company is going to be responsible. Beyond that, whether it's an act of terrorism or whether it's an act of another entity, take for example a power company comes on and wants to construct a transmission line and put some poles in the ground and accidentally injures or causes a problem with the pipeline, then it becomes their responsibility. [LB629]

SENATOR FULTON: Okay. My concern here, if we go back here, I'll start with Section 4, "A pipeline carrier owning, operating, or managing a pipeline or part of a pipeline for the transportation of oil in this state shall be responsible for all reclamation costs necessary as a result of constructing the pipeline as well as reclamation costs resulting

Floor Debate
May 19, 2011

from operating the pipeline, except to the extent another party is determined to be responsible." My concern here is that it may be interpreted that if let's say, for instance, a company who owns a pipeline subleases operation of that pipeline to another company, I don't know if this would occur but it is potential, and there is a problem during operating the pipeline but the problem could be blamed on the company who it was subleased to. Would there be wiggle room in here or would it be your intention to say that "except to the extent another party is determined to be responsible"? Would it be possible for the owner to say, well, that company was operating; we've subleased to them to operate the pipeline and, therefore, we're not responsible. Your intention, would your intention be to allow for that blame to be placed elsewhere or would you say that in that situation the owner of the pipeline should still be responsible? [LB629]

SENATOR SULLIVAN: Well, I fall back on those words: own, construct, operate, and manage. And "own" is the first one and so my intent is certainly to hold the pipeline company responsible as long as they have any connection to the pipeline whatsoever. [LB629]

SENATOR FULTON: Okay. Very good. Thank you, Senator. A second question here, this is in line 12 and I'll start with...this is (2) in line 10. "The pipeline carrier shall commence reclamation of the area through which a pipeline is constructed as soon as reasonably practicable after backfill." [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR FULTON: It seems that the term "backfill" becomes a trigger for financial activity, and not having a definition of "backfill," there may be some ambiguity here. When you hear the word "backfill," does that mean at the point at which that backfill has been completed, the point at which backfill has begun, or could it ever be argued that backfill was never completely attained? Can you give me an idea of what "backfill" means in your mind. [LB629]

SENATOR SULLIVAN: Well, first of all, the reason that we didn't have any definition for "backfill" is that we decided that that was a reasonably acceptable term, commonly used term in terms of returning whatever had been in that ground prior to putting the pipeline in was what was going to be filled back in and... [LB629]

SENATOR FULTON: By "backfill," you'd say a plain...the plain language in a plain reading and plain understanding of what "backfill" means, not by any definition that might exist in the engineering realm or by the oil and gas industry but by an average person. [LB629]

SENATOR CARLSON: Time. [LB629]

Floor Debate
May 19, 2011

SENATOR SULLIVAN: Exactly. [LB629]

SENATOR FULTON: Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Fulton and Senator Sullivan. Senator Brasch, you're recognized. [LB629]

SENATOR BRASCH: Thank you, Mr. President. Good morning, body. I stand to share the concerns of constituents on the pipeline, and I thank Senator Sullivan for her diligence in ensuring that we closely look at liability and safeguards and assurances. One of the constituents, we recognized him. It's Bruce Hanson. Him and his wife Kveta were here. But he was also retired and formerly employed by the Nebraska Department of Environmental Quality and he worked there when the first pipeline was built. And he shared with us many things, the fact that we already have one pipeline built for the same purpose. He cited many numerous environmental problems with heavy crude and high-temperature hazardous. He shared with us, posted on the Web site of Environment Canada, about the burst of a pipeline in Saskatchewan that destroyed 28 acres of farmland where nothing survived. He outlines many things. I wanted to also note that an e-mail from Stanton County, where the Hansons are from, they talk about an abandoned pipeline that exists, the problems with it, also a pipeline built in 2009, unable to have prompt attention to pipeline at risk due to flooding. You know, these are situations. Not only did they copy 20 of us senators, they also sent a copy to the President, very concerned. Another constituent from Burt County came in and that's where these fine pictures have come from. I believe Senator Haar sent out duplicates. Graham Christensen from Burt County and also the public affairs director of Nebraska Farmers Union, he has spent hours upon hours of research. There are many, many concerns, the land that we are putting at risk, the water we are putting at risk. I believe Senator Avery brought up some very good questions as well. I urge the body to consider carefully, as we move forward, what options we can offer, as Senator Avery offered the body. Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Brasch. Those still wishing to speak include Smith, Harms, Ken Haar, Bloomfield, Pirsch, and others. Senator Smith, you're recognized. [LB629]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. As a member of the Natural Resources Committee, as a probusiness person and as an admirer of our state's natural resources, I stand in support of AM1465 and the underlying bill, LB629. I want to just give some recognition to Senator Sullivan in the way she's conducted herself throughout the discussions with the committee, outside of the committee. She has truly acted as a statesperson on this matter and I believe her constituents and the people of Nebraska should be very, very proud of her leadership. But also I want to recognize Senator Langemeier. He's devoted considerable time and

Floor Debate
May 19, 2011

patience to this. At every turn, he did not demonstrate any type of partiality in trying to find a reasonable solution to this issue and I think we should all be very proud of his leadership as well as committee Chairman of the Natural Resources Committee. And then finally I'd like to...I'd be remiss not to recognize the benefit of jobs and energy independence that TransCanada and other pipeline companies bring to our communities and bring to our country. We have to find safe and reliable ways to exploit the natural resources we have available in this country. And while there's a lot of attention given to renewables, renewables certainly have a place but also fossil products have to be considered here and we have to find a safe and reliable means of getting at those resources. You know, we talk about highway funding as an economic driver in our state and potential for growth in commerce. We talk about small business assistance. There's been a lot of that going around throughout this legislative session, some I don't think necessarily hits the target that it's intended to hit. But, nonetheless, there's a lot of talk about supporting small businesses. But what greater assistance is there to our businesses than energy independence and energy supply? And, you know, in my experience through multiple hearings and discussions on this particular issue, I believe that the pipeline companies have indicated that they very much want to do their best to be good neighbors and Senator Sullivan noted that that is very critical to be good neighbors. She mentioned that in her opening remarks and I agree with that and I believe these companies have at least demonstrated to me and they have been very forthcoming in answering all of my questions concerning the construction methods and the safety and response methods they have in place, and I do believe that they have demonstrated that they want to be good neighbors to Nebraskans and I believe that they will be very good neighbors to Nebraskans. I echo what Senator Adams spoke earlier about TransCanada's responsiveness to his questions and I have found the very same thing. I believe that they've been very helpful and forthcoming. So once again, I do support Senator Sullivan's thoughtful and measured approach with her bill and Senator Langemeier's amendment to this bill. I support both and I encourage my colleagues to support both. Thank you very much. [LB629]

SENATOR CARLSON: Thank you, Senator Smith. Senator Harms, you're recognized. [LB629]

SENATOR HARMS: Thank you, Mr. President, colleagues. You know, when this first came forward that this pipeline was going to come through Nebraska many, many months ago, I really started to struggle a little bit with the pipeline and even some of our people in my district struggled a little bit with it, and my biggest concern was always about what happens with the water. I know today we're talking about the land and we're going to return it to its same beauty that it was before if something happens, but my concern was always about what happens when a leak occurs in the Ogallala aquifer. Colleagues, that's the biggest sum of pure water captured underground in the world. It's our biggest asset. It's what our future is about in regard to this particular concern. And so I thought, well, if that's my concern then why don't you find out just exactly what

Floor Debate
May 19, 2011

happens to the aquifer. So I went to a water scientist who specializes in water and asked him, here's my concern, my issue, how do I deal with this, how do I deal with my constituents who are asking me these kinds of questions? He said, John, when you look at how this works, he said, if you had a spill in there you don't have to worry about the spill because, he said, in time bacteria will clean it up and purify it. Well, even that thought didn't make me feel real good, the fact that oil may still be there but in time it would be taken care of and most likely would be purified. He said, what you have to be more concerned about will be...first of all, the Ogallala aquifer does not move very rapid or, if it moves at all, it's very, very slow. So that's the other side of this in regard to the discussion with the scientist. Then I asked him, well, what happens then if it gets near an underground water river or close to a river? He said, that's then where your problem begins because that's where the water is going to move rapid and that's where you will have an issue with that. And I guess as I struggled a little bit with this and I listened to the conversation today, I've listened to it with my own constituents, and I would have to tell you, colleagues, it's probably split in my district because of the Sandhills and the beauty of the Sandhills and the Ogallala aquifer and how important that is to us in the future. I finally made a decision to support this. I think it's important for us. I think what Senator Sullivan has done and Senator Dubas has done is great. And I know that in a short conversation I had with Senator Sullivan it doesn't go far enough. But you know what? We have to start somewhere and this is a start. And I can tell you, I think both of these two senators will come back and they will continue to work on this, and by the time we get out of here, when our terms are up, I think we'll be in pretty good position and shape. So even though I had some concerns in the beginning, I still have some of those same concerns. I trust what the scientists have told me, and I think this is the best for what we have to do in this great state. So I would really urge you to support AM1465 and the underlying bill, LB629. So I thank you. Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Harms. Senator Haar, you're recognized. [LB629]

SENATOR HAAR: Mr. President, members of the body, first of all, Senator Krist, after you've been in the Legislature for two years you can get color copies too. It's just a matter of priority. I'd like to see us vote on this so I'll try and make this my last time. I'd like to talk a little bit more on Select File. But the great communicator Ronald Reagan often, not just once, often said: trust but verify. Three words: trust but verify. What we're talking about here is not antibusiness, it's not anti anything. It's trust but verify. The two pictures I handed out are from a Lincoln Journal Star article that appeared on April 22, 2011, and it is about a gas pipeline. But in that respect, when it comes to reclamation, a pipeline is a pipeline. And what happened here, according to the Journal Star is that the reclamation started in the wintertime and there was snow on the ground and so they just pushed the snow and the dirt back into the trench and, guess what, the snow melted and left the trench. Trust but verify. The person from the pipeline company said it was because of environmental concerns that they got started so late, mostly over nesting

Floor Debate
May 19, 2011

birds, so they had a reason to push that snow back in the trench, I guess. Trust but verify. Again, I stand in strong support of LB629 and AM1465. It is a great start. It's an important bill and we need to get started here. But again, I want to talk briefly, go back to the Tenth Amendment where I left off. We do have siting authority; we just haven't assigned that and it's something we're going to have to work on. It's strange. When we talked to Senator Nelson's office and Senator Johanns and to the congresspeople, they pointed us to the constitution: The powers not delegated to the United States by the constitution or prohibited by it to the states are reserved for the states respectively or to the people. That's the Tenth Amendment. In South Dakota, for example, another...okay, so we do have siting authority if we assign it to somebody, and that's something we're going to work on this summer. Other states have it. There is also not liability in this bill. Let me tell you, South Dakota has laws that require strict liability for corrective actions. So if there's an oil spill on the border between Nebraska and South Dakota, South Dakota citizens will be protected because South Dakota has strict liability built into their laws. So we need to look at liability this summer. Eminent domain, we need to look at eminent domain. I have some actual letters here, and all this stuff is crossed out because we don't want to get anybody in trouble, but I think that this company, trust but verify, has used eminent domain under false pretexts. Let me read from a letter to one of the people: We prefer to acquire this property through negotiation and voluntary settlement. Great. We will initiate eminent domain only as a last resort where good faith has not resulted in a voluntary agreement. This letter represents our final offer and we will remain open for one month. This was sent on...dated April 7, so the month is up. After the date of this letter or until you reject it, which ever is...after that period we will initiate... [LB629]

SENATOR CARLSON: One minute. [LB629]

SENATOR HAAR: ...thank you...the eminent domain process. So they're saying they can actually do eminent domain before the siting has been approved by the State Department. We have a lot of work to do. There are some issues that I think we need to get on top of now instead of waiting. I've introduced a study resolution to study fracking, which is getting natural gas out of the ground, in-situ mining, because we have almost no regulation on these and these are going to be coming at us. And I will be circulating a letter. You could sign it if you'd like but it's going to go to Secretary Clinton backing up what Senator Johanns and Nelson have said, that please reroute around the Sandhills. So again, I want to thank Senator Sullivan and the Natural Resources Committee. This is important legislation. We have a lot of work ahead of us in terms of other legislation. Thank you very much. [LB629]

SENATOR CARLSON: Thank you, Senator Haar. Senator Bloomfield, you're recognized. [LB629]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I want to step up with

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

Floor Debate
May 19, 2011

everybody else and thank Senator Sullivan for bringing this first-step bill. I know she'll work further on it. But I want to lead us down a little bit different path this morning. We're talking about pipelines going across our great state. We ponied up earlier this year \$25 million to the college for Innovation Campus. We have extended money to the ethanol people. I wonder if maybe it isn't about time that the state look at maybe being involved in or helping someone establish a refinery in western Nebraska. We're all the time talking about let's do something to help revitalize western Nebraska. We have the rail system out there. Alliance has one of the most fabulous rail yards in the country. I think perhaps we'd ought to look at putting some money out there through some state organization or in cooperation with private enterprise people. I know it's a long struggle to build a refinery but I also know there's a great shortage of refineries in the United States. I believe there's a golden opportunity to stop the pipeline from going across Nebraska and have them come to Nebraska, and I would sure like to work with anybody else that's of a like mind in seeing about getting something like that going. Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Pirsch, you're recognized. [LB629]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I have, with respect to...I appreciate the dialogue that's been going on this afternoon and the points that have been raised and I'm sure that this conversation will continue. I wonder if Senator Sullivan might yield to a question or two. [LB629]

SENATOR CARLSON: Senator Sullivan, will you yield? [LB629]

SENATOR SULLIVAN: Yes, I will. [LB629]

SENATOR PIRSCH: Thank you, Senator. And I take it that this planned construction of this site is going to be somewhat dependent upon federal authorization. Is that right? [LB629]

SENATOR SULLIVAN: Absolutely. If you're talking about the Keystone XL pipeline, that permitting process is still in process. It has not been completed so they've not been given their final permits. [LB629]

SENATOR PIRSCH: Okay. Has it been...so there's a chance that it may or may not go through. It's under federal review at this point. Is that correct? [LB629]

SENATOR SULLIVAN: Right. [LB629]

SENATOR PIRSCH: Okay. And is there an expectation then as to the date of construction, starting construction, if it is approved or is that very much unknown at this

Floor Debate
May 19, 2011

time as well? [LB629]

SENATOR SULLIVAN: What I have been told and what I've read is that they are hopeful that they will still be given the permits by the end of the year, and if that's the case, construction would start next year. [LB629]

SENATOR PIRSCH: I see. Okay. Well, with respect to...and this may be in an area that...I hate to put you on the spot, it's a legalistic area and I don't know that this has been looked at by the committee, but the issue of eminent domain has been raised and I'm wondering, you know, the courts have in recent years expanded the purview of eligible uses of land in terms of governmental interest in using eminent domain. Do we know, is this a black-and-white issue as to whether or not TransCanada would have a power to utilize eminent domain if they were...what exactly is the...I guess it would hinge on what authority are they being granted by the federal government, this...it's permitting only or is...after this interaction with the federal government, do they arguably have the power to exercise eminent domain? [LB629]

SENATOR SULLIVAN: You know, Senator, not to evade your question but I am not an expert on eminent domain. Certainly that's an area that we need to work on in the broad perspective of pipelines. I can't tell you what...if they are overreaching their step in using eminent domain in this process because they haven't received their permit, I can't say that for sure. So I just don't know. [LB629]

SENATOR PIRSCH: Very good. Well, it's an issue I'm sure that will be looked at. And I do appreciate all the conversation, the issues that have been raised thus far. And I think, Senator Fulton, I appreciate your comments as well. The only thing I'd close is I would just like to thank you, Senator Sullivan, for bringing this bill to this body and, you know, there has...you know, does...Senator Haar brought out the thesaurus in talking about your quality, your attributes in determination, persistency, tenacity, but I think we could probably go on and on. You represent your district very well. So thank you. I'd yield the balance of my time. [LB629]

SENATOR CARLSON: Thank you, Senator Pirsch. Senator Hadley, you're recognized. [LB629]

SENATOR HADLEY: Mr. President, members of the body, I'm going to be very quick. I just had some random thoughts of...after listening to people. I do want to thank Senator Sullivan for bringing this bill. I think it is a step. But I had some random thoughts and looked some things up. Right now, there are 20,100 miles of pipeline buried in Nebraska--20,100 miles already buried in Nebraska, all throughout Nebraska. I was going to send this out but I didn't want to waste the paper. Nebraska is an interstate natural gas supply dependency state and if you look at the natural gas lines in Nebraska, they crisscross the Ogallala aquifer, they crisscross all the aquifers, the

Floor Debate
May 19, 2011

streams and such as that. There has been 3,000 natural gas accidents since 1900...1990. The last thing I'd like to say, and someone mentioned we want the pipeline but we just want it moved, it reminds me of my days back on the city council. We had a saying, I'm sure some of you have heard it, but it's called NIMBY. NIMBY means not in my backyard. It means that we really like this project but we'd like for you to move it into somebody else's backyard. We'd like you to move it into somebody else's state. I think we need to have a balancing act. I think we need to have expectations of what we expect the pipeline to do, but we also have to understand the importance of the pipeline to the national dependency on oil and what we're looking for long term. And I think Senator Sullivan's bill is a start to that. Thank you, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Dubas, you're recognized. [LB629]

SENATOR DUBAS: Thank you, Mr. President, just a couple of clarifying remarks and then I won't speak anymore. I will be sending out a link, an e-mail to all of the senators, where you can access the supplemental environmental impact statement so that you can see what TransCanada is doing as far as meeting and exceeding any types of regulations or protections that they're putting in place. In the interest of fairness, I think we need to put all the information out there that we have available to us, so I will be sending that link out to all of you to access and would encourage you to look at it. It can be a lengthy document but it has a lot of very good information in it. My office has looked through it too. And in reference to the handout that I did pass out...and again, in all fairness, it's not necessarily an apples-to-apples comparison and it's definitely not comprehensive. It could be classified as an oversimplification. Just trying to make a point about, okay, these are the federal regulations, what can or should the state put in place. So, you know, this isn't...the handout that I gave you is not, you know, the be-all and end-all of the regulations that natural gas pipelines have to comply with versus what the crude oil and oil pipelines comply with. They're different animals and they are dealt with under a different set of circumstances. But I do want to try to be fair and balanced so, again, if you go to that supplemental environmental impact statement you will be able to see most if not all of the regulations and compliance issues that TransCanada is going through. As I said, it's a very informative document and I think you will learn something from it. So I will be sending that out to all of you, and should you have any questions, please don't hesitate to get in touch with my office. We have multiple notebooks filled with lots of information. So thank you very much, Mr. President. [LB629]

SENATOR CARLSON: Thank you, Senator Dubas. There are no other senators wishing to speak. Senator Langemeier, you're recognized to close on AM1465. [LB629]

SENATOR LANGEMEIER: Mr. President, members of the body, I want to thank Senator Sullivan for her work on this bill. We've had some great discussions and we've got to know each other a little bit through this whole process, which as been good. And so we

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

Floor Debate
May 19, 2011

would ask for your adoption of AM1465 and then the adoption of LB629. I think it is that first good step. Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Langemeier. Members, the question is, shall the committee amendments to LB629 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB629]

CLERK: 45 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB629]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk. [LB629]

CLERK: Senator Sullivan, I have AM238 with a note you want to withdraw. [LB629]

SENATOR CARLSON: The amendment is withdrawn. [LB629]

CLERK: I have nothing further on the bill, Mr. President. [LB629]

SENATOR CARLSON: We return to any debate on LB629. Seeing no lights, Senator Sullivan, you're recognized to close. [LB629]

SENATOR SULLIVAN: Thank you, Mr. President. And I do thank the body for their discussion and certainly their support of the committee amendment. As I've indicated several times, I've worked long and hard on this legislation. Is it enough? No. Is it a work in progress? Yes. Is it a compromise? Yes. Is it the end of the beginning? Absolutely, and I would appreciate your green vote. Thank you. [LB629]

SENATOR CARLSON: Thank you, Senator Sullivan. Members, you've heard the closing on LB629. The question is, shall LB629 be advanced? All in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB629]

CLERK: 47 ayes, 0 nays, Mr. President, on the advancement of LB629. [LB629]

SENATOR CARLSON: The bill is advanced. Mr. Clerk. [LB629]

CLERK: Mr. President, one item before I have a priority motion. Bills read on Final Reading this morning were presented to the Governor at 9:40 a.m. (re LB151, LB589, and LB617, Legislative Journal page 1698.) [LB151 LB589 LB617]

And, Mr. President, a priority motion: Senator Cook would move to recess the body until 1:30 p.m.

SENATOR CARLSON: Members, you've heard the motion to recess. Those in favor say

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

Floor Debate
May 19, 2011

aye. Opposed, nay. We are recessed till 1:30. (Gavel)

RECESS

SENATOR CARLSON PRESIDING

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

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

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

CLERK: I do, thank you. Enrollment and Review reports LB642 and LB669 as correctly engrossed. And I have notice of confirmation hearing by the Transportation Committee; that signed by Senator Fischer. That's all that I had, Mr. President. (Legislative Journal pages 1699-1700.) [LB642 LB669]

SENATOR CARLSON: Thank you, Mr. Clerk. We'll proceed to the first item on the afternoon agenda.

CLERK: Mr. President, LB704. It was a bill originally introduced by the Redistricting Committee and signed by its members. (Read title.) The bill was introduced on May 5 of this year, at that time referred to the Redistricting Committee. The bill was reported to General File. There are committee amendments pending, Mr. President. (AM1492, Legislative Journal page 1675.) [LB704]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Langemeier, as Chair of the Redistricting Committee, you're recognized to open on LB704. [LB704]

SENATOR LANGEMEIER: Mr. President, members of the body, as we prepare to continue the discussion on redistricting, since one of the amendments does replace the bill, I'm going to do some other things as I open on LB704. First of all, I want to send out my sincerest thank you to the committee. It at times was contentious and at times was not, and that's the spirit of the legislative nature and that's what I do enjoy about this body is the ability to share your thoughts and express your opinions, and we do all make decisions and we move on. So I want to thank my committee members. I also want to thank our two GIS individuals and Nancy Cyr, that is the head of redistricting and...or the Research Office. She has done a great job and the staff has done a...Jack and Trisha have done a great job with helping each and every one of you that chose to go make a map under some pretty short time frames, and I know this continues after General File as we move to others, and so I encourage them to continue with their

Floor Debate
May 19, 2011

helpfulness and we appreciate the demands we place on them, whether it was the senators or the staff in their looking at the maps. We move into this first bill, which is LB704. It is the U.S. House of Representatives Congressional maps and they should be passed out to you currently, as we speak, and so you should all have those. And so with that, I will conclude on the opening of LB704 and we move to the committee amendment. [LB704]

SENATOR CARLSON: Thank you, Senator Langemeier. And as the Clerk mentioned, there are committee amendments. And as the Chair of the committee, you're recognized to open on AM1492. [LB704]

SENATOR LANGEMEIER: Mr. President, members of the body, AM1492 becomes the bill. It references, in that short bill that's there or short amendment, it references the map numbers on this Congressional district, whether it references each and every one of these districts. Whether it's District 1, District 2, or District 3, is in the breakout on these maps that were put before you. Now there's going to be a lot of questions as we move through this. First of all, the committee put out a map that looks fairly similar to AM1492. The original bill put out came out with a zero deviation. AM1492 comes out with a deviation of an overall deviation of .06 percent, or basically it was created by 271 people. As we looked to make that 1st Congressional District, we started looking at it and under the fundamentals of LR102 that you're going to hear a lot about today before this body. As we went back and looked at a map that we virtually had a deviation of one person, so why do you move on? So we started looking at that and our core principles that this committee has looked at on many occasions were a couple things, is: one, let's keep communities of interest, first of all, let's keep incumbents in their district, not a big problem with Congressional maps; number two, let's respect municipal boundaries; and number three, let's look at our county structure and try and split the least counties as possible. So as we looked at that, Merrick County was originally split and the town of Silver Creek was split in half again to get down to that zero deviation. We looked at that and communities of interest. We thought Silver Creek should remain whole and Merrick County should remain whole as well. This map only splits one county and that is Sarpy County, and with that and keeping Merrick County whole, it led us to a deviation of 271 people. So the 3rd Congressional District has a deviation of .04 percent, or 271 people, so that shorts District 1 or it shorts district 2. So then as we look into how do you create 1 and 2, we looked to try and make a compact, precise district. And in Sarpy County, everybody, there's discussion of why you took the west side and the east side. Well, the reality is, as you start on the west side and we had a number of maps provided before us, if you go that way you split Bellevue, you split La Vista, you split Papillion. If you start on the west side and go in, you don't have to split any of those so you have a slight deviation to keep Bellevue, Papillion, and La Vista whole, and so that is where that 271 deviation is split, to 151 and 121, which creates a deviation of .02 percent. You're going to hear a lot today about deviation. As we adopted LR102, due to a federal court case we decided, and keeping in that same spirit, we thought a .5 deviation, plus or minus, or

Floor Debate
May 19, 2011

an overall of 1 percent would be a goal we needed to stay under. One person, one vote. So we are at an overall deviation on this map of .06, which is greatly below that threshold. It protects municipal boundaries. It protects only splitting one county in the whole state, and that's Sarpy County. Let's talk a little bit about how these maps are made. Each map is made with software with 2010 Census data provided to us that contains population data. We added geographic information. We have county and municipal lines and we have demographic information. What you're going to hear is what it doesn't have. What it doesn't have is voter registration. We don't know what voter registration is. It's not in the software so it's not considered in making a map. We stick to those fundamentals of keeping our municipalities, our counties whole, and precise, contiguous and compact districts, and I think we've done that. So with that, I would ask for your adoption of AM1492 to LB704. Thank you, Mr. President. [LB704 LR102]

SENATOR CARLSON: Thank you, Senator Langemeier, for your opening on LB704 and AM1492. (Visitors introduced.) We do have several senators wishing to speak: Price, Mello, Conrad, Avery, Hadley, and others. Senator Price, you're recognized. [LB704]

SENATOR PRICE: Thank you, Mr. President. Members of the body, welcome back from lunch and I guess here we go, we're going to kick it off and get into this carnival ride, I suspect. Before we get too far in, as a member who represents Sarpy County, the one of three, and who also represents parts of Bellevue, Papillion, and La Vista, and Gretna, one of the conversations that many people come up to me and ask is, how did I feel about Offutt Air Force Base perhaps having a different Congressional representative, and I said, as I thought about it, I think that it's okay, and here's why. Offutt Air Force Base is inextricably connected to the... [LB704]

SENATOR CARLSON: (Gavel) [LB704]

SENATOR PRICE: Thank you, Mr. President. It's connected with the business communities in the metro area and now we're going to have a...if this map is adopted, we will have a Congressman who is directly responsible, if you would. So now we're going to have two. We're going to have one who has to and one who needs to directly and in a compact way, so I don't think that that's a negative right there. I think that for the concerns that we have at Offutt, that's a very good thing. And so I wanted to get up here early on as one of the people or probably the only person who represents all three of those cities and that county that's being split. Sarpy County was going to get split one way or another. It was split the way it was, it's split the way it is, and there's no...there's been really no configuration that doesn't split it. So if that's the case and, as Senator Langemeier said, they did their best and they kept another county whole, well, I think that once again that we've met the mark of the resolution we adopted in going ahead and forming these maps. So I stand in support of that amendment and what the

Floor Debate
May 19, 2011

committee has put before us. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Price. Senator Mello, you're recognized. [LB704]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Good afternoon, colleagues. As we discuss LB704 and I imagine LB703 later this afternoon, early evening, I look forward to the lively and thoughtful debate that I envision many of us will be having regarding the future political boundaries of our Congressional representatives, as well as our legislative representatives here in this body. But as reading probably the committee statement, you can see that I am one of those senators who voted no on LB704, both as the bill was introduced as well as the bill was voted out of committee. And the logic and reasoning behind why I oppose LB704 as drafted, as well as the underlying amendment. I know processwise we have a tendency, it's the underlying amendment makes some small tweaks and changes, though meaningful, I think in the bigger debate that we'll be having really doesn't dramatically alter the existing underlying legislation with the exception of it keeps one city that currently is split in LB704 whole. But I believe...and the legislative page will be passing out my amendment, it's not actually an amendment to AM1492, it's a separate, stand-alone amendment to LB704, my House of Representatives map 05003 for your consideration as well, as we debate AM1492, as well as hopefully Senator Karpisek's amendment that he will be bringing as well. Some points of information I think is very valid and very factual that we need to take in consideration as we debate LB704. Currently what you see under the amendment, AM1492, and the underlying legislation, we have over 226,000 Nebraskans who were moved from their original Congressional district to a new Congressional district. That's over 12 percent of Nebraska's population is changed under AM1492 and the original legislation. That's a very dramatic number, understanding that two of our three Congressional districts had to lose population. The proposal that I am putting forward for this body to consider adjusts roughly over 77,000 Nebraskans and changes their Congressional district, which is the equivalent of 4.2 percent of Nebraskans who change Congressional districts compared to the committee proposal that changes it 12.4 percent. Colleagues, that fact alone should raise concerns. It should raise concerns of how did we get to this point and why did we get to this point? If one map can be drawn and be devised that keeps over 96 percent of Nebraskans in the same Congressional district that they currently reside in with a one person deviation, why are we not considering that map instead of an alternative map that's being presented by us that changes over 12 percent of Nebraska's population into a new Congressional district? It's a question that we will be continually asking those who drafted these proposals today. Another big fact, the proposal that I put forward as an amendment does not move a county that currently resides in the 3rd Congressional District into the 1st Congressional District. Why? Because logic says you don't need to add population when you know a Congressional district needs to shed population. It's a very simple concept, a very simple rationale. Two or our three Congressional districts

Floor Debate
May 19, 2011

need to lose population, one needs to gain population. The underlying premise is why would you add population to those districts first, then only to take population away? That's a question that we also need to answer and discuss throughout the day. My plan,... [LB704 LB703]

SENATOR CARLSON: One minute. [LB704]

SENATOR MELLO: ...05003, moves all of four counties--Dixon, Wayne, Gage, and Pawnee--and part of three counties--Cedar, Johnson, and Sarpy--into new Congressional districts, while the current proposal we have in front of us under AM1492 and LB704 moves all of ten counties--Platte, Polk, Dakota, Dixon, Wayne, Gage, Johnson, Pawnee, Nemaha, and Richardson--and parts of two counties--Cedar and Sarpy--into new Congressional districts. As you may have be...if you're thinking through some of these numbers I'm throwing out at you, that is where you get the 12.4 percent change in population to my 4.2 percent. Lastly, as it was discussed by Senator Langemeier, the (inaudible) polls that we have in front of us changes the deviation from 1 person to roughly 250 people. Colleagues, that will be discussed throughout the day as well. It is my interpretation, while I'm not a lawyer, is my interpretation of reading multiple Supreme Court cases that that sets us up for a legal challenge. [LB704]

SENATOR CARLSON: Time. [LB704]

SENATOR MELLO: We are changing the deviation. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Mello. (Visitors introduced.) Senator Conrad, you're recognized. [LB704]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to AM1492 and LB704. As you can see by the committee amendment, I've been consistently opposed to these proposals as they've made their way through the committee process and are now before you on the floor. Before I delve too deeply into the details, I did just want to talk about a few overriding issues and principles which, of course, are probably well-established, and hopefully we're all on the same page regardless of our personal or political feelings about the various and competing proposals that are coming forward later. But let's not mistake the gravity of this moment and the unique nature of the redistricting process, which comes before us as state legislators once every ten years after the completion of the census. This is a very new process to each of us that are now in the Nebraska Legislature, I believe, with the exception of Senator Ashford who previously served during a period of redistricting. So with most things, of course, Nebraskans are resilient and we've all made our best efforts to get up to speed on not only the process and the issues but to listen carefully to the constituents and the communities across this great state to ensure that we're putting forward the best plan that we can. And what is the best plan that we can put forward? I

Floor Debate
May 19, 2011

contend it is one that is responsive to local issues and interests, it is one that comports with our legally binding legislative resolution, LR102, laying out the...thank you...laying out the parameters of our redistricting principles, and then of course that comports with the Nebraska Constitution, the legislative rules, and a plethora of case law in relation to both legislative maps and Congressional maps emanating on both the state and the federal district court level. So that's a lot to operate within, but I believe that we can achieve balance and can meet the objectives central to the principles that we've adopted for ourselves. And with that, I was hoping that Senator Langemeier might be available to answer some...to yield to some questions. [LB704 LR102]

SENATOR CARLSON: Senator Langemeier, would you yield? [LB704]

SENATOR LANGEMEIER: Yes. [LB704]

SENATOR CONRAD: Thank you, Senator Langemeier. And as Chair of the Redistricting Committee, I thought that you would be able to hopefully speak on this topic in a clear manner. I've heard rumblings in the past couple days from some members who don't serve on the committee that LR102 is nothing more than a guideline that doesn't have to be followed by this body, and that's certainly not my reading of how to utilize LR102 and it's definitely not the path that the committee followed, in my opinion. So if you'd like to respond to that question, please. [LB704 LR102]

SENATOR LANGEMEIER: Well, I think the guidelines that were put before us are just that--they're the guidelines that we as a committee decided to adopt so we were consistent in our process. [LB704]

SENATOR CONRAD: And beyond just the committee, of course, it was subject to public hearing and subject to floor debate and passed through the entirety of this Legislature. Is that correct? [LB704]

SENATOR LANGEMEIER: That is true. [LB704]

SENATOR CONRAD: And so indeed this really is a guiding force in terms of all of our work surrounding redistricting and can't just be shed to the wayside if we agree or disagree with the outcomes or the impacts. [LB704]

SENATOR LANGEMEIER: That's true. There's a lot of things within LR102, as we talk about preserving municipal lines, preserving county lines, preserving incumbents' areas, and considering cores of districts. I think as a committee we looked at that and we have to continue to prioritize which one of those is on top and... [LB704 LR102]

SENATOR CARLSON: One minute. [LB704]

Floor Debate
May 19, 2011

SENATOR LANGEMEIER: ...we did that. [LB704]

SENATOR CONRAD: Thank you so much, Senator Langemeier. I really appreciate that. I think it provides an appropriate baseline as we move forward with this discussion. Thank you, Mr. President. No question, colleagues, we'll have a chance to talk in greater detail about some of the legal issues surrounding the deviations in the various proposals that are before us and some of the issues surrounding a potential partisan gerrymander of the Congressional districts in the proposals that are before us. There's been a lot of attention, and media attention in particular, on what's happening in the 2nd Congressional District. But, make no mistake, there are issues affecting each of Nebraska's three Congressional districts at play here and I am eager to hear more from Senator Mello and later from our colleague, Senator Karpisek, about how some of those issues amongst the 1st and 3rd District can be remedied as well. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Avery, you're recognized. [LB704]

SENATOR AVERY: Thank you, Mr. President. If you look at the committee statement, you'll see that I was one of the people that opposed this plan. I did so because I had actually read LR102, and LR102 provides us with a set of principles by which we were to guide and determine our process in the drawing of these maps. As Senator Conrad just mentioned there, you will hear some discussion today that these are merely guidelines and guidelines are only suggestions and we really don't have to follow them. Go to the dictionary, you'll find that "guidelines" are referred to as principles for determining a course of action, not suggestions for how you might go about your business but they are principles for determining a course of action. "Determining" is a pretty strong word. Principles are fundamental truths, as defined in Webster, fundamental truths or doctrines upon which others are based; rules of conduct, rules of conduct, not suggestions of conduct, rules of conduct. Words have meaning, folks, and when we put these words into our documents and we vote upon them and we approve them, we must take them seriously, and we did not do that in the Redistricting Committee, in my opinion, and I'll tell you why. If you go to page 3 of LR102 and you read down about one-quarter of the page, you will see the guidelines, principles for determining the course of action for the U.S. House of Representatives. Go down to sub (c), in the second sentence, we're talking about deviations here. "Any deviation from absolute equality of population must be necessary to the achievement of a legitimate state objective." We raised this in committee: What is the legitimate state objective for moving 12 percent of the population from one district to another? Oh, we got vague answers but never any definitive answer to that, so I'm going to insist today that somebody provide us with a sound reason, a sound argument for what is the legitimate state objective for these deviations. We can get the deviations down to zero. There is no need to have a 271-person deviation in District 3. There is no reason for that. The

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Floor Debate
May 19, 2011

technology is available to get it down to zero. And our document here, LR102, says: Any deviation from absolute equality of population must be necessary to the achievement of a legitimate state objective. And we go on to say, in that same paragraph near the end, that we are to preserve the cores of prior districts. We don't do that. We are to preserve the cores of prior districts. "Whenever there is presented to the Legislature more than one plan that will substantially vindicate the above objectives, preference will be given to the plan that provides the greatest degree of population equality." You will have an alternative plan, you'll probably have two of them, and they will in fact do that, and what you have before you here with this amendment does not. [LB704 LR102]

SENATOR CARLSON: One minute. [LB704]

SENATOR AVERY: I'm sorry, sir, one minute? [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR AVERY: Thank you. I think we have to take seriously the actions that we take on this floor. When we passed this resolution back in April, I believe it was, it was a serious undertaking. The committee deliberated extensively over these principles. These are principles that guide our behavior and tell us what to do. They determine our course of action, not a mere suggestion, and I submit to you that we did not follow these principles. In fact, we violated at least two and perhaps more, which I will be addressing later on at other turns on the microphone. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Avery. Senator Hadley, you're recognized. [LB704]

SENATOR HADLEY: Members of the body, Mr. President, good afternoon. I think it's going to be a long afternoon and a long evening. I got up not so much to speak to the problems in the 1st and 2nd District because I'll be listening as we go along, but I just wanted you to take a quick look, just an overview of the map that you have in front of you. If you go from Richardson County to Sioux County, basically Falls City to Crawford, that means the representative in the 3rd District, that's a distance of 577 miles. If you go from the northeast, South Sioux City up in Dakota down to Benkelman, that's a distance of 434 miles. I just hope everybody kind of looks at that and gets a sense of the hugeness that that 3rd District Congressman is going to have to deal with and the agricultural issues that that person is going to have to deal with in that whole area. And I guess I really don't have anything to say except, you know, that's going to be a difficult thing for a Congressman to do. Just to put that in perspective, the distance from Boston to Washington, D.C., is 474 miles, so our district is basically the same basic distance as the distance from Boston to Washington, D.C. Mr. President, I would yield the remainder of my time to Senator Lautenbaugh. [LB704]

Floor Debate
May 19, 2011

SENATOR CARLSON: Senator Lautenbaugh, 3 minutes and 20 seconds. [LB704]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. We'll have plenty of opportunities to discuss this map as the afternoon wears on and I'll be glad to do it, but I would caution you to listen carefully to some of the terms that you're going to hear overused, misapplied, misdefined. Cores of the districts come to mind. I just saw a map that was passed out now from Senator Karpisek that moves Saline County back into the 1st. Well, I hope that's not a core of the 3rd at this point or Senator Avery... [LB704]

SENATOR CARLSON: (Gavel) [LB704]

SENATOR LAUTENBAUGH: ...is going to be very put out by this. We do have multiple, competing standards in our own resolution, that much is certain, but everything in a district is not the core of the district or we would just call it everything. We wouldn't call it the core. There are two different words there for a reason. Similarly, everything we don't like isn't gerrymandering. Everything we don't like isn't unconstitutional. There has to actually be some sort of a basis for making that claim. And, yes, all of these maps are subject to challenge. Guess what? Everything is subject to court challenge. I think our seating chart in the Redistricting Committee at one point was constitutionally infirm. Everything is subject to challenge. That doesn't mean it's a meritorious challenge. And we've heard on all the maps that we've put forth, well, this isn't constitutional. There was one I had for legislative: Well, this isn't right, you can't do this, it's subject to a court challenge. Well, fine, we'll see if the challenges materialize. The deviations, there's a good reason for doing what we did to create a 200-person, mind you, 200-person difference between the 3rd District, which has the extra 200 and is losing population, and the other two districts which are light, if you will, on this map, creating the deviation. I'd be willing to bet that those 200 people may have moved between the time we did the census and the time we put out this map already, and that's one of the things you can take into account under federal court cases. So if we're going to talk about federal challenges, federal rules, constitutionality and whatnot, it's helpful to actually talk about what the cases have held. And if we have a good reason for doing the deviation of this 200 people and you honestly believe... [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR LAUTENBAUGH: ...thank you, Mr. President...that someone is going to bring a challenge over these 200 people, well, after the judge is done laughing he will point out that the Legislature can articulate a purpose, like planning for future population migration and acknowledge that this is the most trivial plan for future population migration but it still works, these 200 people, and there is no constitutional infirmity with this map. We're going to have a protracted discussion about this, I have a feeling, but

Floor Debate
May 19, 2011

cores are cores and districts are districts, and everything isn't gerrymandered or unconstitutional if you don't like it. And I guess I'm running out of time so we'll continue to explore it later on the mike some more. [LB704]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senators wishing to speak: Karpisek, Nordquist, McGill, Council, Smith, and others. Senator Karpisek, you're recognized. [LB704]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I have just passed out my map. I had it drawn. I forgot to have an amendment drawn up to have it put in, so now we're on to that. I couldn't agree with Senator Lautenbaugh more. Not everything is unconstitutional if you don't like it. I've been on the mike yelling about that all year. Perhaps, Senator Lautenbaugh, we should get an AG's Opinion on all these things, that seems to be the thing to do this year, so we could see and he could give an opinion, official or unofficial, and we could go all those ways. But I don't think that we should. My map does move Saline County back into the 1st and I'm sorry I didn't hear Senator Lautenbaugh, what all he said about that, but I see on the map that was from the committee, they're moving other counties back into the 1st so I don't know what the difference is and I'll be interested to find out exactly what those reasons are. If that was in the 3rd and it's coming back to the 1st, then why can't Saline, that was in the 3rd for ten years, move back into the 1st? Saline County was moved ten years ago into the 3rd and I think we all know why. We weren't here, maybe Senator Ashford, I don't know, very obvious. I just tried to make a map that kind of draws a straight line. Yes, I do want Saline County back in the 1st District. I have also handed out a letter from the city of Crete signed by all their city councilmen and mayor asking to move into the 1st District. I will say there are three D's, three R's, and one Independent that signed that. Saline County was in the 1st District until ten years ago, got moved by what I understand, maybe a floor amendment or kind of a last-minute adjustment. I'm bringing this for consideration. Nothing is in stone. I think we can sit down and talk about it. As we have tried to talk about or I've tried to talk a little bit on redistricting, I've been met with, no. All right, so we'll talk about it on the floor then and we'll see if we can get any further than no. Maybe not, but then you'll hear me talk for quite a while longer. I will dive in later to find out exactly the reasons why one county can be moved and not another, why Sarpy is being flip-flopped. That is not my dog in that fight but I'm curious. Most of us in this body wanted to be on the Redistricting Committee and only nine could be. I had my name in to be on the Redistricting Committee. To be honest, hindsight, maybe I'm glad I wasn't because I know it was a lot of work, a lot of emotions. So I know they did a good job, a great job, and it's not an easy job and someone is always going to feel wronged on this. Right now I don't know that everybody feels wronged. I think we're going to have to get to some sort of a compromise. We know about compromises, CIR bill, all sorts of things that we do. Again, I will be very up-front and honest with you, I want Saline County back in the 1st District. That is my goal in this. If there's anything else that people would like, we can talk about it. We are going to Senator Mello's bill and my...or

Floor Debate
May 19, 2011

amendment and my amendment are both drawn... [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR KARPSEK: ...to the bill. Senator Mello's will be first, mine will be second. We will go through it that way. Again, this is an idea. I didn't have all the time spent as the committee did drawing these lines, looking into it. I just tried to make as straight a line as I could. There's different ways to go about it. This is my idea. I'm more than happy to talk about my idea and I'm sure we'll be talking for quite a while. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Karpisek. Senator Nordquist, you're recognized. [LB704]

SENATOR NORDQUIST: Thank you, Mr. President and members. I guess there's two points that I want to hit on. First is the issue of the deviation. And while we certainly oftentimes hear about legal challenges that could be pending, we certainly shouldn't ignore the legal precedent that has been established regarding a deviation of Congressional districts. And certainly prior even to the Redistricting Committee, I received a copy of a redistricting book that NCSL put together on a number of topics and went through that, and I pulled that back out and looked at a few pieces that went through some of the legal precedent related to this, and the Supreme Court has held numerous times in the...beginning as far back as '64, in '69 there was the Kirkpatrick case which said, let's see, the Kirkpatrick opinion specifically rejected the suggestion that there's a point at which population differences among districts becomes de minimis and held that insofar as a state fails to achieve a mathematical equality among districts, it must either show that the variances are unavoidable or specifically justify the variances. But they went on to reject several justifications, including Missouri's, at the time, desire to avoid fragmenting political subdivisions. Are the deviations presented on this map unavoidable? Well, I certainly think, given the fact that we have two maps sitting in front of us now that do have zero deviation, I contend that they certainly are, they certainly are avoidable. In '73 there was a White v. Weiser case held similar to Kirkpatrick that the Texas districts at the time were not as mathematically equal as reasonably possible and were, therefore, unacceptable. And ten years later in, I believe, Karcher v. Daggett, the Supreme Court held essentially that no level of population inequality among Congressional districts is too small to worry about and that there is no de minimis amount of population variation. So obviously, certainly we...every bill that comes before us, we hear issues of potential challenges, but there's substantial case law that says, you know, if you can avoid the deviation you must. Also on the legislative resolution issue of core districts, however you want to define the core, whether that's pieces or not, whether you want to define it as a county, a city, neighborhoods, I don't know that we have any definition laid out. But certainly the fact that we have one proposal before us that displaces 12 percent of Nebraskans versus another one that

Floor Debate
May 19, 2011

displaces 4 percent, certainly whatever your definition of "core" is, we are moving core pieces, whether it's moving more counties than we should or moving more cities than we should or moving neighborhoods than we should. Those people obviously represent counties, cities, neighborhoods that we're moving that we shouldn't be. With that, Mr. President, I'll yield the rest of my time to Senator Avery. [LB704]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Avery, a minute and 20 seconds. [LB704]

SENATOR AVERY: Thank you, Mr. President. Thank you, Senator Nordquist. There are a number of reasons why AM1492 should not be adopted. All of these reasons can be found in the principles that we adopted in LR102. Deviations have been mentioned and they will probably be mentioned many more times. They are too large in this recommendation. [LB704 LR102]

SENATOR CARLSON: One minute. [LB704]

SENATOR AVERY: They cannot be justified on the grounds that have been expressed in this body so far. In fact, there was one court case that emerged out of the 2000 redistricting experience that involved only 16 people, and we're looking here at District 3 with a deviation of plus 271. Now you can pooh-pooh the idea that court arguments don't matter or constitutional arguments don't matter and that everything we do in here is potentially judicable, but the fact of the matter is that if you have a deviation of that size it is going to be extremely difficult to defend that in court. You must, according to our own rules, you must have a legitimate state objective. I haven't heard that yet. I have not heard anybody articulate a clear, legitimate state objective. [LB704]

SENATOR CARLSON: Time. [LB704]

SENATOR AVERY: Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Avery. Senator McGill, you're recognized. [LB704]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I have not been all that involved in drawing these redistricting maps. I haven't spent any time doing them myself, and I'm no redistricting attorney. So I know there are plenty of folks out here who have been making many of those cases about previous case law and situations in other states, but as I look at these different maps and the changes, and hear Senator Lautenbaugh question, you know, what a core district is, that it's different to everybody, I can't help but use that common sense and wonder why we're changing some of these districts when it's not necessary or where there's been no argument to flip-flop Sarpy County for instance. If the right number of people are still there, then why are we

Floor Debate
May 19, 2011

changing it? I personally am rather partial to Senator Karpisek's map, although I think Senator Mello's is worthy of some discussion too. Again, with Sarpy County, I don't know why we're swapping that. I don't have a dog in that fight up there with the Omaha metro area. But I need more rationale than simply, ooh, we don't want to change someone's core district or what is a core district. I need more behind that if we're going to be flipping that around. And I think the same goes for the other Congressional districts. It makes common sense to just move the district farther east, I think vertically makes the most sense, but I'm interested in hearing the rest of the debate today and I yield the rest of my time to Senator Mello. [LB704]

SENATOR CARLSON: Thank you, Senator McGill. Senator Mello, 3 minutes and 30 seconds. [LB704]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, I, unfortunately, wasn't able to continue the brief rationale behind my amendment, AM1508, which is actually after the committee amendment, and as I was describing some of the facts and figures behind the current proposal that we were discussing, something to take in consideration with the amendment that I put forward that dramatically keeps our existing Congressional district boundaries looking very similar. Well, another key point, AM1508 keeps Platte County and Merrick County in the 3rd District. Currently, right now, in the proposal we're debating it moves it to the 1st Congressional District. Once again, there's no rationale. There's been no logic. There's been no explanation beyond we moved it because we moved it. In regard to the 2nd Congressional District, I think it's very, very...it's telling but it's also, I think, a very key point for debate purposes. As you might have read in media accounts, the underlying premise behind LB704 was to say we are going to flip-flop the existing Sarpy County portion of the 2nd Congressional District because in one senator's mind the core is not the existing district boundary; the core is one county and the rest of it is the rest of it, was I believe the explanation. And in that logic it was laid forward to the committee that the reason that we have LB704 without the current amendment we're debating was to keep the three cities of Sarpy County all in one area: the cities of Gretna, Papillion, and La Vista. Unfortunately, it was brought to the attention of the committee by myself and another committee member that, currently drafted, LB704 actually cuts the cities of Papillion and La Vista almost in half. So the underlying rationale that was given of saying that we want to keep these three cities whole under LB704 actually was not the case. They were not kept whole actually. They were split. As you would look at my proposal, AM1508, roughly 95 percent of the cities of Bellevue, Papillion, and La Vista all stay within the 2nd Congressional District. Why? Because there's not a need to completely redraw municipalities or areas out of a Congressional district when you simply have to remove 30,000 individuals. That's a fairly key point, colleagues. [LB704]

SENATOR CARLSON: One minute. [LB704]

Floor Debate
May 19, 2011

SENATOR MELLO: And I appreciate Senator Nordquist and, in all due respect to my colleague, Senator Lautenbaugh, I think we've had enough conversations on this issue over the last couple of months and there's a disagreement, a strong disagreement, a disagreement in regards to what the definition of "is" is, a strong disagreement on what the definition of "core prior districts" is, and I think the underlying premise is that I believe you do not need to be an attorney to be able to read U.S. Supreme Court case law. Senator Nordquist mentioned the Karcher v. Daggett case which simply says that no definition is too small. I'm not an attorney and I'll repeat that multiple times, but from what I've read from a very reliable source, the National Conference of State Legislatures, they go over that court case in saying that deviations matter. And regardless if it's 250 individuals or it's one individual, we should go for one person, one vote at all times. [LB704]

SENATOR CARLSON: Time. [LB704]

SENATOR MELLO: Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Mello. Senator Council, you're recognized. [LB704]

SENATOR COUNCIL: Thank you very much, Mr. President. I want to begin. I, like Senator Karpisek, had expressed interest in serving on the Redistricting Committee and was not selected to be a member of that committee, and perhaps, as Senator Karpisek said, there's a silver lining in that cloud in terms of the amount of work that I know that my colleagues who did agree to serve put in. But when I was advised that I was not going to be a member of the committee, I expressed to several members of the committee the standard I expected them to be held to in terms of developing these redistricting maps, and that was compliance with constitutional standards and the Voting Rights Act. And when I reviewed the resolution that this body adopted with regard to redistricting and particularly page 3, the section dealing with the United States House of Representatives, you know, my colleagues need to be aware of the fact that the first sentence of subparagraph (c) kind of sets some Nebraska legislative parameters. The critical part of subparagraph (c) is that second sentence: Any deviation from absolute equality of population must be necessary to the achievement of a, quote, legitimate state objective, close quote, as that concept has been articulated by the United States Supreme Court. And that phrase, "legitimate state objective," is in quotes because it's taken directly from a U.S. Supreme Court decision on Congressional redistricting. And I don't think any member of the Redistricting Committee can dispute the fact that when you're talking about Congressional redistricting, the standard, the constitutional standard is strict equality in terms of population. That's the standard. And like my colleague, Senator Nordquist, last year I had the privilege of attending two sessions at the National Conference of State Legislatures on redistricting, and I attended those conferences so that I could be clear in my mind as to what the applicable standards are

Floor Debate
May 19, 2011

to be applied in redistricting, I think in part in hopes that I would be a member of the committee but, in any event, to position me to be able to review any proposals that came out of that committee from a constitutional and voting rights perspective. And I must say with regard to the Congressional redistricting maps, I don't see either of those questions answered, at least to my satisfaction. And the first is, and as several before me have noted and as the resolution itself notes, "Any deviation from absolute equality of population must be necessary to the achievement of a legitimate state objective," and that's of critical concern because there are a number of Supreme Court decisions that said when you have alternate proposals which in fact are closer to or in fact achieve strict equality of population, you have to meet a high, a very high standard in terms of a legitimate state objective being served by deviating from that. Now I don't know how many potential scenarios would have resulted in strict equality,... [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR COUNCIL: ...but I do know that I have two before me right now, one being introduced by Senator Karpisek, one being introduced by Senator Mello. And I, like some others before me, have yet to hear a legitimate state objective expressed. And when you look at our own resolution in determining whether there's a legitimate state objective, one of the things to be considered is preservation of the cores of prior districts. Perhaps that's a typo, but it doesn't say "core," it said "cores" of a prior district. So there are a variety of factors that comprise the core of these districts, and when looking at the fact that we don't have strict equality here, not only do we not have strict equality, I think reasonable minds can differ as to whether or not the map that is reflected in AM... [LB704]

SENATOR CARLSON: Time. [LB704]

SENATOR COUNCIL: Thank you. [LB704]

SENATOR CARLSON: Thank you, Senator Council. Senator Smith, you're recognized. [LB704]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I represent Legislative District 14, so if you look at your maps of Sarpy County, District 14 represents the top central section of Sarpy County. It includes the communities of La Vista and Papillion and primarily is in the 2nd Congressional District in AM1492. I had resolved myself that 72nd Street would provide the east and west divide between the 1st and 2nd Congressional District, which would have divided the community. It would have only been 12 streets from the core of what I consider to be La Vista and Papillion, and La Vista sits on top of Papillion. Therefore, I was very pleased whenever I saw this layout in AM1492 because it moves that east-west divide over to 60th Street instead of 72nd Street. So what that does is it pretty much allows all of La Vista and all of Papillion

Floor Debate
May 19, 2011

to remain in the 2nd Congressional District. And I'm also...I also feel that there are great benefits to keeping La Vista and Papillion as part of the same Congressional district as Omaha and Douglas County, and again that's from a selfish standpoint, I know, but I think there's a lot of alignment that occurs between those communities. Senator Mello's proposal, though very well-considered, I know he put a lot of time into that, it tends to divide the La Vista and the Papillion communities because it draws that east-west at 96th Street, which again is only 12 streets from the core of what I consider to be those communities. So in my opinion, I do believe that AM1492 does a better job of keeping the La Vista and Papillion communities whole, in one Congressional district, and it's for that reason I support AM1492. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Smith. Mr. Clerk for an announcement. [LB704]

CLERK: Mr. President, Revenue Committee will have an Exec Session now in 2022. Thank you. [LB704]

SENATOR CARLSON: Thank you, Mr. Clerk. Senators wishing to speak include Mello, Dubas, Conrad, Lautenbaugh, Avery, and others. Senator Mello, you're recognized. [LB704]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I know Senator Lautenbaugh is up in the queue and I'll tee this question up for him, since he was the driving force behind the map that is currently LB704. But in his previous statements on the floor I didn't hear, and I may be mistaken, of the rationale behind moving roughly 12 percent of the state's population from different Congressional districts to new Congressional districts, instead of the proposal that I put forward and I think Senator Avery put one forward as well that was dramatically less than that 12 percent. My proposal, as we will discuss hopefully more, AM1508, is at a 4 percent change statewide of population. That's one-third of what we currently are seeing in LB704. As we've discussed in the committee at length, there's things that you can do with this software in regards to making tweaks, making changes, moving block or neighborhoods, even municipalities, counties. But when you do that there needs to be a rationale. There needs to be a logic. You need to be able to explain not just to those in this body but to Nebraskans why you did what you did. When you see a significant population change that is under AM1492 in LB704, Nebraskans deserve to know why, with the logic laid out, knowing that two of three Congressional districts need to simply lose population, roughly 30,000 each. That's 60,000 population, I remind you. Why instead are we considering a proposal that changes 225,000? Those numbers just don't add up, colleagues. You can take a look at some of the counties and see kind of where the existing boundaries lie and where the new boundaries lie, but the logic and rationale in regards to why this was done the way it was done has not been laid out. The numbers cannot be explained. Simply saying the numbers fit because the numbers fit,

Floor Debate
May 19, 2011

that's not logic, that's not rationale. That's an excuse. What we have seen is a legislative base map. We might not debate that particular proposal today, depending upon the outcome of AM1492, my amendment, AM1508, and Senator Karpisek's amendment. That amendment will come though, one way or another, I'm for certain. I have a strange feeling that we will have to debate that amendment at some point, which is unique because that amendment is a little bit of what Senator Lautenbaugh put forward and a little bit of what I put forward in the sense that it was drawn by a nonpartisan Legislative Research Office. It was not influenced by a state senator, not influenced by a political party, by an executive agency, branch of government. It was purely done in a nonpartisan, staff-driven way, similar to how the state of Iowa does it. I've been talking about this proposal. Even though I'm not completely thrilled with it, I understand it. There's logic and rationale in regards to why they did what they did. They simply moved population west. That's what they did. That was the sole rationale. One area needs to grow, two areas need to shrink, let's move everyone slightly west. That's what we try to do in my amendment, AM1508--move areas slightly west. The amendment we're discussing and the underlying bill, on the other hand, I can't provide you that rationale. I can't provide you that logic because I did not draw that map, I did not draw these proposals. I stand in opposition because I believe we need more reasoning why we're debating what we're currently debating. Sarpy County is just only one issue, colleagues. I laid out the other main issues that involved the 3rd and 1st Congressional District, where you see a sizeable amount of population change, sizeable. Ten full counties it changed from different Congressional districts. That in its own right is not an... [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR MELLO: ...urban-rural issue, colleagues. It's a statewide issue. My hope is that we continue to debate some of the underlying guidelines and the principles that Senator Avery so aptly laid out in LR102. How did we get here? What path did we travel to come up with these maps? There are multiple guidelines and I know Senator Lautenbaugh is correct in some sense, in the sense that some guidelines are competing. There are ways to do this though where they are not, and that is what I and others have argued. You can keep core prior districts because you can utilize the existing district boundaries. You can utilize existing municipality boundaries, as I've laid out in my 2nd Congressional District map where over 95 percent of the cities of Papillion, Bellevue, and La Vista all fall within the 2nd Congressional District, this only displacing less than 5 percent of the population in that area. On the other hand, we're debating a proposal that eliminates an entire city out of that area, also moves the largest employer in the state of Nebraska... [LB704 LR102]

SENATOR CARLSON: Time. [LB704]

SENATOR MELLO: ...from Congressional districts. Thank you, Mr. President. [LB704]

Floor Debate
May 19, 2011

SENATOR CARLSON: Thank you, Senator Mello. Senator Dubas, you're recognized.
[LB704]

SENATOR DUBAS: Thank you very much, Mr. President. Colleagues, serving on the Redistricting Committee has been a very interesting and enlightening experience, to say the least. It is difficult because it is a very emotional issue. You're talking about people who are heavily invested in their districts and wanting to do what's best for their districts and serve their districts the best way that they're able to. And so there are very strong opinions and strong emotions that surround all of the debate and I think we'll see that exemplified on the floor as we move forward with the discussion on Congressional as well as legislative district maps. I really appreciate the committee's accommodation of an issue that I had with Merrick County. If you look at the map, you'll see there's a little tiny square of Merrick County that goes up into Platte County just east of Nance County. That was the particular square that was divided and put into the 1st Congressional District. And while there's not a lot of people in that, it does make an issue or cause an issue for a county clerk and for the people that live in that area. And so both Senator Mello's map and Senator Karpisek's map, as well as the map that the committee put out, accommodated my concern and I am very, very appreciative of that. Ultimately, I decided to support Senator Mello's map for the fact that it did accommodate my concern, as well as I think it keeps the districts as close to their existing boundaries as they are right now. Platte County did request to remain in the 3rd; Senator Mello's map does that. It keeps that part of the district of Bellevue where it currently is now. Again, I think it instituted changes that impact the fewest number of voters and keeps those deviations as close to zero as we possibly can, and that is one of those guidelines of the resolution that we are required to meet in advancing a map on Congressional district maps. We have a little bit more leeway with the legislative maps, but with the Congressional we're really restricted to that zero. Again, these discussions invoke very strong emotions, opinions for a variety of personal reasons. I think our decision as a committee were driven by those guidelines. We referenced them very, very frequently as we had our discussions. Also, the constitution lays out some pretty definite requirements that we have to meet. I know there's some question as to how do we interpret those guidelines and the words that are in those guidelines, and I think that's the purpose of this floor debate today, that's the purpose of this discussion. Words are words and they are also open to interpretation, and I think as this debate unfolds we will be able to make those comments to support those interpretations and the vote will show what the majority of the people...what the majority of this body anyway...excuse me, how the majority of this body would like to interpret those words. So again, I ultimately decided to support Senator Mello's map because it accommodated my concern with Merrick County, it impacts the least amount of voters and tries to keep the boundaries as close to their original form as they are in now. So thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Dubas. Senator Conrad, you're recognized.
[LB704]

Floor Debate
May 19, 2011

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I want to thank Senator Dubas in particular, not only for her service on the committee but for weighing in with some of the very real and distinct issues that are at play in regards to rural Nebraska and the boundaries between the 1st and the 3rd Congressional District, which again are at issue in this proposal, and all Nebraskans should be paying attention because it is much, much broader than just what's happening in the 2nd Congressional District. I think it's important at this stage to be clear about what the objectives of opponents might be and I can tell you what mine are. As a member of the committee who I don't think I missed one single meeting during our time, who was an active participant in drawing maps and getting up to speed on the legal parameters surrounding the issues and talking to constituents and looking at the communications that came in from communities across the great state, what we're asking for at this stage is compromise, is bringing people together, because that didn't happen at the committee level, regardless of how many times myself and others requested it. We said, let's see if we can't take a little bit of some of the ideas that Senator Lautenbaugh and his team have, and some of the ideas that Senator Mello and Avery and myself have, and let's see if we can't find a good middle ground to move the state forward through what is no question a difficult process, and what we heard was no. What we heard is, we have the votes, we're not going to compromise, we're not going to talk. Okay, fine, that's true, that's political reality, but what's your rationale for your plan? And you know about...as much about what the rationale is for proponents' plan as we do as committee members. Read, look no further than what was reported in media reports surrounding the committee's activities. Senator Lautenbaugh noted the core is the core and the rest is the rest. That's literally the only rationale that's been presented as to why we should adopt AM1492 and LB704, despite continued requests from Senator Avery, Senator Mello and myself about this seems to be in contravention. This is in contravention of our redistricting principles for the following reasons. It is confusing to voters. It breaks up communities of interest. It...you know, look at LR102 for yourself. The list goes on and on and on and on. So now we have a chance to debate it on the record and either opponents (sic) don't have a rationale or they don't want to tell Nebraskans what it is. And I'm eager to hear more from the five members who voted for this and put it forward. Why? The simple question is, why? Why was there no compromise? Why wasn't there a willingness to sit down and look at alternative plans that had smaller deviations and met the same critical state objectives? Yes, there is going to be an exercise of raw political power in this body, particularly when it comes to redistricting, but we shouldn't turn our back on the proud history of this august body, which is nonpartisan in nature and which in years past has put forward maps that sought compromise and middle ground, whether it's in relation to the Voting Rights Act issue, which displaces minority voters amongst the 1st and 2nd Congressional Districts, or the straight political gerrymander, which is separate and distinct and present in AM1492. Make no mistake, there is no legal certainty surrounding... [LB704 LR102]

Floor Debate
May 19, 2011

SENATOR CARLSON: One minute. [LB704]

SENATOR CONRAD: ...thank you, Mr. President,...surrounding any of these proposals, but there is a potential to avoid legal challenge, battle, time, resources, and divisiveness by compromising, by coming to the table, by selecting plans that have smaller deviations, that respect existing core boundaries, and that displace less voters. We can do better, but we can't do better unless people are willing to listen, are willing to come to the table, and are willing to say, proponents, you haven't met your burden. Just because you may have had the votes in committee, that doesn't make it good enough for my constituents. This is now all of our issue, all of our battle, and each senator has a responsibility to engage. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Lautenbaugh, you're recognized. [LB704]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'll start with a quote: When I use a word, Humpty Dumpty said in a rather scornful tone, it means just what I choose it to mean, neither more nor less. A lot of people seem to be governing themselves by the Humpty Dumpty approach to the meaning of "cores." Yes, the word is plural but so is the word "districts," so I would submit to you that the reason the word "cores" is plural is because it's followed by the word "districts." So when we're supposed to preserve the cores of districts, that doesn't mean that we have these great multicore districts out there. And to say that we wouldn't compromise and we wouldn't talk and we won't answer the question, I suppose someone could have asked me to yield to a question on the mike but, you know, that's only if you actually want the answer. I sat at a committee hearing and gave a rationale, and a few days later one of the members said, I've never heard you give a rationale. And I responded, no, you didn't listen; I can't make you listen, I can only speak. And here we are talking about cores of the districts and we're ginning up remarkable standards. Senator Nordquist said, well, you've moved 12 percent of the people so obviously you violated cores. You won't find that in a Supreme Court case. And if you think about it, it really doesn't make any sense at all: If you've moved one in ten, you've obviously cut to the core. I don't think that makes sense. I don't think that's true. And we're hearing a lot of hand wringing about Sarpy County--we have to vindicate the rights of those poor, put-upon people in Sarpy County--except of course from the two senators from Sarpy County who have spoken up today and said they're fine with the amendment. But we're really concerned about then though so we're going to keep talking about Sarpy County regardless of what their representatives say, I guess. And to say that we wouldn't listen, to say that we wouldn't talk in committee, what we dealt with in committee was shifting rationales and shifting arguments. And I'll be honest, at one point Senator Avery submitted a map that moved the 1st District into southeast Nebraska and he brought it to preserve the Lincoln core, the Lancaster core of the district, as he defined it. That's a relatively small core, I would suggest, and I would suggest we moved a lot more than 12 percent of the people, and

Floor Debate
May 19, 2011

somehow that map got put out there under our resolution, which is now perfectly clear to Senator Avery and would not allow something like that, in his reading of it, despite the fact that he drew a map that did those kinds of things. And we're talking about flipping Sarpy County. That's not what happened here. We preserve, as amended, La Vista; we preserve, as amended, Papillion. We heard from people ten years ago in Gretna who didn't want to be taken out of the 2nd. That was a traditional part of the 2nd. As the map is drawn, the only reason there's a deviation is, again, because we accommodated Merrick County. If we have to undue that to avoid a court challenge, I suppose we could. That's the only reason we have a deviation that anyone would even think about questioning based upon the standards that have been set forth. But it balances, and Bellevue and the base go into the 1st District. You've heard from representatives from the area saying, all right, that's fine with us. So if we're going to start, as we have started down the road, of attacking people's motives and talking about partisanship and whatnot, why don't you ask yourself what are the real motives of the people who don't represent Sarpy County who are so put out about Sarpy County. What are they really talking about and why are they really concerned? If we're going to go down that road, if we're going to start in... [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR LAUTENBAUGH: ...already with attacking the motives then let's really think about who's complaining and why, because I'll tell you what, I was quoted in the paper last week, the day of the public hearing, I said I've only gotten three e-mails on this topic, and that brought about another two, another two e-mails, yet we're hearing that we're making this huge change and the people won't stand for it. One of the papers said there was going to be nonpartisan howling about this map. Well, it didn't seem to happen. And we're being told we're displacing an unconscionable number of people, who don't seem to be very put out by this, by whatever standard that's being applied. But I hope it's clear what's going on here. And I think La Vista and Papillion are important parts of the 2nd District, too, and as amended those are preserved in their entirety. I'm not arguing they're a core because there's only one core and I... [LB704]

SENATOR CARLSON: Time. [LB704]

SENATOR LAUTENBAUGH: Thank you. [LB704]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Avery, you're recognized. [LB704]

SENATOR AVERY: Thank you, Mr. President. I would like to engage Senator Nelson in a few questions, if he would yield. [LB704]

SENATOR CARLSON: Senator Nelson, would you yield? [LB704]

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Transcriber's Office

Floor Debate
May 19, 2011

SENATOR NELSON: Certainly. [LB704]

SENATOR AVERY: Senator Nelson, as I understand, you were involved in the drafting of this map that we are discussing today. [LB704]

SENATOR NELSON: That's correct. [LB704]

SENATOR AVERY: Then could you please explain to me, since I am having a hard time understanding what Senator Lautenbaugh thinks is so clear, how it is that any deviation from absolute equality of population must be necessary to the achievement of a legitimate state objective? Can you tell me what that legitimate state objective is to justify a deviation of 271 in CD3? [LB704]

SENATOR NELSON: Senator Avery, I don't know that we as a committee ever went into detail about what legitimate state objectives are. I don't think you're going to find that in our resolution. I will say that we did say population among districts shall be as nearly equal as practicable, that is, with an overall range of deviation of or approaching zero percent. [LB704]

SENATOR AVERY: That, Senator, is not what we are talking about. We're talking about the deviations in the U.S. House of Representatives where the standard is higher, it is much higher... [LB704]

SENATOR NELSON: The standard is not higher, Senator. I'm reading from... [LB704]

SENATOR AVERY: ...meaning deviations must be as near to zero as possible. [LB704]

SENATOR NELSON: That's exactly what I read to you. We're talking about the United States... [LB704]

SENATOR AVERY: Would you tell me in the resolution, LR102, what page you're on? [LB704 LR102]

SENATOR NELSON: Right, page 3. [LB704]

SENATOR AVERY: Page 3? [LB704]

SENATOR NELSON: United States House of Representatives, three single member districts. The "population among districts shall be as nearly equal as practicable, that is, with an overall range of deviation at or approaching zero percent." [LB704]

SENATOR AVERY: Right, zero. [LB704]

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

Floor Debate
May 19, 2011

SENATOR NELSON: Now we're 250-some people off. [LB704]

SENATOR AVERY: And that is not zero. [LB704]

SENATOR NELSON: Well,... [LB704]

SENATOR AVERY: It is possible to get there with the technology, as I have stated. Let me... [LB704]

SENATOR NELSON: I will tell you, I won't use your time. [LB704]

SENATOR AVERY: I don't have any more questions for you. Thank you. [LB704]

SENATOR NELSON: All right. Thank you, Senator. [LB704]

SENATOR AVERY: You're on my time. The Supreme Court has been very clear in establishing standards of review to determine what is a state interest and they use something known as the rational basis test. The state sets limits on how fast you can drive on the interstate. They do that in the interest of preserving and advancing the state interest of public safety. I don't care how much you love to speed, and I do, the fact is that when you get on the interstate there are limits as to how fast you can drive and there's a legitimate state interest in enforcing that. And the courts have said very clearly there's a rational basis, a rational basis for that rule. Now when you're talking about things, say, like the state requiring insurance salesmen to be licensed, there you are restricting the right of that sales person to contract freely, but it serves a legitimate state interest because it prevents the presence of fraud and protects people from fraudulent behavior. So while you can restrict a right on the one hand in order to achieve a larger state interest, it seems to me that what you have to do is be very, very careful that you're following the constitution and following Supreme Court cases that define how you determine what a legitimate state interest is. We have not done that. We have a constitutional,... [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR AVERY: ...fundamental right to one person, one vote. That's why these deviations keep coming up, because they're important. One person, one vote is a fundamental constitutional right. If you're going to restrict that with a deviation of 271 people, then you have to have a rational basis that can withstand a constitutional challenge. This will not withstand a constitutional challenge if we pass it. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Avery. Senators wishing to speak include

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

Floor Debate
May 19, 2011

Price, Wallman, Karpisek, Krist, Nordquist, and others. Senator Price, you're recognized. [LB704]

SENATOR PRICE: Thank you, Mr. President and members of the body. I would yield the balance of my time to Senator Langemeier, if he would like to use that time. [LB704]

SENATOR CARLSON: Senator Langemeier, 4 minutes and 50 seconds. [LB704]

SENATOR LANGEMEIER: Mr. President, members of the body, I just want to talk about, Senator Nordquist brought up a good point a little while ago and he referenced the NCSL manual on deviation and redistricting, so I just pulled that out and I want to go over. In 2000, as we talk about how we have to strive for zero people and zero deviants...or, deviants, that too...deviation (laughter), I want to look at that. Of 50 states...let everybody finish chuckling. Of 50 states, six states had zero; out of 50, six. Arkansas had 5,698; Hawaii has 1,899; Idaho has 3,595; Indiana had 102; Iowa had 134; Illinois is at 240; Massachusetts had 2,476; New Hampshire, 636; New Mexico, 166 people--these aren't percents, these are people; and West Virginia at 1,313. Now there are a number of states, 10 at one person, and so there are legitimate reasons to have some deviation. Even though there was a court case, these are all states that went after that court case that have some deviation. And we have deviation in this map, in AM1492, to keep Merrick County and the city of Silver Creek in the 3rd Congressional District whole. It's 271 people. So those 271 people keep that district whole and allow us then to deal with the deviation in our most populated area--La Vista, Papillion, and Bellevue. Three communities in this map are kept whole. So I want to remind you of AM1492 splits one county and that's Sarpy County and no committees (sic). If you look at the proposals that are being handed out, we split more counties and we still split La Vista, Papillion, and Bellevue in those examples. As a body, as we have in our LR102, that Senator Avery has brought up so eloquently so many times, in following that we said we were going to consider municipality boundaries and county boundaries and shoot for a zero deviation. We're there with AM1492. There is some deviation, 271 people, but it still keeps all our communities whole and it splits one county. I think that makes sense so I ask for your support of AM1492 and LB704. [LB704 LR102]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Wallman, you're recognized. [LB704]

SENATOR WALLMAN: Thank you, Mr. President. I'd yield my time to Senator Council. [LB704]

SENATOR CARLSON: Senator Council, 4 minutes and 50 seconds. [LB704]

SENATOR COUNCIL: Yes, and thank you, Senator Wallman, for yielding your time because I didn't want a lot of time to pass before I pointed out a couple of facts with

Floor Debate
May 19, 2011

regard to some of the statements made by my colleague, Senator Lautenbaugh. Senator Lautenbaugh indicated that with regard to the change in District 2 represented by AM1492, that we've heard from two of the legislative representatives from that area that have expressed no concern. Number one, with regard to my learned colleague, Senator Price, what I heard him say with regard to moving Bellevue into the 1st Congressional District was that they would gain one Congressman who had to address Bellevue and one Congressman that should address Bellevue. I submit to you that that should be the case now--one Congressman who should address Bellevue and one Congressman who must address Bellevue. The other point that needs to be made and should not be dismissed or discounted is the public hearing that was held on LB704 last week. I attended the hearing in Omaha. I sat in the teleconference room in Omaha and listened to the public testimony that was presented on LB704 and there was not one person, not one member of the public who spoke in support of LB704 or, for that matter, AM1492. They all spoke in opposition to it, including a currently seated Bellevue City Council member who is a former member of this body, former State Senator Preister. I also heard some of the testimony offered by individuals from Sarpy County who offered testimony from the hearing room here in Lincoln. None of those people spoke in support of LB704. So when we're considering the positions that have been articulated, let us not forget the positions articulated by the very people who are going to be affected by this, and those are the residents and voters in what will be Congressional District 2. Now I haven't spoken much about the map from my personal perspective, but when I first saw it I had to scratch my head and wonder, why do you take people out of a district to put people into it, number one. But what is more disconcerting to me was Senator Nelson's response to Senator Avery and Senator Nelson's reliance on the first sentence of subpart (c) of the legislative resolution which speaks to not giving consideration to a plan where you have an overall deviation between .5 percent and 1 percent. Yeah, that's what it says, but the law, the constitutional standard that should have governed this committee's actions in developing these maps is in the second sentence: Any deviation from absolute equality of population must be necessary... [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR COUNCIL: ...to the achievement of a "legitimate state objective" as that concept has been articulated by the United States Supreme Court. And how that concept has been articulated by the United States Supreme Court is when you have options that provide zero deviation, you must state a legitimate state objective for proposing a redistricting alignment that results in a deviation greater than zero. AM1492 represents a deviation greater than zero, and thus far in this debate I have heard nothing from the Redistricting Committee members that even closely rises to the level of a legitimate state interest. And if you look at the core, preservation of the core, that's one of the things you consider when you are... [LB704]

SENATOR CARLSON: Time. [LB704]

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Transcriber's Office

Floor Debate
May 19, 2011

SENATOR COUNCIL: Thank you. [LB704]

SENATOR CARLSON: Thank you, Senator Council. Senator Karpisek, you're recognized. [LB704]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I forgot to say when I was up the first time, just a little payback from earlier in the year, Senator Lautenbaugh, I don't like your map. (Laughter) He didn't like one of my bills, so I don't like his map. Would Senator Lautenbaugh yield, please? [LB704]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LB704]

SENATOR LAUTENBAUGH: Yes, I will. [LB704]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. Since you did want someone to ask you questions, I figured I'd be the one to do that. So looking at the map, can you tell me why Platte County comes back into the 1st from the 3rd? [LB704]

SENATOR LAUTENBAUGH: The point on that was to create what would be more compact and contiguous districts. It rounds out the area up there. [LB704]

SENATOR KARPISEK: And that is the core issue that you've been talking about also? [LB704]

SENATOR LAUTENBAUGH: No, not at all. [LB704]

SENATOR KARPISEK: Okay. So that...so then the core did or did not play into that? [LB704]

SENATOR LAUTENBAUGH: Well, I don't...I have never heard the argument that Platte County was the core of the 3rd district. So, no, I don't see that as really part of the core issue. [LB704]

SENATOR KARPISEK: Okay. I'm sorry, I'm not trying to be a wiseguy on this. I don't understand the core argument. I'm not trying to be a (laugh) wiseguy. You'll know when I am. (Laughter) I don't understand the core. What is the core of the 3rd district then? [LB704]

SENATOR LAUTENBAUGH: Well, and I'm happy to take your question. And, gosh, I hope people are listening because they've been wanting to hear this answer, despite many iterations of it previously. A core, I would say, would be the integral, central part of a district. You see the problem with that. The core is in the eye of the beholder then.

Floor Debate
May 19, 2011

The core becomes whatever we want the core to be. I think there's a very rational argument. I will...heck, Senator Avery made the argument that Lancaster County was the core of the 1st. That leaves a substantial amount of noncore areas I would argue. And others have argued, well, the core means the district. Well, then, I guess, we can probably do away with the word "core" because we already have a word for the district. We could call it whole or the district or words to that effect. But again, I think that words are probably chosen for a reason and mean something and that the core is less than the whole. Now it's in the eye of the beholder again but, I think, that's what it has to mean. [LB704]

SENATOR KARPISEK: Okay. Thank you. And again, I am just trying to get a little knowledge on this. I'm not trying to put you on the spot or...I don't know all the questions you've been asked. I know that you have taken a lot of criticism. I've been in your shoes on that sort of thing. And so Polk County then also is the same, same reasoning? [LB704]

SENATOR LAUTENBAUGH: Yes. [LB704]

SENATOR KARPISEK: And how long have those counties been in the 3rd district? Do you know? [LB704]

SENATOR LAUTENBAUGH: No. [LB704]

SENATOR KARPISEK: Okay. And do you...does that play anything into any of this, how long a county has been in one district or another? [LB704]

SENATOR LAUTENBAUGH: Well, it's certainly something to consider. I mean, I know a lot of the people in western Sarpy County were kind of put out when they were drawn out of the 1st district or 2nd district, excuse me, and into the 1st ten years ago, because they had traditionally been part of that district. And I know you're probably going to make the same argument regarding Saline County. That had been in the 1st for a long time and then it was unceremoniously moved to the 3rd ten years ago. [LB704]

SENATOR KARPISEK: Yeah, I'm not real sneaky, am I? (Laugh) Yeah, but you're right, that is exactly what I'm going to say. And you're right on the Sarpy issue. But you said the two senators that represent Sarpy, is there only two that represent Sarpy County? [LB704]

SENATOR LAUTENBAUGH: Well, the two that spoke favorably about it, I guess, represent huge chunks of it. I believe, Senator Mello has a little tiny bit of it for now. And others, well, Senator Cornett doesn't appear to be here, but... [LB704]

SENATOR CARLSON: One minute. [LB704]

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

Floor Debate
May 19, 2011

SENATOR LAUTENBAUGH: ...I think Senator McCoy has some, oh, Langemeier, yes. Senator Langemeier has some too. [LB704]

SENATOR KARPISEK: Okay. [LB704]

SENATOR LAUTENBAUGH: He seems okay with the map so. [LB704]

SENATOR KARPISEK: Okay. So I'd be willing to follow that logic if me, being the senator from Saline County, that I'm okay with my map and not okay with yours. So if we could talk that issue over then I'd be okay, maybe, with that other part. But if we're listening to people who represent people, I'm representing Saline County. Real quickly, and again I'm not trying to be smart, why don't we just move these 200-and-some people, redraw a little line, if that's such a big contention? [LB704]

SENATOR LAUTENBAUGH: Well, I suppose. You know, what we're talking about is what I keep calling the saddle horn of Merrick County. I don't know if that's how they prefer to be addressed, but that's the little area we're talking about. And we drew it to keep the county whole, if you will. I think... [LB704]

SENATOR CARLSON: Time. [LB704]

SENATOR KARPISEK: Okay. Thank you, Mr. President. [LB704]

SENATOR CARLSON: Thank you, Senator Karpisek and Senator Lautenbaugh. Senator Krist, you're recognized. [LB704]

SENATOR KRIST: Thank you, Mr. President. Being a bit pragmatic, I started to look at LR102. And, yes, you know, there are some more people that actually have read LR102. I read it before today and I reread it and I read it again. And I went down the criteria. And I'm a bit confused because what I hear going back and forth with my esteemed colleagues that are part of the Redistricting Committee is they reached no general consensus about what a legitimate state objective would be that would warrant a deviation of 200-and-change people. So I went down the list of objectives myself, and I found that one of the things that we should be looking at is whole counties. Whole counties are a factor, not dividing cities, contiguous cities, keeping cities whole is a factor, and deviations are a factor. So I would suggest that the argument that I've heard so far is that you need to establish a legitimate state objective. So in absence, I'll give you one-forty-ninth of the state objective, it's the Krist objective. Let's keep the counties whole as much as we can. Let's keep the cities whole as much as we can. And then let's look at a workable deviation that falls between the parameters that our Supreme Court has set. Now using that logic I got to tell you that 05003, which is Legislative District 5, which is Senator Mello's, which I believe will be AM1508, doesn't cut it.

Floor Debate
May 19, 2011

There's two counties cut up. Not one, not two...or but two and the cities of Sarpy County are cut up. So in here it appears to me that Sarpy and Johnson County, the folks in Johnson County don't need to be together, I guess, that's what we're saying. So I'm not voting for that one. Then I looked at Senator Karpisek's, my good friend Senator Karpisek. And for whatever reason he also has two counties. The folks in Colfax County, they don't need to be split up. So I can't vote for that one because when I balance out the objectives it doesn't meet that objective for me. I look at AM1492 and I see that there's only one county that is divided. And the cities of Sarpy County are respected in terms of which district they're in. Decision made for me. Unless someone can tell me that there's a state, a legitimate state objective that's better than one-forty-ninth, the Krist objective, I think people being whole is more important. My vote is yes on AM1492 and no on the rest. And I think it's a pretty easy decision. And, Mr. President, I'd like to yield the rest of my time to Senator Lautenbaugh. [LB704 LR102]

SENATOR CARLSON: Senator Lautenbaugh, 1 minute 50 seconds. [LB704]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Krist. And to be clear, regarding a rationale for accommodating the people of Merrick County and not splitting their county, we do have to articulate one. And there are lesser acceptable priorities and rationales under the Supreme Court rulings regarding keeping communities together, keeping county lines together. But you have to have one of the primary ones, as I understand, because, maybe this will subject me to derision, but when the issue came up I did actually ask the Attorney General's Office what we should do here. That seemed like the thing to do rather than speculate on the floor. One of the rationales you can give is that it would accommodate future population movement. And while this doesn't take into account very much future population movement, the trends are certainly away from District 3. So if they start with 200 extra people, that's probably going to pass pretty quickly. [LB704]

SENATOR CARLSON: One minute. [LB704]

SENATOR LAUTENBAUGH: So if this is inconsequential and based upon population trends, it's probably already resolved itself. That is enough, that is a justification. And, gosh, I hope all the people who say they haven't heard that were listening because I'm saying it again. And hopefully I won't have to say it again, and hopefully no one else will stand up and say, he hasn't said it yet, he hasn't said it yet, because there I just said it again. And hopefully we can move on. To say that this is subject to a court challenge that will be successful is simply laughable based upon that deviation of a couple hundred people. I just gave the rationale and it works. And if anyone stands up and says, yes, this will fail, the court challenge will be successful based upon the population deviation, they haven't really thought this through or they're telling you it for some other reason. Thank you, Mr. President. [LB704]

Floor Debate
May 19, 2011

SENATOR CARLSON: Thank you, Senator Lautenbaugh and Senator Krist. Senator Nordquist, you're recognized. [LB704]

SENATOR NORDQUIST: Thank you, Mr. President. Well, I don't know if I've thought it through enough as I should. But certainly the information I'm relying on from the National Conference of State Legislatures says that in the Kirkpatrick case, in '69, the justifications that were rejected in Missouri for their deviation included the desire to avoid fragmenting either political subdivisions or areas with distinct economic and social interests. So the court has already said that that interest or that that rationale or that justification doesn't fly. That is not, at least according to that case, that is not the, I'm looking for my resolution here, the legitimate state objective. So let's go back at it again. I haven't seen the Congressional base map. I had my staff run down and get a copy of it for me, the base map that, again, the Legislative Research Office put together certainly in a nonpartisan fashion. This map has, again, a deviation of one person. It certainly appears to maintain cores of the Congressional districts. So now we have three maps in front of us. And I don't know, we have yet--Senator Lautenbaugh tried to articulate it--but yet to hear the legitimate state interest for accepting the fourth one which has that deviation. The rationale he laid out has been already rejected by the Supreme Court. But by having any deviation, ultimately what we're saying to the voters that are in the district that have the larger side of the deviation, that their vote is less valuable than those that have the smaller deviation. That's ultimately what we're saying. Now, granted, if you did the proportion, it probably wouldn't be very significant. But the Supreme Court has upheld one person, one vote. And until...you know, we can talk about the core issue, and Senator Lautenbaugh made light of it, and his definition included the words "integral" and "central." Let's define what those mean. (Laugh) Maybe in Congressional District 2 integral and central means Highway 75 running north to east. That has certainly been a core part of the 2nd Congressional District for quite a while. So why are we now dividing that out of the 2nd Congressional District? I would contend that that is integral and central. So outside of some ultimate definition that we can come together on, on what is core, I'm going to rely on some statistics which says we're moving more people out of their current Congressional district under the plan that's in AM1492 than we have to. We have other plans here that do less. Now again, what is the definition of core? I don't know, but the numbers that we can rely on say that we're moving more people than we have to. We're moving areas that we don't have to. And maybe some of those areas are core areas. So, I think, we really need to look at this. I think we need to keep in mind the legal precedent. Certainly, we've looked at LR102, but we have to look at that in light of what the Supreme Court has said about one person, one vote. And with that, I will yield the rest of my time to Senator Conrad. [LB704 LR102]

SENATOR CARLSON: Senator Conrad, 1 minute and 20 seconds. [LB704]

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

Floor Debate
May 19, 2011

SENATOR CONRAD: Thank you. I see that, unfortunately, Senator Lautenbaugh has stepped off the floor for a moment either to attend to other business or take a brief break. But I have to admit, in listening to his dialogue in the last time at the mike, I was absolutely shocked to hear that he went and had a private meeting with the Attorney General's Office to evaluate the legal soundness of his plan. That was never presented to the Redistricting Committee. I'm wondering how many other secret meetings were held and what the substance and nature of those were and what influence those played in regards to this map. That definitely goes against the openness, the public participation and citizen engagement that this body holds itself to be unique and cultivating. What a disappointment. And I'd sure like to hear more about that. And let's not forget for one minute what an Attorney General's Opinion is, it's his opinion. He doesn't wear a black robe when he writes it. It is not the final say from a legal perspective as to what's legal and what is not. So I'm hoping that Senator Lautenbaugh and others who participated in those private or secret meetings will come forward to the light of day, to the floor of this Legislature and build a record about the substance of those meetings. [LB704]

SENATOR CARLSON: Time. [LB704]

SENATOR CONRAD: Thank you. [LB704]

SENATOR CARLSON: Thank you, Senator Conrad and Senator Nordquist. (Visitors introduced.) Senator Council, you are recognized. [LB704]

SENATOR COUNCIL: Thank you, Mr. President. I yield my time to Senator Wallman. [LB704]

SENATOR CARLSON: Senator Wallman, 4 minutes 50 seconds. [LB704]

SENATOR WALLMAN: Thank you, Senator Council. Senator Lautenbaugh, I don't know where he's at, I hate this map. And, Senator Conrad, I guess, it's called p-o-l-i-t-i-c-s. And why should...would Lavon Heidemann yield to a question, Senator Heidemann? [LB704]

SENATOR CARLSON: Senator Heidemann, would you yield? [LB704]

SENATOR HEIDEMANN: Yes. [LB704]

SENATOR WALLMAN: Thank you, Senator. How far do you think it is from Falls City out to Crawford? [LB704]

SENATOR HEIDEMANN: Miles-wise I wouldn't quite know, but it's a ways. [LB704]

Floor Debate
May 19, 2011

SENATOR WALLMAN: (Laugh) Yeah, thank you. And why would you want to put this map like this is beyond me. I like Senator Karpisek's map. It makes sense, it squares things off. It makes a lot more sense to split a county or two than to go way over here to the river, over here to the Wyoming border. And I talked to a Congressman, one of Congressman Fortenberry's staff, and it sounded like it was done deal about a month ago, this plan. So did that bother me? You bet. So did I work on this committee on certain members to protect my district, District 1? Yes, I did. And I'm proud to be in District 1. And we have the Homestead Expressway, it goes from Beatrice to Lincoln. It's contiguous, it makes sense. We do our business in Lincoln, a lot of it, retailing and grain hauling. So it just makes sense to Senator Karpisek. And I want to thank you, Senator Karpisek, thank you. I yield the rest of my time to Senator Karpisek. [LB704]

SENATOR CARLSON: Senator Wallman, you've been yielded time. You can't yield time. [LB704]

SENATOR WALLMAN: Oh, okay. [LB704]

SENATOR CARLSON: Thank you. Thank you, Senator Council. Senators still wishing to speak are Ken Haar, Mello, Nelson, Conrad, and others. Senator Haar, you're recognized. [LB704]

SENATOR HAAR: Mr. President, members of the body, me thinks that there was a tenth member in the room at these meetings; his name is "Gerry Mander." And, you know, we're all really quite aware, I believe, that even though there weren't political party counts in the software that this new map of the 2nd District shifts from a small Democratic majority to a 10,000 person Republican majority. And, I think, that's the fact that we're all dealing with. And with that, I'd like to submit the rest of my time to Senator Avery. [LB704]

SENATOR CARLSON: Senator Avery, 4 minutes and 15 seconds. [LB704]

SENATOR AVERY: Thank you, Mr. President. And thank you, Senator Haar. I was just taking some notes while the debate was going on. And I can count about four...at least three, perhaps four reasons why AM1492 should not be adopted. We've talked extensively about the deviation issue. They are too large. We also discussed the core of the district. I would disagree with Senator Lautenbaugh. I think flipping Offutt Air Force Base with west...or Sarpy County, which moves 12 percent of the state's population from CD2 to CD1...I think it's the reverse of that, CD1 to CD2, this violates another principle contained in LR102. So that's two reasons. Then if you go to page 2 of the LR102 and you read, on page 2, Sections 5 and 6, it reads, "5. District boundaries shall not be established with the intention of favoring a political party or any other group or person. 6. In drawing district boundaries, no consideration shall be given to the political affiliations of registered voters, demographic information other than population figures,

Floor Debate
May 19, 2011

or the results of previous elections, except as may be required by the laws and Constitution of the United States." Now is it mere happenstance that flipping Sarpy County favors one party over another? The newspapers pointed this out immediately, as soon as this proposal was adopted. Were the results of previous elections just happened to be profoundly altered by flipping Sarpy County? Happenstance? I doubt it, folks, I doubt it. So it looks to me like we have three problems here, and I think we might have a fourth problem and I'm looking at that. And that fourth problem might be the dilution of a voting interest group--in particular, minorities. And as soon as I get that information I'll get back on the mike with it. Thank you, Mr. President. [LB704 LR102]

SENATOR CARLSON: Thank you, Senator Avery and Senator Haar. Senator Mello, you're recognized. This is your third time. [LB704]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As the famous saying goes, you're entitled to your own opinions, but you're not entitled to your own facts. And so, I think, it's a little...there's been some misinformation, I guess. While articulately laid out by colleagues on the floor, it should be notably revised if you take a look at the actual AM1492 and LB704. First off, under AM1492 the cities of Bellevue and Papillion are still split. There are still individuals within the city of Bellevue that are moved to the 1st Congressional District. That is the first item. So in all due respect to my friend and colleague, Senator Krist, the logic that Senator Lautenbaugh has given, both in his original proposal and the proposal we are debating today, does not hold water. Municipalities are split regardless, that is the lone justification of why, apparently, my proposal in the committee and here on the floor is not good enough. Regardless of the fact that it maintains the core of prior districts, which are the existing district boundaries, it splits, by about 5 percent, the cities of Papillion, La Vista, and Bellevue. Take a look at the current maps. I, and I was aptly put out by Senator Karpisek, and I appreciate his acknowledgement that roughly 23 percent of my current legislative district is in Sarpy County. So as one of the Sarpy County senators, I am speaking on behalf of those roughly 23 percent of my constituents who are being moved from one Congressional district to another. For the record just, I know Senator Lautenbaugh is referring only to two Sarpy senators who are speaking in support of this proposal. Obviously, I am one of those Sarpy senators who represent part of Sarpy who are in opposition. But I think there are some underlying issues that Senator Lautenbaugh tried to explain and unfortunately just hasn't done a very good job, I think, of relaying why he has done what he's done. Beyond saying that his definition of the core prior district is his definition of the core prior districts isn't good enough. Logic and common sense says the core prior districts is the existing district boundaries. Senator Karpisek raised a great point, which glossed over all of this debate: how long has Platte County been in the 3rd Congressional District? If it has been in the 3rd Congressional District for 100 years, does that necessitate it to be the core of the prior district? I would say it is. How long has the city of Bellevue been in the 2nd Congressional District? Has it been in there for 100 years? If it has, I would say that's the core of the prior district. Colleagues, I can

Floor Debate
May 19, 2011

respect that we can have disagreements on language, we do it every day on a variety of pieces of legislation. That is what the laboratory of democracy is about. We each have our own opinions, our own perspectives, our own interpretations. But there is legitimate concerns being raised of how is it that you define the core of a prior district is only a small aspect of a district, let alone that it's been part of the district for close to 100 years. And I think to simply dismiss the fact that the maps that we are discussing today under LB704 displaces over 150,000 more Nebraskans than we need to, and there's no justification given for it, except well, this is the reason I did it. Everything I do is compact and contiguous in my maps, every single thing. That's the same thing Senator Lautenbaugh would say about his maps. Compact and contiguous are not the only guidelines and principles in LR102. We've had this debate internally, we've had this debate on the floor today. More people are being displaced under LB704 than need to be. Core or prior districts are being displaced and there's no rationale given beyond, well,... [LB704 LR102]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB704]

SENATOR MELLO: ...they need to be changed. The underlying principle that I obviously have concern about is the 2nd Congressional District. I represent both Douglas and Sarpy County. I represent my Sarpy County constituents who are being displaced in different Congressional districts. And the basis, the sole basis is that the proposed map keeps Papillion, La Vista and Gretna whole. But if you look at the map and you look at the overlay of the current Congressional districts, you would see that Papillion and Bellevue both are split. So that is another notch against the rationale and logic used under LB704. You can't say it's one thing and then someone says it's not, and then you try to change your story to fit your map. That's not good public policy and that's not what we do here. I'm intrigued to hear from Senator Lautenbaugh and others, of their explanation of why the city of Bellevue and... [LB704]

SENATOR COASH: Time, Senator. Thank you, Senator Mello. Senator Nelson, you are recognized. [LB704]

SENATOR NELSON: Thank you, Mr. President, colleagues. I would invite your attention to the map that the committee is proposing, AM1492, and let's take a close look at that. So far we've heard from the opposition, why are we here? What have you done? How did we get here? I think we ought to consider where are we. We've heard displacement of people talked about and communities of interest. I want to refer to our own state constitution, Section III-5. "Legislative districts; apportionment; redistricting, when required." "The Legislature shall redistrict the state after each federal decennial census. In any such redistricting, county lines shall be followed wherever practicable." Let's take a look at the map that we are proposing. If you look at Platte County, well, first of all, the

Floor Debate
May 19, 2011

overall figures that we have to deal with, and someone has called this a shell game and that's actually what it is. We need to have 608,780 people in each of the three districts; that's a total of 1.82 million. Platte County would like to remain in the 3rd District. If you spot Platte County there, they have a population of 32,237. Saline County would like to come into the 1st District. They have a population of half that much, 14,200. Now how do you accommodate those interests without moving a lot of other counties around and, quote, displacing people? You have to make it work. If you look at our map, we haven't split a single county, except Sarpy County, which has historically had to be split. Senator Mello doesn't care to talk about Johnson County on his map. He split that county. And you know, he can arrive at a zero deviation just by moving that line in Johnson County a little bit to accommodate 271 people and get it down to 000. We didn't do that. We kept our counties whole; every county is whole every way you look at it. And we accommodated Senator Dubas by taking into consideration what she wanted to do and making Merrick County whole as well, and that caused our deviation. I think we should all be happy with this map. I think we're doing the best that we can here under the circumstances. We have to talk about practicality. There's nothing written in stone that we have to have zero deviation. It would be nice. But, you know, from what Senator Langemeier read with regard to a lot of other states, they have deviations of 1,000 or more. We have a pittance; 271 is a pittance out of 608,780. And we, basically, did that to accommodate Senator Dubas and make Merrick County whole. Now come on, folks. That's all I'm going to say here. I'll give the rest of my time to Senator Lautenbaugh. [LB704]

SENATOR COASH: Senator Lautenbaugh, 1 minute 45 seconds. [LB704]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And thank you for the time, Senator Nelson. I wore my civility pin today and it was meant to be ironic because I knew the road we would go down here. To be clear, I asked one of the deputy AG's: Hey, what's the standard for population deviation? I didn't request a formal opinion. There were no secret meetings from which anyone was excluded. I think we met in the hallway, so some of you may have been there, you just might not have known you were at the meeting. And I have to question what is wrong with some of my colleagues that they think this is the proper way to debate this bill, to go off on some crazy tangent about secret meetings and why weren't we included and whatnot? [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR LAUTENBAUGH: I would have thought the vote counts from yesterday would have demonstrated that those kind of tactics really don't gain you a lot of support on the floor. But apparently, we're going to go down the road of saying, oh, we all know why this is really done, and he's having secret meetings, and we were excluded, there's something wrong here. Well, yeah, there's something wrong here. What's wrong is that

Floor Debate
May 19, 2011

I'm finding it very hard to take anyone who's speaking against this bill very seriously at this point because they aren't listening to what is being said, and they're making wild accusations, and they're impugning motives. And if they think that's a successful strategy, well, the good news is, at the end of this we'll have a vote count and we'll see how much success there is. But I don't think that's what we're supposed to be doing here. And, you know, I'm not going to have any more secret meetings with anyone, the Attorney General or otherwise. I'll even limit my conversations in the hall if that will make my colleagues feel better on some odd level. But we should be a little better than this. We aren't, we haven't been this week but we should be. [LB704]

SENATOR COASH: Time, Senator. Speaker Flood for an announcement. [LB704]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. A brief announcement as it relates to the agenda. You'll note at 7:00 on today's agenda it suggests we'll take up Senator Lathrop's bill, LB397, as it relates to the Commission on Industrial Relations. As you know, most of you, there's been some progress made on that bill in terms of a resolution. I think it's important for the citizens of this state to have an opportunity to see that resolution and have the amendment filed in advance, enough of the bill, so that people can get their arms around the actual language that compromises what I believe is a resolution. So for that reason, I am modifying today's agenda. I am going to remove LB397 from today's agenda in hopes of having that amendment filed for the benefit of the citizens of this state to have an opportunity to look through it. And it also appears that our conversation on redistricting will extend into the evening. And I don't know where we'll be at 7:00, but we might as well continue on with the business of redistricting through the balance of today. I am anticipating working well into the night. Thank you, Mr. President.

SENATOR COASH: Thank you, Speaker Flood. Senator Conrad, you are recognized. And this is your third time. [LB704]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. Let's be very clear, Senator Lautenbaugh put forward a legal basis based on information from the Attorney General's Office during the course of this debate that was never provided at the committee level. So when it occurred, how it occurred was exactly what I was asking. So thank you for the clarification. But again, an opinion is just that. An informal hallway opinion is just that. (Laugh) So to say that all of a sudden this has the stamp of approval from the Attorney General's Office probably isn't an accurate assessment. And let's be clear about what happened not only at the internal committee workings, let's talk about what happened at the public hearings where countless citizen after citizen from across the state came forward and expressed their concerns with various proposals, whether they be Congressional or legislative. And with all due respect to Senator Nelson who just spoke, the relevant subject that he quoted out of the Nebraska Constitution only applies to legislative districts. And we're debating a Congressional

Floor Debate
May 19, 2011

district plan right now which does have different standards. So again, we can have a difference of opinion, but we have to at least agree on the parameters and the legal basis for the issues that are before us now. So again, back to the committee hearing, for those of you who didn't have a chance to watch, citizens gave up their time to come before the body and to share their concerns with the proposal. And they had a lot of concerns and a lot of questions. And it's not just the folks who showed up there. I don't know how many e-mails you each got or I don't know how many e-mails Senator Lautenbaugh got. But I know how many I got. And people are very worried about not only the 2nd Congressional District but the 1st and the 3rd, which are issues that I've been talking about all along. Also, look no further than nonpartisan objective editorials from the state's major newspapers. The Lincoln Journal Star said, in the early part of May, surely those who don't live and breath partisan politics are scratching their heads over this proposal. And it just seems more logical to pursue other Congressional plans. And make no mistake that Republicans in the Legislature have the votes to do whatever they want to do. And that's true, (laugh) no one discounts that. But it doesn't mean that we shouldn't build a record. It doesn't mean that we shouldn't bring forward legitimate concerns. And it doesn't mean that we shouldn't ask the hard questions, particularly when motives are put forward or information is put forward that was never presented at the committee level and never subject to an ability for question and answer and back and forth. And that's unfortunate. And I know it was mentioned in the committee hearing, and I know Senator Avery is thinking about it and working on it for the interim. But I am hopeful, after seeing this process play out firsthand, that in the future Nebraska will change its process because this process is not in the best interests of Nebraska voters but is simply a power play by partisan interests. It is what it is, that's part of redistricting. You can't separate politics from political animals operating in a political arena. I'm not naive in that regard. But other states have found a way to do it better and to do it more objectively and to do it more logically and to do it more fairly so that a raw power grab isn't just the ultimate conclusion. And I am hopeful that Senator Avery and others will work to establish some kind of system for our future so that we can have a better system as we move forward because, clearly, this is not representing the proud history of Nebraska's nonpartisan Legislature. It's not responsive to citizen concerns. And it is in contravention of a variety... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR CONRAD: ...thank you, Mr. President...of a variety of different components of our own legislative resolution that was also subject to public hearing, adopted by this body, and is being contravened. Just take common sense. What's recognizable, identifiable and understandable to voters as you're preserving the cores of prior districts, displacing less people from their current districts. It can't...there's no magic semantic argument about that definition. It's a common understanding, the less voters you move from their existing district is less confusing. They know who their current representative is, they've had a chance to engage on campaigns with them, they've had a chance to

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

Floor Debate
May 19, 2011

work with their office for constituent inquiries. So the less folks you move, the less folks you confuse. And that should be our ultimate objective. And make no mistake, there's a Republican advantage under every single plan that's been put forward. [LB704]

SENATOR COASH: Time, Senator. [LB704]

SENATOR CONRAD: Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Conrad. Senator Wallman, you're recognized. [LB704]

SENATOR WALLMAN: Thank you, Mr. President. I, too, sat through committee hearings and listened to testifier after testifier. And one testifier was kind of interrogated even. I was not proud of our Legislature because we're supposed to be kind to one another, listen to one another, actually work with one another, compromise. I heard Senator Avery and a few others say let's compromise. I don't see much compromising in this legislation here. So I'm against AM1492. And splitting boundaries, one of the senators and I talked about, well, we already split one, so what's two or even three? And as far as Senator Karpisek's, I'll still stand up for his. Whether it passes or not, we never know. But I definitely will not vote for AM1492. And if Senator Karpisek would like the rest of my time, I'd yield to him. [LB704]

SENATOR COASH: Senator Karpisek, 4 minutes. [LB704]

SENATOR KARPISEK: Thank you, Mr. President. And thank you, Senator Wallman. I did watch a little bit of that on TV and I saw Senator Wallman in the background and wondered what the heck he was doing sitting there. But now we know, I guess. Senator Nelson talked about not moving people and not splitting counties. And I agree, the committee did not split a county and I give them kudos on that. I want to make very clear, I am not the one standing up and saying that it won't pass constitutional muster because of the deviation. I am also not the one standing up saying anything about secret meetings or anything like that. I just want to make sure that that is very clear. But, Senator Nelson, I just counted. My map moved six counties, and the committee's map moves ten. Would Senator Nelson yield, please? [LB704]

SENATOR COASH: Senator Nelson, will you yield? [LB704]

SENATOR NELSON: Yes, I will. [LB704]

SENATOR KARPISEK: Thank you, Senator Nelson. I'll say it again. My map moves six counties, yours moves ten. So how do you...how is my map worse? And when you say, now come on, folks, I'm going to say to you, now come on, Senator Nelson, what's wrong with my map? It moves less counties. [LB704]

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

Floor Debate
May 19, 2011

SENATOR NELSON: From the standpoint...that standpoint of moving counties, I guess, there isn't anything wrong with your map, Senator Karpisek. Do you divide any counties in yours? [LB704]

SENATOR KARPISEK: I sure do and I don't like that, but that's the way it came out. And again, I said I'm not the one standing up complaining about the deviation. I understand how that goes. I don't like to have to split a county but that's the way it went. And I would say that right now what we have for the last ten years there's a split county. So again, I give the committee kudos for not splitting a county. However, when you move ten counties, I suppose I can sit down and move a few more counties and maybe I can figure that out too. Would that help you come over to like my map better? [LB704]

SENATOR NELSON: Senator Karpisek, you've made a good effort here. I don't know how things work out necessarily. But I'm looking at Colfax County there and I see it's split. And one of our basic standards here, one of the things we have to achieve... [LB704]

SENATOR KARPISEK: Okay, Senator Nelson, the question I asked is, if I can move another four or five counties and not split a county, would that...is that your hang-up is the split county? If I can figure it out, will that get you over? [LB704]

SENATOR NELSON: If you can come up with a division of the population that I sited into three fairly equal districts and come pretty close to zero deviation, I would certainly take a look at that. [LB704]

SENATOR KARPISEK: Okay, very good. Thank you. And I agree, Senator Nelson. I don't like splitting counties either. And that's the way... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR KARPISEK: Thank you. It doesn't have to be that way. But that was done ten years ago. So I feel that by splitting or moving four or five or six counties is a lot better than ten. I don't know. That's just the way it is. Again, I will say I want to move Saline County into the 1st District. I will stand up and be honest, I haven't heard of any other body, anyone else say why they...oh, well, that one wants to be in 3rd, Platte County would rather be in 3rd. I don't know, we haven't heard about that. I don't know why we're moving people when the people there want to be in one or the other, why we can't work around that. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Karpisek. You are now recognized. [LB704]

SENATOR KARPISEK: Thank you, Mr. President. That worked out well, I guess.

Floor Debate
May 19, 2011

Senator Lautenbaugh, I see you up there. But could I have you yield, please. I will talk a little bit more while Senator Lautenbaugh is moving over there. He looked a little too comfortable where he was at, and we wouldn't want that to happen right now. Senator Conrad is...and this comes down, it does come down to partisanship. And I don't like that either. I try to be as nonpartisan as I can, get myself in trouble from both sides. However, when you have people wanting to move or not move, and we're moving them, why? Now will Senator Lautenbaugh yield? [LB704]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB704]

SENATOR LAUTENBAUGH: Yes. [LB704]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. I don't know that I wanted anything, but you did look too comfortable up there, so we'll get you out of there. I guess I will ask you same thing I asked Senator Nelson. If I could move some of my counties around and not split a county, would that help you in your thought about my map? [LB704]

SENATOR LAUTENBAUGH: The short answer is it depends, I mean. [LB704]

SENATOR KARPISEK: Yeah, okay, we're getting somewhere. That's not a no. Very good, thank you. Again, if we're moving counties in or out, Platte County, I'll just ask you this point-blank. Platte County wants to stay in 3rd, Saline County wants to stay in 1st. I don't know what the exact numbers of population are there. But why can't we try to negotiate something like that when each county wants to do the opposite? [LB704]

SENATOR LAUTENBAUGH: Well, actually, and I think I'm correct on this, we did have one of the sites set up in Platte County. And they weren't even passionate enough about it to testify until one of our committee members said, oh come on, doesn't somebody want to say something? And so they finally said, well, yeah, we sent a letter, we prefer not to move. And that's as far as it went. It was later explained, we just wanted to be supportive of our current Congressman but we have no problem with our potential new Congressman. So I don't know how much fervor Platte County is expressing its opinion with when they had to be begged to testify at the hearing basically. [LB704]

SENATOR KARPISEK: Okay. I'll remember that on other bills that we don't have people come to testify on, and we'll see how that flies. But we do have at least something from the city of Crete saying that they'd like to move. So is that enough testimony or put forward other than just me saying that to try to help me out? [LB704]

SENATOR LAUTENBAUGH: Well, again I think one of the things you're struggling with is, under some of the more expansive definitions of core I suppose Saline County may

Floor Debate
May 19, 2011

very well be the core of the 3rd District nowadays. I think I could argue that the 3rd District kind of revolves around Saline County by some of these definitions. And, no, we could not part with it without violating the core. [LB704]

SENATOR KARPISEK: Now how in the world could Saline County have become the core in ten years of when it's hundreds of miles away from the other end? [LB704]

SENATOR LAUTENBAUGH: Well, you're a particularly industrious people down there and I think you've pretty much just run roughshod over the rest of the 3rd District. [LB704]

SENATOR KARPISEK: (Laugh) Absolutely. All our horses and cattle, yes, okay. No, I think that we were a very core part of the 1st District and that's why we were moved ten years ago. That's what I think happened, and I think that we have a real chance to right a wrong here. But I guess what I'm trying to say is again I don't hear a lot of, well, I guess I'll look at it; no, we can't do that really. Is that...is that what I'm hearing, Senator Lautenbaugh? [LB704]

SENATOR LAUTENBAUGH: Are you asking me is that what I think? [LB704]

SENATOR KARPISEK: I'm asking you, are you willing to look at it if I do something else, or are we just going to put our head down and bulldoze through this? [LB704]

SENATOR LAUTENBAUGH: Well, you always want to look. And, you know, we could talk about righting past wrongs. There was a gentleman from western Sarpy County... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR LAUTENBAUGH: ...who testified at the committee hearing in favor of the map. So to say that no one showed up in support of it just plain isn't correct. And people who support things usually don't show up and testify; it's quite the opposite, as we all know, on things like this. And, yeah, that to them was a wrong that western Sarpy was moved instead of eastern Sarpy. So, you know,... [LB704]

SENATOR KARPISEK: And so now we're going to do that for this one guy, one gentleman that testified? [LB704]

SENATOR LAUTENBAUGH: Well, I think there was more people there than that, probably the silent majority of western Sarpy County as expressed by... [LB704]

SENATOR KARPISEK: But only one testified. [LB704]

Floor Debate
May 19, 2011

SENATOR LAUTENBAUGH: Well, a couple of senators here today too, so. [LB704]

SENATOR KARPISEK: Okay. Well, I guess I hope that we...I wish that we would have had one of these in Saline County because I think we would have had a big turnout, but I guess that didn't happen. All right, thank you, Senator Lautenbaugh. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senators Karpisek and Lautenbaugh. (Visitors introduced.) Those still wishing to speak: Senators Council, Nordquist, and Schumacher. Senator Council, you are recognized. And this is your third time. [LB704]

SENATOR COUNCIL: Thank you very much, Mr. President. I submit to you, colleagues, that AM1492 and the underlying bill, LB704, must be rejected. The committee statement indicates that LB704 was advanced to General File on a 5- 3 vote. Listening to the debate today, one of the five who constituted the majority, during his attempt to explain and support his support for LB704, revealed the fact that he didn't understand the standard to be applied to Congressional redistricting. Senator Nelson read from the Nebraska Constitution. The section he read was on redistricting of legislative districts, these 49 districts, not Congressional districts. In addition, he stated that there is no standard that requires strict equality in Congressional district lines. And that's absolutely false. There is Supreme Court decision after Supreme Court decision after Supreme Court decision that stands for the legal principle that strict equality is the standard. Again, looking at the resolution that was also to guide the committee members, it specifically says, with regard to the United States House of Representatives, any--any--deviation from absolute equality of population must be necessary to the achievement of a legitimate state objective as that concept has been articulated by the United State Supreme Court. Again, if you look at the guidelines, the criteria set forth in the resolution that this body adopted as the guiding principles, under United States House of Representatives, nowhere do you see the statement that is found in our Nebraska Constitution that the Legislature shall redistrict the state in a manner that preserves county boundaries to the extent possible. Why don't you find it in that section on that United States House of Representatives? Because it's not a standard to be applied in redistricting our Congressional seats. But flip a page before that and page 2, which does set forth the criteria for the legislative districts, it speaks to county boundaries. And that's with regard to legislative districts. You go to the next page, page 4. It speaks to the fact that there is an effort not to split counties. Those are the criteria. But the criteria for the United States House of Representatives has nothing to do with splitting county...it has to do with absolute equality of population. That is the standard that we are charged with achieving unless there is a legitimate state objective. And I submit to you that achieving that legitimate state objective, reaching that standard is heightened when, as in the present case,... [LB704]

SENATOR COASH: One minute. [LB704]

Floor Debate
May 19, 2011

SENATOR COUNCIL: ...we have not only one, but we have two possible redistricting maps that result in absolute equality of population. Senator Karpisek's map and Senator Mello's map represent zero deviation. That is what the Supreme Court standard is. And if one of the members of the committee who formed this majority did not believe or understand that that's a standard that needed to be applied, this map under AM1492 must be rejected. [LB704]

SENATOR COASH: Thank you, Senator Council. Senator Nordquist, you're recognized, and this is your third time. [LB704]

SENATOR NORDQUIST: Thank you, Mr. President and members. First, I had Senator Schumacher give me a copy of the resolution that was sent from the Columbus Chamber of Commerce to all members of the Redistricting Committee. I'm hopeful that they all saw that which clearly states the Columbus Chamber of Commerce's desire to remain in the 3rd Congressional District. So certainly that community, through their chamber of commerce, has expressed that very clearly in a written resolution. And I certainly could hand that out. Senator Schumacher also did a nice job of drawing up a map, and if we had a color copier here I'd make a copy. I tried it in black and white, doesn't quite show up, but showing the division in Sarpy County between the committee proposal and he also drew in here Senator Mello's proposal. And quite frankly, both of them divide communities. So to say that the committee one doesn't divide the communities of Papillion and part of Bellevue is just not accurate; it certainly does do that. And if you'd like to see a copy of those blown up, please feel free to stop over here. But again, Senator Council is making the point, I think we just need to reiterate it, that any deviation is not acceptable according to the Supreme Court unless it meets a legitimate state objective. And in the Karcher case, when they talked about legitimate state objective, Senator Council may have said that, may have already talked about this, but the state must show with some specificity that a particular objective require the specific deviation in its plan rather than simply relying on the general assertion. This is when talking about justifications related to district compactness and municipal boundaries. So certainly, those in and of themselves don't meet the justification. And a few members have said, well, our ultimate goal here is to maintain counties, to maintain counties. Well, much like our last redistricting, we're splitting two counties under a couple of these proposals here. I think Senator Mello's splits two, the base map splits two. Certainly, that's a standard that's been established in the past. But if that's the case, then I look forward to seeing the legislative district map tomorrow that maintains that same standard that doesn't split counties when we get to legislative districts. That will be interesting. I look forward to seeing that because the maps I've seen so far don't meet that standard, and I don't know why we would have a separate standard of that for legislative districts. So, I think ultimately the overriding discussion point here is about the deviation. We have three options available to us that put that at the level that the Supreme Court has said is acceptable, and we have not heard any legitimate state

Floor Debate
May 19, 2011

objective that would override the need to get that deviation down to zero. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Nordquist. Those still wishing to speak: Senator Schumacher, Howard, Burke Harr, Nelson, and others. Senator Schumacher, you're recognized. [LB704]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Since I've heard a lot about Platte County today and our desires and what we think, I'd like to put two cents' worth in. Perhaps it's my fault that I did not suggest some alternative criteria for drawing these lines. But, folks...and the reason that the testimony at the committee hearing the other day didn't get into much protesting from Platte County was because we had a pretty decent discussion about reality in Platte County since the time that the memo was sent out. And that discussion came to the realization, regrettable that it is, that we've got to look to the future and we've got to put ourselves in the shoes of where we will be ten years from now. And which of these maps will lend itself to the fewer shifting of counties, which is a bad thing, certainly a thing that we don't want to go through in Platte County because we like Congressman Smith. Some of our people have invested in his campaigns. He's come to the town to our ribbon cuttings and he's very familiar with things. So we know what it would feel like to go through a change. And the criteria that we have before us today does not take into account the reality that in just ten years, unless the Hispanic migration continues in force, we will be down to two Congressional districts. And so as I look at these particular maps I say, gee, we probably should have had in our criteria an assumption of what map would integrate best into ten years from now a Congressional district that basically amounts to Douglas County, Sarpy County, and some fringe area around that. I had my staff try to draw a map that clumped Douglas, Sarpy, and kind of Lancaster County and a little area in between into a Congressional district ten years from now. And it won't work. We're down to Omaha or Douglas County, Sarpy County and maybe one of the associating counties as to being where we are ten years from now, unless there is a strong Hispanic migration that continues into the state. So that being the case, I look at the two various proposals and say, okay, which one best fits the model of an Omaha-Sarpy County district ten years from now, so a minimal number of people have got to be flip-flopped around ten years from now as that, what will then be the 1st Congressional District, sweeps the western part of the state of Nebraska, all except a little blob in the Omaha area. Quite frankly, you draw out those things and jumping one district up into the middle of Sarpy County and bringing that down into Lancaster County, it looks like those people are going to be flipped around in just ten years again. And that being the case, I'm going to get myself in trouble again, it looks like Senator Mello's map is better positioned for the future than the one that tries to temporarily grab something out of the north. So Platte County would just as soon stay in the 3rd District, if it had its druthers, and if that works out. But I would encourage the body maybe we should go back to the drawing board slightly, just to test some of these ideas. I'm not an expert with that

Floor Debate
May 19, 2011

program downstairs and probably can't learn to use it fast enough in order to do any good. But take some of our projections of population shift and see if we can integrate today, if it isn't too late already, into where we will be ten years from now so the fewest number of people get bounced around ten years from now. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Schumacher. Senator Howard, you're recognized. [LB704]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I'm going to give my time to Senator Karpisek. [LB704]

SENATOR COASH: Senator Karpisek, 4 minutes 50 seconds. [LB704]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Howard. I am looking at my map trying to figure out how I could change it around a little bit as not to cut a county in half, if that seems to be a big issue. But I didn't hear much thought of, oh yeah, that would be fine. I think we just heard from Senator Schumacher, thank you. I didn't get to listen as closely as I would have liked to, but I did hear him say they'd like to stay where they're at. And Saline County would not like to stay where they're at. My map keeps Gage County in the 1st. I know that they would like to stay where they're at, and it keeps that whole lower southeast corner in the 1st. I don't understand why it's a better idea to make a circular pattern rather than a straight up-and-down line just, if for no other reason, just for distance in the 3rd. If Nebraska keeps going the way it has been going, and it seems like it's going to, pretty soon there's not going to be hardly any area consumed by the 1st District either. It will be a lot like the 2nd, and the 3rd will be even bigger. I hope that I can live long enough to watch how that's carved up and if there's just one slice that kind of shoots out west, kind of like there is now, if that's going to stay or what's going to happen with that. What I would like to hear or to see is some compromise, to come together, sit down, and say, okay, let's see what we can do here. Let's try to keep Platte where it wants to be. I don't know if Polk, how they feel. Again, I guess I can't say that Platte wants to stay and I can't say that Polk wants to stay. I can't even say that Saline wants to go to the 1st, not everyone, but I think a good majority would like that. I think there are many issues on my map trying to keep Gage and put Saline into the 1st. Senator Wallman's district has part of Lancaster County. If the map on the legislative map passes I'll have part of Lancaster County. So then if you try to overlay those maps a little bit, you're going to have people that have part of Lancaster County and even part of Lincoln in the 3rd District. Now I can't see that Lincoln couldn't be considered a core part of the 1st District. But again, I guess that's definitely up to how we conceive this or define core in that. Again, I'm trying to get myself up to speed since I wasn't on the committee. And I know that this wasn't an easy task, but I am not in favor of the map that's been put out. AM1492, to me, does not take into consideration at all what people would like to see. If we are going to just say that one person showed

Floor Debate
May 19, 2011

up in favor of this, nobody showed up for that, so we're just going to do what we think is right, I don't know, I think, that really sets a bad precedent for us going down the road on all the bills that we hear. [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR KARPISEK: Senators, we all know that we have a lot of bills that are introduced where there's not testifiers or maybe there's one. We proceed. We don't say, well, nobody showed up so we're going to do what we think is right. We compromise on the floor most of the time. I don't think what we can just push forward with this and not sit down and try to make everyone a little bit dissatisfied, not just some people very dissatisfied. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator. Senator Burke Harr, you are recognized. [LB704]

SENATOR HARR: Thank you, Mr. President, members of the body. Thank you very much for this lively debate today. I came in today with open ears and an open mind because, quite frankly, I didn't know a lot about redistricting. I've learned a lot. Baker v. Carr changed the world. So now every ten years we get to have this fun debate. And so I did a little research and looking back to see how we have, we being this body, have approached this issue in the past so we can use that as a road marker. A lot of our colleagues have a lot more experience and were able to go through this more than once. For all of us, except Senator Ashford, this is our first time. And I have a map and I'm looking at. And what I see is, and this will surprise nobody, the population continues to move east. And every ten years what we try to do as much as possible is draw a line along the counties, north to south, again keeping consistent with the one man, one vote, or probably more correctly now: one person, one vote. And obviously every time there's a little bit of controversy because you are moving people. But it has been consistent in what we have done from '71 to '81, '91 to 2001. And 2011 is the first time you really have something new, maybe you want to even call it revolutionary, and that's what we do in the 2nd which affects the 1st, and that is flipping Sarpy County around. Now we've had representatives from Sarpy County represent both sides of the issue as far as what they think is right and what they think is wrong. And pretty much at the end of the day the argument has been might makes right. I'm not sure if I agree with that. I agree more with the comments of the previous speaker, Senator Karpisek, in which he said we must look for compromise and we must look for equality and we must look for a way that maybe not everyone is happy, but not everyone...or everyone is not happy, but all...you don't have one winner and one loser. There's been a lot of talk about preserving the core of a prior district. I would say I have no idea what that means. And I think that's the beauty of it. It's kind of like germaneness, it's what we say it is. A core is a core however we want to cut it. But looking at this map it's obvious there are certain criteria or characteristics of each district. The 3rd is the 3rd, it's larger than the East Coast in a lot

Floor Debate
May 19, 2011

of ways. But it keeps moving east and it's in a consistent manner. It's very similar to General Sherman's march to the sea. We have the 3rd District's march to the 2nd, really to the 1st, hoping to get to the 2nd, north, south, and as much as it can be. And I think we need to encourage that and to keep that and have that consistency, and that includes again with the 2nd District. Bellevue has always been a part of Nebraska...of Omaha. I know, I like to think Omaha is Nebraska, but that's not right. But Bellevue has always been a part of Omaha. They're two metropolitan areas and two the larger metropolitan areas in the state. They have an older core. They have something we know, a common problem with sewer separation that you don't... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR HARR: ...necessarily see with western Sarpy County. And that's going to be a big issue in the next ten years. And I think it's important that we have a Congressperson in the 2nd that can really address this issue for us in Washington. The fact that you have an old infrastructure is a big issue. You have old bridges, you have old interstates, you have old highways. We've all learned this year that infrastructure is a big, big, big problem. The 2nd...the 1st District, western Sarpy County, it's building new. Eastern Douglas County, eastern Sarpy County, it's just the opposite; it's about rebuilding. So I think it's important that we keep those core characteristics together and keep those districts as it currently...or as close as possible. So thank you very much. And that's why I support Karpisek's. [LB704]

SENATOR COASH: Thank you, Senator Harr. Those still wishing to speak: Senators Nelson, McGill, Loudon, and Wallman. Senator Nelson, you are recognized. [LB704]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'll be brief. I just want to talk a little bit about our committee process and the hearings that we held. I don't know if Senator Langemeier mentioned that or not, but we had eight hearings around the state, and we did it through telecommunications and it worked pretty well. Thank goodness, we didn't spend \$12,000 for the committee trekking all the way around the state, because in some instances there wasn't anybody to testify on anything, and in others there were just a few people. In one area there was a lot of concern about legislative districts and we heard a lot there. In Lincoln and Omaha, we heard basically about the Congressional districts. So Senator Karpisek is saying, well, Saline County probably should have been at the hearing. I agree with that. They're not that far away from Lincoln. But you know, that's the way it was all over the state; there didn't seem to be a lot of interest in the lines unless you have an issue and then we heard from people. I want to respond just for a moment about what Senator Council commented on. Yes, I did read from our state constitution with regard to, and it was, the caption was "Legislative Districts." And I think we were told by Senator Burke Harr a number of days ago, you don't go by the headings, you go by the content in the statute or whatever appears in the constitution. And I'll read the line again. "The Legislature shall redistrict

Floor Debate
May 19, 2011

the state after each federal decennial census. In any such redistricting, county lines shall be followed wherever practicable." This is the same language that we find at the bottom of page 1 of our legislative resolution. "District boundaries shall follow county lines whenever practicable and shall define districts that are compact and contiguous as these terms have been articulated by the United States Supreme Court." Well, I don't have several pages of Supreme Court opinions here as to what constitutes compact and contiguous, but I don't think we've had any argument about that today. By and large, we've kept our counties together. They aren't spaced out, the lines are not jagged. We've gone according to census population in working out what we could do. And it might have been nice, we did get a few e-mails, you know, from some counties, some county boards, some councils, saying this is what we would like. But as far as I'm concerned, we didn't get that many. As a committee, we went through a number of maps. Everybody was drawing maps; we kept them busy down there in Research. And I should say that Jack and his assistant, Trisha, I believe, have done a wonderful job, Nancy as well, in supplying us with all the information we needed. And it kind of boiled down at the end when we had to vote that we had some members of the committee that favored one map, others that favored another. So that's the way the vote went. And I want to say, I don't know if Senator Avery suggested that party population came into it. Certainly, I don't think any member of our committee had any registration figures saying how many Republicans, how many Democrats, how many Independents there were in a particular county. We went by census population. Our resolution then moved on a little bit to be a little more specific when it came to Congressional districts. Our state constitution probably doesn't have any business talking about Congressional districts because that's a federal matter. But I would still maintain that if we're going to have... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR NELSON: ...what we consider to be, and the term is a legitimate state objective, that probably following county lines to the best of our ability, as far as practicable, is one of the most important legitimate objectives that we can follow. We did that. We did that with the map that we have under consideration proposed by the committee, and I stand here urging you to support AM1492 and LB704. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Nelson. Senator McGill, you are recognized. [LB704]

SENATOR MCGILL: Thank you, Mr. President, members of the body. My colleague, Senator Lautenbaugh, reminds me of a famous quote from one of our Presidents, to speak softly and carry a big stick. Only Senator Lautenbaugh reverses it and speaks loudly and carries a cigar or a small stick. (Laugh) You know, he likes to get up and make some big points. Yes, I felt that was appropriate, (laugh) make some big points

Floor Debate
May 19, 2011

about partisanship. And that's what this process is. There's a high level of partisanship when it comes to drawing lines. That's a no-brainer, a no-duh. In the committee hearings, I didn't watch all of them, but I realize there were a lot of Democratic activists who were testifying. And there were Republican activists, like the man that Senator Lautenbaugh was talking about earlier, who was a person from rural Sarpy County who supported this. He's helped run campaigns for some of the Republicans in this body. That's just the way it is. Those are the people who are most interested in these maps. It's our job to come up with the most rational maps possible and try at our best to put those folks aside and our own personal biases related to that, and try to come up with the most data-driven, rational maps that we can. And with that, I yield the rest of my time to Senator Mello. [LB704]

SENATOR COASH: Thank you, Senator McGill. Senator Mello, 3 minutes 38 seconds. [LB704]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Once again, I guess it's incumbent upon me to provide some factual information when we see things that get discussed and get put out there for public debate and public consumption that are based on opinions. Senator Nelson alluded to that our current proposal is significantly better than we're debating because it only cuts one county. Colleagues, in 2001, the current Congressional districts, as state law now, splits two counties: Cedar County and Sarpy County. You had a deviation of one individual, similar to what we have under LB704 without the amendment. So to lay claim that one proposal is significantly better than another based on one guideline, compared to current district boundaries that was passed by the Legislature in 2001 that split two counties and had a deviation of one individual, that's a stretch. It's a stretch that's setting precedent as Senator Nordquist said, as we move on to legislative district debates on LB703, which I firmly think that is not something we want to do. So fact number one. Would Senator Lautenbaugh yield to a question? [LB704 LB703]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB704]

SENATOR LAUTENBAUGH: Yes, I will. [LB704]

SENATOR MELLO: Senator Lautenbaugh, Senator Lautenbaugh, Senator Lautenbaugh. One question, and it's something I've raised now from earlier in the debate. Senator Krist made the same argument you made, which is your amendment, AM1492, keeps Gretna, Papillion, and La Vista whole. Looking at these maps here, the city of Papillion, east of 60th Street, north of Cornhusker, gets put into the 2nd Congressional District, as well as Bellevue, west of 48th Street, south of Harrison, gets put into the 2nd Congressional District. It's safe to say then even with your proposed amendment, AM1492, the city of Papillion is split between Congressional districts and the city of Bellevue is split between Congressional districts. Is that safe to say? [LB704]

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

Floor Debate
May 19, 2011

SENATOR LAUTENBAUGH: Well, the city of Bellevue portion, as we discussed in the hearing, is obvious from the map, and Senator Langemeier pointed it out himself and said, well, that's what we had to do to make the numbers balance. And I don't think you heard me say that the city of Bellevue was kept whole because it just wouldn't work that way. [LB704]

SENATOR MELLO: The city of Papillion, though, your underlying argument and your rationale behind...the foundation of your proposal for CD2 was to keep the city of Papillion, La Vista, and Gretna whole. Your proposal... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR MELLO: ...cuts people who live in Papillion east of 60th Street, north of 370, or south of 370 as well, it's a mixture there, puts them in the 1st Congressional District. So it's safe to say that even with your revised proposal you are still splitting one of those three municipalities. [LB704]

SENATOR LAUTENBAUGH: Well, if that is correct, I'm looking over Senator Langemeier's shoulder to see this because I don't have the right map in front of me it appears, that is something we could certainly address. But then again, from looking at the map, I'm not sure that's correct. But... [LB704]

SENATOR MELLO: I have a map here actually that, while it may not be the city boundaries, quote, unquote, there is significant housing populations that have Papillion addresses that associate themselves with the city of Papillion that live east of 60th Street. [LB704]

SENATOR LAUTENBAUGH: So what you're saying is they may not be in the city, but they have a Papillion mailing address, so we're going to deem them as such? [LB704]

SENATOR MELLO: They equate to the city of Papillion. [LB704]

SENATOR COASH: Time, Senators. Thank you, Senator Mello and Lautenbaugh. Senator Louden, you're recognized. [LB704]

SENATOR LOUDEN: Thank you, Mr. President. And I would yield my time to Senator Council. [LB704]

SENATOR COASH: Senator Council, just under 5 minutes. [LB704]

SENATOR COUNCIL: Yes, thank you, Mr. President. Thank you, Senator Louden. I'm really enjoying this debate because of the opportunity to really get down into the guts of

Floor Debate
May 19, 2011

the law and the standards and principles that apply in the case of redistricting. And I want to begin by reiterating the point that Senator Mello just made. The current Congressional districts, these boundary lines were drawn after the 2001 Census and they resulted in two counties being split, with essentially zero deviation, which means we complied with the constitutional standard on Congressional redistricting which is to achieve absolute equality of population. So the fact that two counties would be split under either Senator Karpisek or Senator Mello's proposal, because both of them achieve absolute equality of population, would be consistent with and achieve and meet the standards set forth in Supreme Court decisions. Number two: the whole issue of what is meant by core of the district. Well, as Senator Lautenbaugh indicated, applying the Humpty Dumpty principle, it's whatever or whoever is speaking thinks it is. Well, I'm going to tell you what the people who testified at the public hearing believed it to be and I share their opinion. They believe that the core of a district is its people, plain and simple. The core of the district is its people. And the people who appeared at the hearing, at the Omaha teleconference location, testified without exception that they believed that the core of the 2nd Congressional District required the maintenance of the eastern part of Sarpy County in Congressional District 2. At least three of those individuals testified that while they reside in the city of Bellevue, if you address mail to them and you address it to their address, but say Omaha, Nebraska, instead of Bellevue, Nebraska, they receive their mail a day earlier because they're viewed more as being a part of Omaha than they are of being a part of Bellevue. Again, with respect to Senator Nelson's comments, again I would just like to remind Senator Nelson that the standard to be applied in Congressional redistricting is not the state of Nebraska's constitutional requirements for the redistricting of these legislative districts. And I agree that the desire to maintain county lines could be considered possibly as a legitimate state objective. However, directing Senator Nelson's attention to page 2 of that very same legislative resolution, paragraph 3 states, "District boundaries shall follow county lines whenever practicable and shall define districts that are compact and contiguous as these terms have been articulated by the United States Supreme Court." The critical statement, however, Senator Nelson, is this,... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR COUNCIL: ..."If adherence to county lines causes a redistricting plan, or any aspect thereof, to be in violation of principles set forth by the United States Supreme Court in interpreting the United States Constitution, that requirement may"--the resolution says may; I submit it should say must--"be waived to the extent necessary to bring the plan or aspect of the plan into compliance with such principles." In order to bring the aspects of this plan into compliance with constitutional principles, we need to get to an absolute equality of population, zero percent deviation. And we do that by splitting only two counties. So the desire to maintain counties I submit to you does not withstand constitutional scrutiny in reference to... [LB704]

Floor Debate
May 19, 2011

SENATOR COASH: Time, Senator. [LB704]

SENATOR COUNCIL: Thank you. [LB704]

SENATOR COASH: Thank you, Senator Council. Senator Wallman, you are recognized. And this is your third time. [LB704]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I still stand against AM1492. And if you talk about core, Gage County, Homestead Expressway goes to Lincoln, same with Senator Karpisek. A lot of people work around the Beatrice, Cortland area, work in Lincoln, so that is really our core, I truly feel that. I have nothing against the 3rd District. And I appreciate what the Redistricting Committee has done, but I just can't agree with it. And that's probably nothing new. But this plan I do not like. So I'd yield the rest of my time to Senator Council. [LB704]

SENATOR COASH: Senator Council, 4 minutes 10 seconds. [LB704]

SENATOR COUNCIL: Thank you again. And thank you, Senator Wallman, for yielding me additional time. Again, in order to deviate from absolute equality of population there must be an articulated legitimate state objective. Again, coming out of the committee, this proposal was not accompanied by that articulation of legitimate state objectives. Rather, there were reasons given by those who voted in support of this proposal as to why they advanced it but no articulation of a legitimate state objective. And again to...reading further from the resolution, "To the extent that such objectives are relied on, they shall be applied consistently, and shall include, but not be limited to, the creation of compact districts, the preservation of municipal boundaries, and the preservation of the cores of prior districts." It doesn't say maintenance of county lines; it says: To the extent that such objectives are relied on, they shall be applied consistently and shall include but not be limited to--and I appreciate the not be limited to--would allow consideration of maintenance of county lines." But preservation of the core is one of the few items that could be viewed as a legitimate state objective for deviating from absolute equality of population. But look at what we're doing here. We're deviating from absolute equality of population and arguably not preserving the core of prior districts. Again, reasonable minds in this body will, can and will, differ on what the core of a prior district is. But you certainly cannot ignore the fact that the people in the prior district are as much if not all of the core of the district. And when you look at the 2nd Congressional District, eastern Sarpy County residents have been a part of the 2nd Congressional District, so by leaving them there you'd be preserving their core and you'd be achieving absolute equality of population. Removing them, and substituting for them residents of western Sarpy County, you not only violate the standard of absolute equality of population, you fail to preserve the core of that district. So again, colleagues, the proposed map represented by... [LB704]

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

Floor Debate
May 19, 2011

SENATOR COASH: One minute. [LB704]

SENATOR COUNCIL: ...AM1492 does not satisfy the constitutional standards with regard to deviation. And particularly, in view of the fact that we have at least two maps that do provide for zero deviation, and with those maps available, I think the standard is even higher in terms of identifying a legitimate state objective. And when I have another opportunity to speak I am going to ask questions regarding the committee's consideration of district boundaries which would result in the unlawful dilution of the voting strength of any minority population. And that's because, at least with the data we have, we have what the populations will be under these maps but we don't have data to compare how these maps impact that voter strength. Thank you. [LB704]

SENATOR COASH: Thank you, Senator Council. Senator Cook, you are recognized. [LB704]

SENATOR COOK: Thank you, Mr. President, and good afternoon, colleagues. I rise also in opposition of AM1492. I am, of course, a resident in Douglas County, and as many of you know, my parents own a home and live in a home in Bellevue, the city of Bellevue. Our family was relocated to Omaha through Uncle Sam, the United States Air Force, in 1966, and because of the way the restrictive covenants were designed in Bellevue at that time, did not find a place to live in Bellevue. Or how about this? They knew not to look in Bellevue because (laugh) they weren't going to get a house sold to them anyway. And like many people up from the south, African-Americans, they settled in north Omaha but had an ongoing relationship, it used to be up and down 24th Street and then it was JFK and now it's 75, back and forth. I can assure you that my parents and many of their friends who shop in the commissary, worship in north Omaha, also do go down to downtown Omaha or midtown Omaha for the entertainment, would consider that to be the core of their Congressional district. When they're sitting down to watch the news, they're looking at a broadcast from KE or KM or WOWT and they're going to learn about candidates, Congressional candidates, that are going to be featured on those television stations. And I can tell you since I've been watching those stations a long, long time, it's been rare that I have seen a candidate or an officeholder who sat in a seat in Congress from the 1st Congressional District or the 3rd Congressional District. It's just by happenstance and luck of the draw that I happen to know what each of those gentlemen looks like and what their names are. And with that, I would offer my time, what remains of it, to Senator Council should she require it. Thank you. [LB704]

SENATOR COASH: Thank you, Senator Cook. Seeing no other lights on... [LB704]

SENATOR COUNCIL: Oh, you have no time. [LB704]

SENATOR COASH: I'm sorry, Senator Council, 2 minutes 45 seconds. [LB704]

Floor Debate
May 19, 2011

SENATOR COUNCIL: Thank you very much, Senator Coash, and thank you, Senator Cook. And I think the point that Senator Cook just made is a very significant point in terms of confusion and the other issues that should be taken into account when redistricting where people can readily identify their areas, their candidates, and that is a very valid point. Bellevue area residents are not going to get news coverage of 1st Congressional District activities. It doesn't happen. Their news coverage comes from the channels that Senator Cook mentioned and they cover the 2nd Congressional District and they report on events occurring in the 2nd Congressional District. Again, listening to the individuals who testified at the public hearing...and I know the statement was made, well, only the people who have a problem come to the hearings to testify. Well, I guess if that's the standard, then I can choose to, if I want, ignore anyone that comes to testify at any hearing on any bill here because apparently they have a problem with it. The people who came and testified at those public hearings I believe came and testified because they wanted this body to hear--to hear--what they had to say about these proposed redistricting maps... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR COUNCIL: ...and to hear their definition of core of the district. So if we're going to adopt a definition of core of the district, I submit to you we ought to listen to the people. And the people in eastern Sarpy County believe that the core of the 2nd Congressional District includes them because they've been a part of that district and that we should respect and maintain that to the greatest extent practicable and not in violation of any of the constitutional standards. And by adopting either Senator Mello's map or Senator Karpisek's map, we maintain those standards in terms of absolute equality of population. And I'm waiting and Senator Avery just advised me that we will be getting the minority voter numbers, because that too is a factor that... [LB704]

SENATOR COASH: Time, Senator. [LB704]

SENATOR COUNCIL: Thank you. [LB704]

SENATOR COASH: Thank you, Senator Council. Seeing no other lights on, Senator Langemeier, you are recognized to close on AM1492. [LB704]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I was remiss in the start of this today to thank those that helped us and our site coordinators across the state. We had Senator Paul Schumacher represented Columbus; we had Christian Ohl with the Norfolk Chamber of Commerce who represented Norfolk; we have Senator Burke Harr who represented Omaha with assisting Senator Council was there and helped him with that; at Alliance we had Chelsie Herian with the Box Butte Development Corporation; at Hastings we had Senator Dennis Utter; at McCook we had Mayor Dennis Berry; and at North Platte we had Senator Tom Hansen; and Senator

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

Floor Debate
May 19, 2011

Wallman was in the crowd here in Lincoln in our discussion. At this time I would ask for your adoption of AM1492. Again, it's difference in design from LB704 is to keep Silver Creek and Merrick County whole; 271 people creates that deviation which then was divided in amongst the areas in Sarpy County. So with that, we'd ask for that adoption and your support for AM1492 and I'd request a call of the house. Thank you. [LB704]

SENATOR COASH: Thank you, Senator Langemeier. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB704]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB704]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Heidemann, Cornett, and Christensen, please return to the Chamber. The house is under call. Senator Larson, please return to the Chamber. The house is under call. Senator Heidemann, please return to the Chamber. All members are present or accounted for. Members, the question is, shall the committee amendment to LB704 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB704]

CLERK: 30 ayes, 11 nays, Mr. President, on adoption of committee amendments. [LB704]

SENATOR COASH: The committee amendment is adopted. Items for the record. I raise the call. [LB704]

CLERK: Thank you. Enrollment and Review reports LB690 and LB629 to Select File. (Legislative Journal page 1700.) [LB690 LB629]

Mr. President, the next amendment to the bill, Senator Mello, AM1508. (Legislative Journal pages 1700-1702.) [LB704]

SENATOR COASH: Senator Mello, you are recognized to open on your amendment, AM1508. [LB704]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM1508 does the following: It removes only 77,000 Nebraskans from their current Congressional district and puts them in a new Congressional district compared to what we just adopted under LB704 which moves 226,000 Nebraskans into a new Congressional district. AM1508 does not move any current counties in the current 1st Congressional District into the 3rd Congressional District, while the map as we just voted on currently, move

Floor Debate
May 19, 2011

two counties, Platte and Polk, from the 3rd District into the 1st District. AM1508 also only moves four full counties and parts of three counties into new Congressional districts, unlike the amendment we just adopted and now the new underlying bill which moves ten full counties and parts of two counties into two new Congressional districts. Colleagues, I think I fully expect us to have a fruitful debate on AM1508 as well as Senator Karpisek's amendment, as well, in part because there has still been no rationale given to the dramatic changes that we just voted on as a body. Two-hundred and twenty-six thousand Nebraskans to seventy-seven thousand Nebraskans changing Congressional districts and there was no rationale given besides, well, we tried not to split counties. On the other hand, the main architect of the previous map, one of the main architects, said before legislative session started that he didn't see a problem, and I'm referring to Senator Lautenbaugh, said he didn't see a problem splitting Douglas County possibly when it came to Congressional redistricting. He said it in a November 2010 Omaha World-Herald story that he didn't see a problem splitting counties. But yet the argument that was just made on the previous map that we adopted said that we can't do that because we didn't want to cut counties. The question that ultimately gets asked whether it's on my amendment or Senator Karpisek's amendment is what's the best public policy for Nebraska. Is it displacing a significant number of Nebraskans to put them in a new Congressional district for a rationale that is questionable at best? Or is it trying to maintain what current Congressional district boundaries look like, understanding that under my proposal no counties change Congressional districts with the exception of those in the 1st that need to be moved to the 3rd because it needs to pick up population. It's not dramatic changes. It's not a radical plan. It's a fairly commonsense proposal that follows LR102 to a T. Why, you may ask? Because the nonpartisan Legislative Research Office base maps were the guideposts of what we utilized to draw these existing maps. There wasn't some cockamamy scheme developed of how can we favor one entity over another; how can we make one county be more in common or have a stronger community of interest with this county over another. Why? Because that's not what LR102 says we can do. It specifically says we cannot do that. Colleagues, in the laboratory of democracy that we count and consider a nonpartisan Unicameral Legislature, we need to hold ourselves to a higher standard when it comes to situations that we know will put us at a cross hair in regards to partisan politics. We understand that there is party registration with all members of this body, but this process gives us an opportunity to put that aside, to follow a nonpartisan, unanimous legislative resolution that says we follow these principles, these guideposts that help us prepare and pass a nonpartisan Congressional district map, one of only possibly two in the entire country next to our neighboring state of Iowa. Yet the previous vote shows that instead we're going to put forward a map that displaces close to 12 percent of Nebraskans with the rationale of simply saying, well, we needed to make some changes, sorry. We are better than that. AM1508 is better than the current proposal we have in front of us in LB704. The reason I say that is from the proposal I just outlined. It displaces less Nebraskans, keeps more districts compact and contiguous, preserving the core of all three prior Congressional districts--all three of

Floor Debate
May 19, 2011

them, not one, not two, but three--let alone the arguments that I know we'll hear other colleagues make in regards to communities of interest which I imagine will fill the LB703 debate later tonight. The underlying proposal, LB704, was passed out of committee on a partisan vote. It looked like the vote we just took was somewhat similar along partisan lines. Colleagues, I've had many conversations with many of you who do not wear your party affiliation on your sleeve, you do not talk about your party affiliation, and you try to do what's best for our state regardless of the issue. This is an opportunity for us to take a step back and try to put forward a proposal that makes sense, that's justifiable, that's defensible, that's constitutional. We can do that. It doesn't have to be my amendment, but there are components that are laid forth in AM1508 that are completely defensible in everything we do. We're not taking one Congressional district and merging it with another. We're not taking some counties that have no connection at all to a Congressional district and never have in the history of our state and put it in a Congressional district because the numbers look like they work out. I make this challenge to all of us. We're having a late night session tonight. We know that. We have another big legislative redistricting bill that's in front of us. We can go tonight until midnight. Probably the last late night we'll have the entire year. Let us try to have a debate that focuses on Nebraskans, what's best for Nebraskans, not what's best for a political party, not what's best for a character of a county or our own interpretations of what "is" is or what "core" is. Let's have debate in regards to why we do what we do. Why is it that we're moving cities out of certain counties, out of certain Congressional districts? Why is it that we're moving some counties away from neighboring counties that have been represented by that Congressional district for over 100 years? Let us have a debate in regards to what Senator Avery and what Senator Council mentioned, which is what is the makeup of these districts and the big changes that we adopted under LB704. Colleagues, I've went through the rationale, point by point, of how I came up with AM1508. I ask those who created LB704 to go through the same process of giving rationale point by point of why they moved counties where they did, why they moved boundaries in greater metropolitan Omaha area where they did, why now it's come to light that part of cities...whether you want to define what a city is based on its current municipal boundary or an area that is represented by the city in the sense of municipal services, municipal facilities, municipal neighborhoods, whether or not that counts. Colleagues, I ask you to reconsider what we just did. We have an opportunity to have a bigger debate, a thoughtful debate not based on party affiliation, not based on one's political ideology, based on what our nonpartisan Legislative Research Office provided us in base maps as guideposts to start from, to have a debate in regards to our own interpretation and understanding of what is a very thoughtful LR102 that was passed ten years ago by a Legislature that put forward a redistricting proposal that was widely adopted by all senators of the Legislature at that time not based on a partisan split. Ten years ago we had a redistricting proposal that was almost unanimous--Republicans,... [LB704 LB703 LR102]

SENATOR COASH: One minute. [LB704]

Floor Debate
May 19, 2011

SENATOR MELLO: ...Democrats, and Independents. But yet now we're having what appears to be a partisan war over the inability for one side to describe what they did and why they did it and the other side to simply ask and let us follow the rules, let us have a bigger debate and not use party affiliation or not use ideology or other rationale that we can't quite describe as to why we drew boundaries the way we drew them. Colleagues, I strongly ask you to consider AM1508. It may not be perfect but I think it's a lot better than what we currently have in LB704. It's defensible, it's constitutional, and it's the right thing to do for Nebraskans while it may not be the right thing to do for either political party. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to AM1508. Those wishing to speak: Senators Council, Conrad, Nordquist, Wallman, and Adams. Senator Council, you're recognized. [LB704]

SENATOR COUNCIL: Yes, thank you, Mr. President. Just to follow up where I ended in my last time at the mike on the amendment that passed, and I have serious problems with our passage of that amendment without discussing all of the standards that we must satisfy in our conduct of redistricting the Congressional districts. We spoke at some length and a good conversation on the constitutional standard with regard to absolute equality of population and, nevertheless, advanced a map that did not achieve that standard, but we never discussed the voting rights aspects of Congressional redistricting. And one of the concerns is that we were not provided with those numbers when the committee presented the maps. I submitted to you that we shouldn't have even been considering LB704 or its amendment until such time as all of that data was available and we had an opportunity to ask questions of the committee, because I could ask Senator Langemeier or I could ask Senator Nelson or Senator Lautenbaugh and I'm sure the response that I ask them when I ask them the question, what is the change in the minority voting populations by moving eastern Sarpy County into Congressional District 1, I'm fairly confident that off the top of their heads none of them will be able to provide me with that information. But that's very critical information to this body's decision because if the map that was just advanced becomes the map and that map resulted in a dilution of minority voting strength, it will be found to be unconstitutional. But we don't know because we don't have that data. It's just like we had no articulation of a legitimate state objective for deviating from absolute equality of population. This map presented by Senator Mello through his amendment does achieve absolute equality of population. It also in my opinion, in my opinion, preserves the core of districts. Now there could be some disagreement as to whether Senator Karpisek's map does more to preserve the core of districts, but there's no question that this map achieves absolute equality of population, and that is the standard, colleagues, that we must satisfy in order to withstand constitutional scrutiny. And when we have been presented with this map knowing that it provides for absolute equality of population and just advanced one that didn't, we've already in my opinion (laugh) created a

Floor Debate
May 19, 2011

constitutional challenge. And when we look at the only stated objectives in support of the map set forth in the amendment was the maintenance of county lines, I tell you that is a very weak proposition to stand on since the current Congressional districts achieved absolute equality of deviation and split two counties. So this legitimate state objective clearly isn't that significant of an objective. And, again, looking at the resolution, this body said if preserving county lines... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR COUNCIL: ...prevented us from achieving the absolute equality of population standard, then those county lines had to give way. Yet we didn't do that by virtue of our last vote and I don't think that we should go further with this map, either Senator Mello's amendment or the underlying bill as amended, without knowing whether we have satisfied number 7 on page 2 which is, "District boundaries which would result in the unlawful dilution of the voting strength of any minority population shall not be established." I don't think anyone in this body can say that we did not do that when the majority voted to amend LB704 with the last amendment. I again urge you to give consideration to this... [LB704]

SENATOR COASH: Time, Senator. [LB704]

SENATOR COUNCIL: Thank you. [LB704]

SENATOR COASH: Senator Conrad, you're recognized. [LB704]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues, almost good evening. Senator Council said something earlier on the mike this afternoon that really I think is an appropriate theme for this debate. What is the core of a district? We can talk about political boundaries. We can talk about geographic boundaries. Senator Council said the core of the district is the people of the district, and that's such a powerful sentiment which I think is sometimes lost as we're talking about archaic political or geographical lines and is a powerful reminder of what we should be focused on. I just...I rise in support of AM1508 that Senator Mello has brought forward. He also brought this to the committee and has worked very diligently on a variety of different proposals that try and seek compromise and try and seek consensus and try and take into account the prerogatives of our legislative resolution and other parameters. And I think that he's done a very good job of accommodating those. The numbers are clear in terms of the fact that we are displacing less of our citizens with this map and confusing voters less and respecting core districts more. And not only is it in compliance with our legislative resolution and the other standards that we must hold ourselves to, it's also in line with our history in Nebraska. And Senator Harr mentioned this briefly in some of his preliminary comments but I want to reiterate. And we're working up some maps that will be shared with the rest of the body in regards to this issue. Starting back, say, in 1971,

Floor Debate
May 19, 2011

'81, '91, 2001, and where we are today in 2011, there's a very consistent pattern in Nebraska over the last 30-plus years that's being tossed away under the committee proposal where you see incremental changes of the 3rd and 1st Congressional Districts moving slightly east and the 2nd Congressional District becoming more compact amongst Douglas and Sarpy County. Never once, never once, in 1971, in 1981, in 1991, in 2001 did we ever flip-flop counties and constituencies like is proposed in LB704. You're turning your back on 30-plus years of nonpartisan successful redistricting. Why? Why? What's the rationale? We've gone through a few hours of debate this afternoon. I've sat through months of committee hearings on the topic. The Congressional district that was proposed was proposed one morning with 35 minutes of discussion and then adopted and we still don't know why. That's an intriguing question. I think Senator Mello, however, has given a very clear and cogent rationale for his amendment: in preserving the core of the districts; in preserving the voters and their relationship with their elected representatives to the best of the ability; and keeping the deviations as low as possible and indeed to just one person lower than zero percent statistically which is a vast improvement over the amendment that was just presented and adopted. And let's not forget for one second what the ultimate result would be under any of these proposals. There was a great piece in the World-Herald which put forward the existing map for the 2nd Congressional District, Senator Lautenbaugh's map for the 2nd Congressional District, and Senator Mello's map for the 2nd Congressional District. [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR CONRAD: Thank you, Mr. President. And the conclusion under each of those was a Republican advantage. We live in a Republican state. There's no getting around that and nobody is discounting that. There's going to be a partisan advantage for one party or another. In Nebraska it happens to be the Republican Party. Fine. So it's not as if that this is some great Democratic plan that flips the...or shifts the burden of power from the Republican Party to the Democratic Party. And I contend to you that that's what we have campaigns and elections for, so that candidates from both parties can put their ideas out there about why they should be elected to do their respective duties and jobs. What redistricting is about is not the same as the result and the meanings and the intents and the objectives of what campaigns and elections are for. Redistricting is about setting... [LB704]

SENATOR COASH: Time, Senator. [LB704]

SENATOR CONRAD: Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Conrad. Senator Wallman, you're recognized. [LB704]

Floor Debate
May 19, 2011

SENATOR WALLMAN: Thank you, Mr. President. I'm going back to the bill we just passed, the amendment, and how in the world can that make sense as far as core personnel? And I was disappointed in the vote and I was also disappointed in the committee. They didn't put out two or three plans for us to look at. I used to be on the school board or build buildings. You don't have one plan, you have two or three so school board members can look at it and vote on it and then you can see what it is. So what did we have here out of the committee? One. And the party in power thought that was okay. And that's the way it is. I used to be one of those party members and I decided to change. Why? Because of these issues. A democracy functions only well when you have two parties and they have to be basically pretty well even, and if not, you get this kind of stuff. And will any one of these maps work? Sure. Are they fair? No. And we should all be about fairness and core values of your communities, of your constituents, and where you've been in the past. Like Senator Karpisek, why in the world would you change ten counties? Figure it out. Figure it out, folks. I don't know if this is politics or what. It doesn't make any difference to me, but it is not right. So that's why I'm standing up here and I'll keep standing up here as long as I have time. And I'd yield the rest of my time to Senator Conrad. [LB704]

SENATOR COASH: Senator Conrad, you are yielded 3 minutes 23 seconds. [LB704]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Senator Wallman. I was in conversation with Senator Avery and I wasn't sure if you'd called my name or not, but thank you for the time. I appreciate that. I would like to just conclude the thought that I started down in my last time at the mike. And in terms of the difference in objectives between important components of our democracy, one of those components is of course in campaigns and elections, and where candidates have a robust effort to engage with voters about their ideas, about their qualifications, about their perspectives and their stance on issues, and seeking their trust and ultimately their vote. And those should be hard-fought and sometimes they are indeed partisan, and sometimes candidates run away from their party, sometimes they run with them. Those are all separate and distinct issues as well as the electoral outcome. I know that there has been a lot of discussion during the context of the redistricting debate that's been confused about this is retribution for Barack Obama picking up the 2nd Congressional District vote. Okay. If some people feel that way, that's how they feel about it and they're entitled to their opinion. But make no mistake and don't forget for one moment that in the same election Republican Congressman Lee Terry was reelected by a significant margin and I think he has been the last few...ten points or something I think during that round, even more so in the last cycle. So even though redistricting is about affecting some of the implications for campaigns and elections, campaigns and elections need to stay separate and distinct as do their outcomes. Redistricting needs to be about serving the citizens to ensure that we meet our constitutional obligations, we utilize the census numbers as best as we can to ensure that we stay in line with the equal protection principles elucidated in Baker v. Carr and its progeny of one person, one vote. That's

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

Floor Debate
May 19, 2011

why we must redistrict, and when we redistrict, we should keep those issues in mind. We should strive to remain nonpartisan, and we should strive to ensure that... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR CONRAD: ...we uphold--thank you, Mr. President--our own principles. And in addition to our principles, we should try and be mindful of history. I wonder how George Norris would feel about this turn of events after 30-plus years of incremental change in terms of redistricting without an overt partisan flavor here from 1971, '81, '91, 2001. That's what happened in 2011 no more. What a sad day for the Nebraska Legislature. What a sad day for our nonpartisan history. Let's...if Senator Mello's option isn't the answer, what's your idea? Let's put them together. Let's figure out a compromise. That's what we're here to do. That's what we should be doing. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Conrad. Those wishing to speak: Senators Adams, Krist, Karpisek, and others. Senator Adams, you're recognized. [LB704]

SENATOR ADAMS: Thank you, Mr. President. I was hoping that Senator Mello would be here to answer questions about his amendment. Maybe if he's listening he could run in here quick. Senator Mello? There he comes. Senator Mello, while you're getting to the microphone I'll begin to ask the question and then I'm just going to turn the time over to you. You've been more involved in this than obviously than I have, and so my first question is when we start thinking about the criterion by which we're going to base our lines, is it safe to say that first and foremost is one man, one vote? [LB704]

SENATOR MELLO: Yes. [LB704]

SENATOR ADAMS: Okay. Where does the concept of compact and contiguous fit into that list of criterion that as we try to achieve the one man, one vote, that issue comes into play? [LB704]

SENATOR MELLO: Well, I think, Senator Adams, in regards to LR102 it's one of the initial two...both I think are the two initial traditional redistricting principles that are laid out both by the U.S. Supreme Court as well as what's laid out in LR102 where it's something that obviously as a Legislature we have, at least in 2001, also strove for compact, contiguous, keeping communities of interest, preservation of core prior districts as part of the redistricting process for all district boundaries. [LB704 LR102]

SENATOR ADAMS: And when I ask this next question I'm not trying to trip you up. I truly don't know the answer. Does compact and contiguous take more of a priority than community of interest? [LB704]

Floor Debate
May 19, 2011

SENATOR MELLO: Yeah. I mean, I think that's something that we have talked about before in the committee and I think amongst colleagues. Compact and contiguous are terms...I mean, you could read the legislative resolution there. It says that they are terms that have been articulated by the U.S. Supreme Court. Communities of interest are terms that have also been articulated by the Supreme Court, but those are usually a little bit more open for interpretation based on the various court cases that came forward. So one court case listed this particular example as a community of interest argument, where another state or another political subdivision issued another, maybe a contradictory community of interest where the court would have to rule on it. But compact and contiguous are things that we know are currently defined both by the U.S. Supreme Court as well as I think most of our maps. [LB704]

SENATOR ADAMS: Then the one last question I have for you is then as I look at the committee amendment that was the map that we had and then I look also at Senator Karpisek's, those seem to be more compact and contiguous, either one of those, than to some degree what you're offering. I'm sitting here looking at Madison and Stanton County and how everything has moved. Was that a consideration when you were drafting this? [LB704]

SENATOR MELLO: You know, and I would actually make the argument that my proposal is as compact and contiguous as the current proposal. There is no...I think the definition and my understanding of reading what other states have done with compact and contiguous districts are...you can see gerrymandering when you can see gerrymandering when you see a district that is a squirrely...just the boundary itself just does not look correct, it does not look compact and they're not combined. I think both Senator Karpisek's and mine both, you know, have for the most part are compact and contiguous to the same level I would say as the current proposal. [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR MELLO: Once again, that's going to be up to the interpretation I think of this Legislature, or a court for that matter. [LB704]

SENATOR ADAMS: All right. Thank you, Senator Mello. Thank you, Mr. President. [LB704]

SENATOR COASH: Senator Krist, you are recognized. [LB704]

SENATOR KRIST: Thank you, Mr. President. I'm married and usually when I begin a debate at home I try not to tell my wife she's wrong to start out with. I try to level the playing field and say I'm a man, you're a woman, we can get together, we can argue; at the end of the day we have to do what's right for our household. So I got to tell you I'm taking some offense at comparing how good it was done in past years and how terrible

Floor Debate
May 19, 2011

it's being done today. And I have a hard time listening when I'm being told from the very beginning that it's all partisan and we're all wrong. But having said that, I've looked at the two alternative maps. And I have a great relationship with Senator Karpisek. He's the Chair of the committee that I'm the Vice Chair of. I see what he's done and I respect from where he came. I've looked at Senator Mello's map and I've studied it and I understand from where he came. And I'm having a hard time finding out where the partisan Republican/Democrat lines have been drawn. What I'm hearing though is I have an idea and everyone told me I was wrong in committee so I'm coming and making the case on the floor, and when I make the case on the floor I want to make sure that if there is a constitutional challenge, we've made the constitutional case in here. So, again, I would like to take a deep breath and find out if there's a legitimate nature here, a legitimate concern in terms of having a challenge. I wondered if Senator Mello would yield to a question. [LB704]

SENATOR COASH: Senator Mello, will you yield? [LB704]

SENATOR MELLO: Absolutely. [LB704]

SENATOR KRIST: What is your legitimate state objective as District 5 representative? What would you state would be an overall legitimate state objective in terms of justifying your map over any other map? [LB704]

SENATOR MELLO: Well, I think there's two, Senator Krist, I think, objectives that...and I should have related to when Senator Adams was asking me the question. The overriding issue is respecting and upholding the principle of one person, one vote, which previous to adopting the committee amendment we just did, we had a map that had a one person, one vote principle of having a zero deviation in which we've adopted a map now that alters that, that increases the deviation and now no longer has a zero percent deviation which could be questioned in regards to that principle. The second principle... [LB704]

SENATOR KRIST: Okay. So from that I would take that you believe that the deviation, as small as it might be, in order to be acceptable has to be zero. [LB704]

SENATOR MELLO: One. One individual. Yes, that is what the committee put out originally. [LB704]

SENATOR KRIST: Okay. So in your opinion the deviation in following with Senator Adams' questions, the deviation takes priority over contiguous, over community of interest, over any other interests that might be out there? The deviation is the most important thing. [LB704]

SENATOR MELLO: The Supreme Court has ruled that deviation and the principle of

Floor Debate
May 19, 2011

one person, one vote overrides all other traditional redistricting principles, Senator Krist. [LB704]

SENATOR KRIST: The Supreme Court has in several instances said that it was unacceptable to take these particular parameters, but in those cases, everything that I've looked at, the deviation number is in the 800 to 4,000 range. We're talking about 241. So if there was a state objective that we wanted to keep counties whole and cities as much as possible whole, we could then develop a state objective that would make the deviation just that much less a priority in the redistricting process. Would you agree with that premise? [LB704]

SENATOR MELLO: Senator Krist, I... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR MELLO: I mean, I would question that underlying premise in the sense that you're not acknowledging the Fourteenth Amendment to the Constitution which is the equal protection clause that specifically states... [LB704]

SENATOR KRIST: Well, I think that's...okay, we are on my time so I'll just...I want to interrupt you for just a second. I am not ignoring the Fourteenth Amendment. I am stating a clear fact that I did on the mike in my first time here where we were talking about LB704 and the original amendment, and that is, we have to have a state objective that we agree on and that therein lies the disconnect between the other maps that are drawn and the map from the committee. And the map came out of the committee, 5-3, and I acknowledge the fact that you were on the opposite side. I'll wrap up my comments by simply saying this: If the problem is an objective, a clear objective, a state objective, then maybe we need to do that before we continue. But I don't think that I believe that there's partisan upheaval at work. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Krist and Mello. Senator Karpisek, you are recognized. [LB704]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. As I said earlier, I'm trying to do something to have the one county that I have split on my map to not be split. So I just got some numbers and I will try to work with that and see what we can do. I think if I can do that, I think that will really make it tough on some people and they're going to have to show their true colors on what they think. I will come back to, though, I do not understand in the committee's map why you would move two counties into the 1st District and then move eight more out. I don't get that. I just can't figure that one out. Why would you move any more in to turn around and move more out? I've been trying to think about that. I've been trying to think every which way why that would be. Something about core and something about a county that's been in the 3rd for ten

Floor Debate
May 19, 2011

years could be the core of the 3rd District. That doesn't float with me. I don't know. I think that's a little ridiculous. I told the Speaker I'm usually not on the other side of Senator Lautenbaugh and it's not a lot of fun. And I would really want to say that I think if you look at my voting record in my five years here, I would say that I am not partisan. I would think that I've split my votes pretty darn close to the middle. And I guess sometimes that's what really irritates me around here is that it's not as nonpartisan as I would like to have it. But Senator Chambers once told me, well, not everybody has to be as good as you, Senator Karpisek. So I guess that is true. (Laughter) I don't always agree with everything I do after I look at it either. But I think that this is just not the way to go. Why do you want to go border to border in the 3rd District? What makes Platte County and Polk County so special to move back into the 1st District and then moving a bunch of others out to the 3rd? To me it just does not add up. Again, I'm trying to find something other than partisanship because I hope there is something other than partisanship in that. So we can both stand and say, well, you can't say anything about it because you're being partisan about it. Well, either we both are or we both aren't. And I don't like it. I don't think that the map had to come out this way, but it is what we have and we'll keep working on it. I guess we're settled in pretty good now. I did not intend to take this the whole way today, but we're settled in pretty well. We're about to four hours. What the heck. We just as well keep working on it. I've asked if there's any negotiation points. No, not really. Okay. We'll stay. We'll see where the votes fall out somewhere along the line. I've had quite a few members say, you know, I think your map does make some sense. Could you try to do this and that? Absolutely. I will try to do this or that, try to work with... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR KARPISEK: ...someone, anyone to try to get somewhere in between. I know it's probably very frustrating. I wasn't on the committee, but come in and try to change something and I do apologize for that. I don't want to be a thorn in the side of the committee process nor the Redistricting Committee. Again, I know that's a tough job. Probably best I wasn't on it. I probably would have lost my cool more than once in there. But I do have to stand up for what I think is right, what the county that I'm trying to move and is what I think is right for them. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Karpisek. Senator Fulton, you are recognized. [LB704]

SENATOR FULTON: Thank you, Mr. President, members of the body. I wasn't going to say anything but we're here. So would Senator Mello yield to a question? [LB704]

SENATOR COASH: Senator Mello, will you yield? [LB704]

SENATOR MELLO: Absolutely. [LB704]

Floor Debate
May 19, 2011

SENATOR FULTON: Absolutely, Senator? Well, I'm curious, I'm looking at your map here and I'm curious about Johnson County, Tecumseh, and why was that split up? Is there a...I'm just curious. Like I said, we're here, might as well ask. [LB704]

SENATOR MELLO: That's a great question, Senator Fulton, and I'm glad you asked it. Originally, a committee proposal that looks very similar to AM1508, I originally had split Richardson County, but once again am trying to respect I think some of the communities of interest in that existing 1st Congressional District that looked a little odd of keeping only a very small sliver of Richardson County in the 1st District because of the population. As Senator Krist was asking those questions in regards to splitting of counties and deviations, we tried to keep with my proposal the same rational state policy that was used ten years ago. And that rational state policy that was used ten years ago was keeping a deviation of zero and splitting two counties to do so. And so we looked at Dakota County, we looked at Wayne County, we looked at other existing counties in the 1st Congressional District to split between Congressional districts to make that zero deviation occur. And it looked...with all the proposals we looked at, Johnson County looked the cleanest in the sense of following the highways. If you look at my proposal you can see that it follows major highways and it keeps... [LB704]

SENATOR FULTON: Well that's what...maybe I don't have the... [LB704]

SENATOR MELLO: Smaller version? The smaller breakdowns. [LB704]

SENATOR FULTON: Yeah, I must not have the detail because that's one of the questions I have here is...I mean, this is my neck of the woods so I'm pretty familiar with this area. And Johnson County, I don't know if you could argue there's a different community of interest in the eastern part of Johnson than there is the western. So, I mean, one question is, is Tecumseh in the 1st or 3rd District? It's the county seat of Johnson. Do you recall? [LB704]

SENATOR MELLO: I'm trying to get...I want to get you, Senator Fulton, the broken-down version of Johnson County and how it was split. And to be perfectly candid, the way we try to follow...and it's laid out in LR102 where it says: district boundaries shall define districts and easily identifiable to voters and...the division shall be made along clearly recognizable boundaries, as described by census geography. We chose the highways we chose...and I can give you a copy of this when we get off the mike, we chose the major highways in Johnson County that follow around the major cities of Johnson County, of Sterling and Tecumseh. We wanted to make sure that we kept those counties, we'd try to make an even split district geographywise in the county. [LB704 LR102]

SENATOR FULTON: So would Sterling then be in 1 and Tecumseh be in 3? [LB704]

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

Floor Debate
May 19, 2011

SENATOR MELLO: No. We have...I can give you the breakdown. Sterling, Crab Orchard, and Tecumseh all are in the 3rd Congressional District. [LB704]

SENATOR FULTON: So then Elk Creek maybe would be in 3. [LB704]

SENATOR MELLO: Elk Creek and Cook would be in the 1st District. [LB704]

SENATOR FULTON: Okay. So what I'm concluding here is that somewhere there was going to have to be a county split up. [LB704]

SENATOR MELLO: Correct. [LB704]

SENATOR FULTON: So there's no way to get past that. [LB704]

SENATOR MELLO: If you use...if your main and underlying principle is the one person, one vote principle of a zero deviation, yes, you are correct, because that was...under the initial proposal put forward by the committee as we introduced LB704, that was the committee's rationale with the initial proposal we put forward. It originally cut Sarpy County and Merrick County. [LB704]

SENATOR FULTON: Then what is the... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR FULTON: Here's where I...I guess I'm somewhat curious about this. If the one principle had to have taken a higher priority than another principle, because Johnson County, I think anyone from Johnson County would tell you that it's pretty much similar across the entire county. So there was a decision made to split up the county, therefore there was a higher principle than the community-of-interest standard, that principle being deviation. So... [LB704]

SENATOR MELLO: Well, the Fourteenth Amendment, the equal protection clause is a higher principle of the one person, one vote; yes, that's the highest principle in my interpretation. [LB704]

SENATOR FULTON: So you're saying that the highest principle that should be employed is that...and the upshot here is that there should be no deviation. [LB704]

SENATOR MELLO: Yes. [LB704]

SENATOR FULTON: And that takes... [LB704]

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

Floor Debate
May 19, 2011

SENATOR MELLO: And which we currently had before we adopted the amendment 25, 30 minutes ago. That was the committee's initial proposal was zero deviation. [LB704]

SENATOR FULTON: Is there an argument to made to maintain a community of interest? Johnson County is not a very populous county. [LB704]

SENATOR COASH: Time, Senators. [LB704]

SENATOR FULTON: Thank you, Mr. President. [LB704]

SENATOR COASH: Senator Mello, you are now on your own time. [LB704]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Senator Fulton, if you want to continue this dialogue I'll try to answer your question. Would Senator Fulton yield to a question? [LB704]

SENATOR COASH: Senator Fulton, will you yield? [LB704]

SENATOR FULTON: Not absolutely but I will yield. (Laugh) [LB704]

SENATOR MELLO: Senator Fulton, continue with your question of what you were going to ask. [LB704]

SENATOR FULTON: Well, Johnson County, it would be possible to keep Johnson County intact as a county all within the 3rd or the 1st if indeed there was a priority given to community of interest, that standard in lieu of the standard from which you derive the deviation being zero. So I guess is there a case to be made that one could place in certain instances a higher priority on maintaining a community of interest than in...do you see what I'm saying? Than allowing a deviation to be at zero percent? [LB704]

SENATOR MELLO: Senator Fulton, that essentially is what Senator Krist's argument...that he was trying to make the same argument. I mean, that's essentially what Senator Krist just questioned me on was saying, why is it that deviation in the Fourteenth Amendment is a higher priority than these other traditional redistricting principles. And the reality is and it's my interpretation of why I think it is, is that that is the underlying reason why the Supreme Court has thrown out redistricting proposals is they base it on deviation more than anything else when it comes to Congressional district proposals. Legislative not as much, other state offices not as much, but Congressional it is an overriding factor that the Supreme Court has ruled on for a number of years. Now granted, as Senator Lautenbaugh alluded to as well, there have been proposals that had larger deviations that were not thrown out. But as Senator Avery mentioned, we have seen similar proposals to the one we have passed here that has been thrown out, one that had 16...a deviation of 16 people. And LB704 before we

Floor Debate
May 19, 2011

adopted the committee amendment had a deviation of one person, essentially a zero deviation. Both my map and Senator Karpisek's map does the same thing while respecting in my mind a larger community of interest of the existing 1st Congressional District boundaries, which is the core of the prior district. And I think that holds as much weight if not more weight than the community of interest argument that one may be able to try to make legally in regards to the separation of Johnson County. Once again, that's my perspective and I think we've all had this debate on the floor today that individuals will have their own perspectives on what they value more over others in regards to the traditional redistricting principles. But that would be my interpretation is preserving the core of prior districts falls in the same line of keeping Johnson County in the 1st District, even parts of Johnson County in the 1st District, understanding that you need to split it. Senator Fulton. You're done? Okay. Colleagues, I find it...I appreciate Senator Fulton's question and essentially it was...maybe it was a bit more of an open dialogue that Senator Fulton and myself just had of what Senator Krist I think was trying to get at, which is, what principle in LR102 matters more? What principle in LR102 holds more water in a court of law? And I argue and I think others argue, others who are attorneys argue, that the one person, one vote, the Fourteenth Amendment, the equal protection clause holds higher value in the U.S. Supreme Court than a community of interest argument. On the same vein though, the argument that Senator Fulton just made in the sense of Johnson County as a county is a community of interest, making that argument is awful tough to say that an entire county is a community of interest understanding that we have multiple proposals in front of us, both Board of Regents, Public Service Commission, legislative district boundaries that split counties. [LB704 LR102]

SENATOR COASH: One minute. [LB704]

SENATOR MELLO: So essentially by trying to use that argument on a Congressional district proposal, you throw out that argument on all the other proposals that we have debated so far and/or will debate later tonight that you cannot cut counties, you cannot split counties because it would eliminate that community of interest. Where I fundamentally believe this body has set precedent before, understanding that just in search of one person, one vote, that smaller deviation, we try to accommodate that through the splitting of counties, and even some of our legislative proposals, the splitting of cities in some rural parts of our state. So I would argue that that's a very weak argument of trying to pick I would say LB704 over AM1508 understanding that Johnson County still remains in the 1st Congressional District under my proposal, at least half of the county does, where under the current proposal actually it would argue that it removes that community of interest by putting it and placing it into a completely new Congressional district. So once again I think we've had this... [LB704]

SENATOR COASH: Time, Senator. [LB704]

SENATOR MELLO: Thank you, Mr. President. [LB704]

Floor Debate
May 19, 2011

SENATOR COASH: Thank you, Senator Mello. Those wishing to speak: Senators Nordquist, Avery, Karpisek, and Mello. Senator Nordquist, you're recognized. [LB704]

SENATOR NORDQUIST: Thank you, Mr. President, members. We've talked, we've heard the issues of cases that have been thrown out. I have a book from the reference library downstairs that talks about it and I'll read a little bit about it: In 2002, a three-judge federal district court in Pennsylvania rejected a Congressional district plan that had a total population deviation of just 19 persons or .0029 percent. The court reasoned that because the Supreme Court squarely rejected any de minimis exceptions to the absolute population equality under the Karcher case, which we've talked about, and because plaintiffs proved a lack of good faith by defendants to avoid the deviation, the variation evidenced a violation of the one person, one vote command. Folks, I think we need to ask ourselves if we're making a good faith attempt to avoid that deviation. Certainly I don't think we are. We have three maps before us, the amendment pending before us that does get rid of that deviation. These are the good faith attempts. Now it's up to us whether we're going to reject them or not, and if we do, should there be legal action on this redistricting plan that certainly will be taken into account as a rejection of the good faith efforts to minimize and get rid of the deviation down to the absolute possible smallest amount. We still...I still think we're not hearing the rationale for the swapping of Sarpy County not to split communities, but it does split communities. So what's the rationale? Why do we go away from past precedent of nibbling away in Sarpy County from west to east, a precedent that's been established for some time? Why would we swap out the third largest community in our state, swap it out of Sarpy County and divide a piece off of that community as well? What is the purpose of that when we can move forward in the path we have before? I was trying to track down a vote count from ten years ago. From the folks that I've talked to around the Capitol, it seems to remember obviously there was an issue that was taken care of by amendment that generated a lot of discussion, but ultimately it sounds like there was a pretty overwhelming if not near unanimous support for the proposal. What do we have before us here? We have a proposal that came out of committee on a 5-4 vote according to party lines, party registration anyway, and we've had a vote to accept the amendment that was before us along very much those same lines. Folks, we can do better than that. We can come together and find a compromise that doesn't split this body along those partisan lines. We have several hours of debate before us and we can either try to count up the votes on both sides and ram this forward or we can try to come together in the model of this body, in the nonpartisan nature of this body and come up with a compromise that we can, as in the past this body has, support on a near unanimous basis. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Nordquist. Senator Avery, you're recognized. [LB704]

Floor Debate
May 19, 2011

SENATOR AVERY: Thank you, Mr. President. I was listening carefully to the discussion between Senator Fulton and Senator Mello about which of these principles we've been talking about would rank higher than the others. I think that Senator Mello got it right when he suggested that the first principle of redistricting is based in the constitution and founded in the Supreme Court case Baker v. Carr that one person, one vote is in fact the only standard that is provided in the constitution. In Baker v. Carr, the Supreme Court ruled very clearly that there is a constitutional requirement of equal population among Congressional districts and they have throughout that time since that case in 1962 they have continually applied that. It seems to me that the other criteria, the other principles that we've been discussing have been established in court cases but not in the constitution itself. So one person, one vote is superior to all others I would argue. I will quote here from Justice William O. Douglas in the case of Gray v. Sanders, and he says, "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote." So that's the first principle. But the courts have also ruled that other principles are important and we've discussed a lot of those. One that Senator Council began to talk about was the dilution of voting strength of any minority of population. If you go to our resolution, LR102, on page 2, item 7, it is clearly stated that we shall not draft any of these proposals that would dilute the voting strength of any minority population. So I went back to the 2001 Census to see what the numbers were and we can't really find all of those numbers. So I looked at the differences between the amendment that we just adopted, AM1492, and compared that to what we're now talking about with Senator Mello's proposal. And the amendment we just adopted dilutes the minority population of CD1 by 8,600 people. Now that's not insignificant. Is it enough to rise to the level of a court challenge? I don't know. I don't know the mind of the court. But when you are over 8,000 minority voters and you are diluting the minority population of one Congressional district by the proposal we just adopted, I think you've got a problem. And when you add that to the other three that we have been discussing, and that is the...looking at past voting behavior or looking at partisan identification--that also goes against our rules. Preserving the core of districts is another principle we've talked about, and of course the deviations. Now you have four possible court challenges here, at least four principles that we adopted in our resolution that we are violating in the amendment that we just adopted, AM1492. Now that doesn't mean that the Mello proposal is perfect by any means. In fact, I probably have a preference for the Karpisek amendment coming up later. But I did want to point out that we do have other issues here and one of them is that dilution of a minority population. What is significant? What would rise to the level of a successful court challenge? I don't know. But I think that I can intuitively understand that 8,600, that's 8,600 minority population dilution sounds significant to me. And what the courts would decide, I don't know. But that's something else for us to think about as we consider these competing proposals. [LB704 LR102]

SENATOR COASH: Time, Senator. [LB704]

Floor Debate
May 19, 2011

SENATOR AVERY: Thank you. [LB704]

SENATOR COASH: Thank you, Senator Avery. Those wishing to speak: Senator Karpisek, Mello, Conrad, and others. Senator Karpisek, you're recognized. [LB704]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. As I said, I have the numbers now for the counties and I am looking into what the split is in Colfax County and to see if we can try to make Colfax County whole by switching one way or another with another county. I am working on that right now, trying to get those numbers and see if I can make all my map come out to not split a county. I will work very hard on that, and if I am successful with that then I think the vote is going to be very interesting to see what else is wrong with my map. That's about all I've heard right now. So I'm working on it. The other part of all this is we just need to get this as easy and straight as we can. Again, we all have reasons why we want to be in one district or another. I want Saline County in the 1st District as it was for a long time up until ten years ago. Again, that happened when none of us were here except maybe Senator Ashford. I'm not sure about that. When I do get these numbers, I don't know that I'll be able to get it just perfect and I'm sure that I will not be able to. And I do want to remind everyone that I was not on the mike saying anything about constitutionality having zero percent deviation. But with our last vote, we did not stick to zero percent deviation and that's fine. I was fine with that. However, if I can't get to zero percent either, guess what? We just voted one in that wasn't. So if it's a little bit more than the 200-and-some people or a little bit less, we'll see. I really hope that I can do something here because I hate splitting a county. That is not a good way to go. That is not good precedent to set. But it was done ten years ago and I don't know how that worked out in that county. I know Senator Fulton asked Senator Mello some questions about Johnson County being split and where it was. I don't know. Colfax, when I asked to have the map drawn, I told them what I wanted to happen. I wanted Saline in the 1st and as straight of a shot as I could get north to south. So I don't know right now where that split is, what towns are exactly where, but again, I'm having those numbers brought to me and I will know better then. But I will work very hard to get that all into one county in...I'm sorry, so I don't have that split. Again, we're working on that. It'll take a little time. I hope that we get some lights on while we're waiting on that, talking about different things, trying to find some compromise here. Again, I know this has not been an easy process and I absolutely appreciate the work that's been done. I'm a little bit frustrated with the...that there doesn't want to be anyone want to maybe look at things. So, again, I did not plan to go eight hours on this tonight. I planned maybe to go four on Select if we didn't get anywhere. I don't like to just stand here and rattle on and on although I probably do it... [LB704]

SENATOR COASH: One minute. [LB704]

Floor Debate
May 19, 2011

SENATOR KARPISEK: ...more than I need to. This is very important to my home county. I think there's a lot of things that tie us in. And, again, especially with the legislative map looking the way it's going to with Senator Wallman having part of Lancaster, myself having part of Lancaster, I just don't know how we could have part of that then in the 3rd. You're really creeping up into Lincoln and I don't think that that's what Lincoln would want. I do appreciate everybody's help trying to think of things for my map. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Karpisek. Senator Mello, you are recognized. [LB704]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature, the few who are left here I think here in the body right now. A follow-up. I know Senator Krist is not here in the body but Senator Krist was asking a question or trying to ask a series of questions that was targeted in regards to the traditional redistricting principles that are laid out I think in LR102 but also generally laid out in general Supreme Court case law in regards to compact and contiguous, one person, one vote, the Fourteenth Amendment, communities of interest, cores of prior districts. And I know we had kind of a short back and forth because we were on his time and I wanted to make sure that we could get it all in the record if need be. But I think the underlying argument of what Senator Krist was trying to either get me to admit or to try to get me to see was that there is a rational state policy in his perspective, more a rational state policy in not splitting a county and having a larger deviation than what has been currently set in precedent by this Legislature ten years ago, which ten years ago we had a rational state policy of splitting two counties to ensure that we had a zero deviation. That essentially is what I wanted to make sure that was put forward. I know that that was his underlying argument is there is some...in his view, in his perspective, there are some principles that weigh heavier than others. And I know Senator Nelson made a similar argument when we were discussing the committee amendment that the current proposal that was adopted by the body splits only one county, and in return we have a higher deviation. I argue and I think there's ample Supreme Court case law from other states over 40 years that show that deviation and the principle of one person, one vote holds higher in the Supreme Court than rational state policy of splitting counties. And to some extent the issue is, is that we've set precedent before in this body by adopting the split county rational state policy to achieve that zero percent deviation, and that was the underlying premise of what you see in AM1508. It's not that I just made this up on the fly of talking with some senators and looking at the NCSL redistricting law book and reviewing some research since the beginning of session. We have a good, ample legislative history of what has been done both in 1991 when there was a court challenge where the legislative districts had to be redrawn, as well as in 2001 where they had some similar challenges, and those were thrown out but they did split two counties to achieve that 1 percent deviation for Congressional districts. So I think it's safe to say that Senator Krist and myself just are going to have to agree to disagree on this issue. And I feel that

Floor Debate
May 19, 2011

deviation and the principle of one person, one vote holds higher in the realm of the Supreme Court as well as I think what's best for Nebraskans instead of the, quote, unquote, community of interest or rational state policy of not splitting a county where we have multiple proposals in front of this body where we split multiple counties whether it's for legislative districts, Board of Regents districts, State Board of Education, Public Service Commission, you name it. Colleagues, I, like Senator Karpisek, at the end of the day this process has been one where I have tried to seek compromise. Senator Conrad, after the public hearing, posed the question to the committee of, is there a way to find and strike a compromise between what Senator Mello was proposing and what Senator Lautenbaugh was proposing? My district follows similar district boundaries. It preserves the core of prior districts. It's very simple to see by holding up the current Congressional district boundary maps to mine. I would argue that currently LB704... [LB704 LR102]

SENATOR COASH: One minute. [LB704]

SENATOR MELLO: ...does not do that. It does not preserve the prior core of districts because it dramatically changes. As I've laid out that just a simple number of Nebraskans who get shifted around--77,000 compared to 226,000. The thought, though, is the proposal you see in front of you was a compromised version; I want to make sure to get that on the record. We were disgusted last Friday after the committee of trying to take more of what Senator Lautenbaugh had suggested of keeping the cities of La Vista, Papillion, and Bellevue more in the 2nd Congressional District if at all possible. My proposal keeps 95 percent of those municipalities in the 2nd Congressional District while unfortunately LB704 splits the city of Bellevue into two different Congressional districts. As well as I contend it splits the city of Papillion into separate Congressional districts as well which was also...the underlying LB704 did the same thing prior to the adoption of today's committee amendment. So for the record I think that's my hope. I know Senator Karpisek is looking for a compromise. I'm looking for compromise. There's a way to get... [LB704]

SENATOR COASH: Time, Senator. [LB704]

SENATOR MELLO: ...what I believe is a unanimous vote. Thank you, Mr. President. [LB704]

SENATOR COASH: Thank you, Senator Mello. Senator Wightman, you are recognized. [LB704]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I haven't been around a lot today but I did have a few questions. I watched part of the debate earlier before I came in. I was intrigued. Is Senator Lautenbaugh...? At my height I can't see who's here and who isn't. Is Senator Lautenbaugh here and would he yield? But I don't think he is

Floor Debate
May 19, 2011

here. [LB704]

SENATOR COASH: Senator Lautenbaugh is not in the Chamber. [LB704]

SENATOR WIGHTMAN: If not, I would ask Senator Mello if he would yield. [LB704]

SENATOR COASH: Senator Mello, would you yield? [LB704]

SENATOR MELLO: Anything for a good friend. [LB704]

SENATOR WIGHTMAN: Thank you. I was intrigued by an argument when I was listening on television earlier that Senator Lautenbaugh made. And I think his statement is correct that if you looked at the districts, the population today as opposed to the 2010 Census--which as I understand was taken some time in April of 2010 so that we are just a little over a year removed--that probably District 3 would be the smallest district in the state of Nebraska based upon population projections, population history as we saw it during the past decade. Is that something that...is the anticipation as to what has occurred during the year from the time the census was taken until the redistricting, is that a legitimate item of consideration? [LB704]

SENATOR MELLO: Senator Wightman, I believe that's a very interesting proposal, the way that question of Senator Lautenbaugh's as he stated that issue and then your question, I think is interesting, because this issue was raised within the committee as we discussed primarily legislative districts, if we as a committee and we as a Legislature should take into consideration future growth that may occur because of population trends or shifts from when the census was taken, and if we should take that into consideration while drawing districts. Now granted, we used that mind-set. That question was more posed to non-Congressional district maps, and that was wildly rejected by the committee that we should not be taking into consideration future growth or any kind of future census information that a political geography may or shall have in the future as we're developing these proposals. So I would say it was something that I just raised as a question of whether or not we should, and it was wildly rejected that we should not since none of us are demographers, none of us can look into the future that well and see the population trends to a T, that we should not be considering that as we develop redistricting proposals. And so I question if we didn't do that for these other districts, I question whether or not that argument still holds water for a Congressional district proposal. [LB704]

SENATOR WIGHTMAN: Before you use all of my time, Senator Mello,... [LB704]

SENATOR MELLO: (Laugh) [LB704]

SENATOR WIGHTMAN: I would also suggest that maybe we're not looking at future

Floor Debate
May 19, 2011

growth, that we're looking at past growth when we're looking at what anticipated growth may have been between April 2010 and May 2011. And I understand that there aren't any figures out on that, but I don't think that it would be totally wrong to consider what happened during the past ten years and a likelihood that that has continued during the past year. And based upon that, I think it is very likely that both of the two Congressional districts at this point would exceed in size and population size... [LB704]

SENATOR COASH: One minute. [LB704]

SENATOR WIGHTMAN: ...the population of District 3. [LB704]

SENATOR MELLO: You know, I mean, Senator Wightman, I guess to some extent that's conjure and I guess that's an objective perspective that each individual senator may have. I think none of us can...rightfully so, none of us can pinpoint to a precise number of the number of Nebraskans who shifted between counties, between cities, or even blocks for that matter, or have moved out of state between when the census was taken and finalized, to May 19 as we are discussing this current proposal. I mean, I generally think it's a premise that we rejected for other maps and to some extent I think it's as difficult for us to be able to explain not having that, I should say. [LB704]

SENATOR WIGHTMAN: And I would agree there's some degree of conjecture in that even though I think it would be logical to assume that probably growth patterns have continued...for the last ten years have continued during the past year. [LB704]

SENATOR COASH: Time, Senators. [LB704]

SENATOR WIGHTMAN: Thank you. Thank you, Mr. President. Thank you, Senator Mello. [LB704]

SENATOR COASH: Those still wishing to speak: Senators Nordquist, McGill, Council, Cook, and others. Senator Nordquist, you're recognized. [LB704]

SENATOR NORDQUIST: Thank you, Mr. President and members. I'd like to ask Senator Avery a couple of questions. [LB704]

SENATOR COASH: Senator Avery, will you yield? [LB704]

SENATOR AVERY: Yes, I will. [LB704]

SENATOR NORDQUIST: Thank you, Senator Avery. You mentioned some numbers before about minority...voting-age minority population, is that what those were? [LB704]

SENATOR AVERY: Yes, I did. [LB704]

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Floor Debate
May 19, 2011

SENATOR NORDQUIST: Can you... [LB704]

SENATOR AVERY: That was in the context of one of our principles on page 2 of LR102, the seventh point... [LB704 LR102]

SENATOR NORDQUIST: All right. And what... [LB704]

SENATOR AVERY: ...about dilution of minority voting. [LB704]

SENATOR NORDQUIST: What were those numbers again? Do you have those available? [LB704]

SENATOR AVERY: It was 8,000. By my estimation...these are the best numbers I could get of comparing the Mello proposal to the one that we adopted a few minutes ago. CD1's minority population will be reduced by about 8,645 people. [LB704]

SENATOR NORDQUIST: Eight thousand six hundred. Under what we have before us, under Senator Mello's it would be up? [LB704]

SENATOR AVERY: It would be 6...the opposite... [LB704]

SENATOR NORDQUIST: Sure. Okay. [LB704]

SENATOR AVERY: ...8,645 more. [LB704]

SENATOR NORDQUIST: Okay. Thank you, Senator Avery. So certainly that's a...looking at LR102 and the guidelines we have established, that's certainly another component that we need to factor in here, and we're turning a blind eye to that, we're turning a blind eye to the deviation. Would Senator Mello yield to a question? [LB704 LR102]

SENATOR COASH: Senator Mello, would you yield? [LB704]

SENATOR MELLO: Yeah, yeah. [LB704]

SENATOR NORDQUIST: All right. AM1508, this map that's before us, was this presented before the Redistricting Committee? [LB704]

SENATOR MELLO: This proposal was presented to the Redistricting Committee earlier this week, yes. [LB704]

SENATOR NORDQUIST: And what was the vote on that? [LB704]

Floor Debate
May 19, 2011

SENATOR MELLO: The proposal that's now AM1508 failed in committee 4-5 along partisan lines. [LB704]

SENATOR NORDQUIST: Okay. Thank you. So we had a map before the redistricting committee that had zero deviation, that followed past precedent when we look at scaling back CD2 because of its population growth, that maintains certainly core areas including Madison County which was heavily debated ten years ago, maintains those areas in CD1; does not--as Senator Avery just mentioned--dilute the minority voting-age population in CD1, and it was rejected on a partisan-line vote. Why? Why? We are a nonpartisan body. Why are we having votes along partisan lines when it comes to redistricting? Because we can? Because we got the votes counted up? We better hope we have the votes counted up at the end of the night and on Select File because this is a constitutional obligation. And it's unfortunate that when we had a committee vote, when there was a committee vote along party lines that the two sides didn't say: hey, we can do better than this. We can come together, find our ideas. We can look at past precedent. We can look at court precedent, and we can come up with a map together that we can vote out unanimously. We do it with the budget, folks; we can do it with redistricting. In our neighboring state of Iowa they have a very nonpartisan process done outside the Legislature. They can't pass a budget over there but they voted their redistricting map up I think on the second round, but nonetheless. And yet we've ignored the base map that was given to us by the nonpartisan Legislative Research Office. We've ignored past precedent. We've ignored the core part of Sarpy County... [LB704]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: One minute. [LB704]

SENATOR NORDQUIST: ...that's been in CD2 for quite a while. We've put all that aside and we've had a party-line vote in committee and we've had a party-line vote on the floor. We can do better as a body. Thank you, Madam President. [LB704]

SENATOR SULLIVAN: Thank you, Senator Nordquist. Senator McGill, you're recognized. [LB704]

SENATOR MCGILL: Thank you, Madam President and members of the body. I won't be long because I think we are having some discussions here about, hopefully, maybe wrapping up this debate soon and discussions being had about some conversations between General File and Select that would allow us to maybe move on to the legislative districts. I think that's probably the way to go at this point in the night. The openness of discussion between the two rounds I hope is to its fullest levels and abilities so we can try to reach some sort of compromise. It is the way that we work and

Floor Debate
May 19, 2011

I know Senator Nordquist was just talking about the Appropriations Committee's ability to work together to come up with a plan that's unanimous. And I'm impressed by past Legislatures that have been able to do that for this particular issue every ten years. So with that, I don't have a whole lot more to say. Hopefully, we can be moving on soon and work on this between General and Select. Thank you, Madam President. [LB704]

SENATOR SULLIVAN: Thank you, Senator McGill. Senator Council, you're recognized. [LB704]

SENATOR COUNCIL: Thank you, Madam President. First, I do wish to acknowledge the fact that Senator Langemeier did provide me with documents that show the minority percentages under the amendment that has passed, but what's lacking is a comparison of the percentages represented by the amendment that passed compared to the existing minority voting percentages in those districts. And Senator Avery has indicated that based on data he has, it shows at least an 8,000 minority voter age percentage drop or dilution for CD1. I can't confirm or deny that at this point, but assuming that to be true, it is problematic, particularly if these percentages in terms of the actual voting age minority percentage, there are significant deviations and dilutions in those numbers, we need to address it. Listening to the questions posed by Senator Wightman to Senator Mello: Senator Wightman, I would commit to you the Supreme Court decision in Kirkpatrick v. Preisler, which was a Supreme Court decision that dealt, in 1969, with the state of Missouri's Congressional redistricting, and the issue there was the fact that the plan did not provide for absolute equality of population. And the court specifically held that as a state fails to achieve mathematical equality among districts, it must either show that the variances are unavoidable, and in this case we cannot show that the variances are unavoidable because we have two maps that demonstrate that we can arrive at absolute equality of population. So the second hurdle is to specifically...to be able to specifically justify the variances. And in that case one of the things that the state of Missouri tried to do was to assert that projected future population shifts among districts was one of the justifications for the variances. And while the court did not flatly rule out that consideration, it held that such projections must be well-documented and uniformly applied. So if we don't have some sound documentation of projected future population shifts, and in this instance the fact that that was never articulated as one of the legitimate state objectives for advancing the redistricting proposal that was represented in the amendment that was advanced, it fails because we cannot come, after the fact, that attempt to justify a redistricting proposal that ignores the standards that must be applied. And in that regard, I was over having dinner and I apologize, but I heard some of the discussion occurring between Senator Mello and Senator Krist as to what criteria is worthy of more weight than another criteria. And I think Senator Mello correctly stated that the fundamental standard... [LB704]

SENATOR SULLIVAN: One minute. [LB704]

Floor Debate
May 19, 2011

SENATOR COUNCIL: ...that must be achieved is absolute equality of population. And everything else must yield to that. And in that regard, this body acknowledged and recognized that when it adopted LR102 because it states district boundaries shall follow county lines whenever practicable and shall define districts that are compact and contiguous as those terms have been articulated by the United States Supreme Court. However, if adherence to county lines causes a redistricting plan or any aspect to be in violation of principles set forth by the United States Supreme Court, then that requirement must yield to the requirements of the Supreme Court. That's what we adopted. So if adherence to county lines place us in contravention... [LB704 LR102]

SENATOR SULLIVAN: Time, Senator. [LB704]

SENATOR COUNCIL: Thank you. [LB704]

SENATOR SULLIVAN: Thank you, Senator Council. Senator Cook, you're recognized. [LB704]

SENATOR COOK: Thank you, Madam President. I will yield my time to Senator Mello. [LB704]

SENATOR SULLIVAN: Senator Mello, you have 4 minutes and 55 seconds. [LB704]

SENATOR MELLO: Thank you, Madam President. Is there anyone else in the queue? [LB704]

SENATOR SULLIVAN: Yes, three more: Nordquist, Karpisek, and Council. [LB704]

SENATOR MELLO: Okay. Thank you, Senator Cook. And I'll be brief and I'll let Senator Karpisek go for more detail. We're going to move forward on a vote on AM1508, but there's another amendment that I have drafted and was going to introduce that I didn't realize the debate on the committee amendment was going to last as long as it did. I'm going to hold off on that. We're going to, hopefully, have some discussions between now and Select amongst some senators who are interested in striking a compromise ideally. But I think that there's proposals out there and to say, and I mentioned it earlier that my proposal may not be perfect because Senator Karpisek also has, I think, a proposal that mirrors a lot of the prior core of district boundaries in following that principle and that guidepost, as well as the one person, one vote principle, very closely to mind. And so I emphasized that when I introduced the amendment that mine may not be perfect. I do prefer it, but I also like Senator Karpisek's proposal that follows very similar boundaries and looks to accomplish very similar goals of trying to keep districts looking similar as they do and not trying to see the massive population shift that we currently see under LB704. So at that point, Madam President, I'm going to kind of end the debate and I'll...when my time comes up to close, I will close. Thank you. [LB704]

Floor Debate
May 19, 2011

SENATOR SULLIVAN: Thank you, Senator Mello. The Chair now recognizes Senator Karpisek. [LB704]

SENATOR KARPISEK: Thank you, Madam Chair and thank you members of the body. I have talked to Senator Lautenbaugh and we will sit down together in between General and Select and see what we can negotiate to see if there is anything that we can do. I will pull my amendment on General File and we will, as Senator Mello said, go to a vote on AM1508, and we can get on to legislative redistricting. Again I never really planned to take this to the mat today. However, if we can't come to some agreement in between General and Select, I will take it to the mat on Select. Now by doing this, I do want to thank Senator Lautenbaugh, and I realize that he can't really make any compromise tonight because, obviously, this affects a lot of people. So he...I don't want to speak for him, but he doesn't want to say, yes, I can do this without, of course, checking with the people that he's been working with in this process all along. And I can appreciate that and I understand that. I will say, though, if we went to cloture, I don't think there's the votes for cloture. However, what does that help? We still have to draw maps. So I feel that I am giving up some ground here because I think I have the high ground on trying to get something negotiated tonight. If we take it to cloture, then what happens? I think it creates a real problem with the body and that is never my intention. So I will pull my amendment, talk in between. Again I absolutely promise to filibuster on Select if we cannot come to an agreement. And at that time, I may not be in such a good position as I am tonight. But we all have to compromise in here and we have to get along for the betterment of all of our colleagues and our constituents. So I do appreciate everyone again weighing in. I am still going to work on a map that doesn't split counties, and I've got the numbers now and we'll see what we can do. That is a promise I made and I will keep with it because I think it is best if we don't have to split counties. I don't know if it's possible though. So I will withdraw my amendment and we will move on. Thank you again, everyone. Thank you, Madam Chair. [LB704]

SENATOR SULLIVAN: Thank you, Senator Karpisek. Those senators still wishing to speak are Council and Conrad. Senator Council, you're recognized. [LB704]

SENATOR COUNCIL: Yes. If Senator Mello would yield to a couple of questions, I just have some process questions. [LB704]

SENATOR SULLIVAN: Senator Mello, would you yield? [LB704]

SENATOR MELLO: Absolutely. [LB704]

SENATOR COUNCIL: Yes, Senator Mello. As a member of the Redistricting Committee, one of the things that we've heard today in terms of LB704 and the amendment that passed is that...and your amendment, this map represents the Mello

Floor Debate
May 19, 2011

proposal, and this map represents the Lautenbaugh proposal. What was the base proposal that the committee began its work from? [LB704]

SENATOR MELLO: Senator Council, I have a copy, and that's a great question. The nonpartisan Legislative Research Office, a branch of our...an office within the branch of our government created a base map, essentially--a map that was drawn by the LRO staff, not influenced essentially by individual senators to say we want boundaries to go here or there. That served as the base map that senators could use to create their own maps. I actually..my amendment that I alluded to earlier, I have an amendment drawn to have the Legislature adopt that base map since it's completely nonpartisan in nature, not drawn or changed by senators or staff or anyone, but in consultation with Senator Karpisek, I'm not going to do that tonight. I'm going to hold off on that until Select File with the hopes that we can see some compromise. But I can give you a copy of that base proposal that was used by other senators who look at maps. I looked at that proposal, but also used the existing district boundaries as currently...our current district boundaries by state law. That was the other proposal that I used to create my proposal was looking at the existing boundaries and making small tweaks and changes to achieve that 1 percent...or that one-person deviation. [LB704]

SENATOR COUNCIL: And let me ask...and I can...certainly the base map will illuminate this, but in terms of CD2, does the base map flip Sarpy County? [LB704]

SENATOR MELLO: Senator Council, it does not actually. The base map done by the nonpartisan Legislative Research Office keeps most of...it keeps the city of Bellevue, Offutt Air Force Base, and an overwhelmingly good portion, I would say, it looks similar to my map that...not exactly the same way, of Papillion and La Vista as well. So it looks strikingly similar to AM1508 but there is some noticeable changes there. [LB704]

SENATOR COUNCIL: Okay. And I think that's significant because there have been innuendo and accusations of partisanship entering into the committee's work and the map that was proposed and advanced to this body, and I think that we should give serious consideration to looking at the base map that was prepared without any partisan involvement, presumably. And that map keeps basically CD2 the way it is, which if the nonpartisan GIS Redistricting Committee of the Legislature takes into consideration all of the constitutional and voting rights implications of redistricting, that is the map we should be working from, colleagues, and the proposals that are as close to that map as possible, because that map was also drafted in accordance with the guidelines set forth in the legislative resolution. [LB704]

SENATOR SULLIVAN: One minute. [LB704]

SENATOR COUNCIL: So if we really want to remove partisanship from this process, I urge us to seriously look at this base map which was prepared prior to any partisan

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

Floor Debate
May 19, 2011

involvement. And I think it's significant that if it maintained basically Congressional District 2 the way it is currently configured, that that is an indication of what the core of that district is, and that we would be well served by looking to use that base map as the core of our redistricting proposal going forward. Thank you, Madam President. [LB704]

SENATOR SULLIVAN: Thank you, Senator Council. The Chair now recognizes Senator Conrad. [LB704]

SENATOR CONRAD: Thank you, Madam President. Good evening, colleagues. I just want to rise briefly to, number one, thank Senator Karpisek and Senator Lautenbaugh for beginning a very important dialogue about how we move forward in this process. And as I noted early in debate, that was the objective of opponents was to engage in a dialogue which we previously had not been able to garner. So those are big steps forward, significant leaps, in fact, in terms of the legislative process even though it may seem more nuanced from outside observers. They're significant steps, they're important steps, and there's no question, I'm sure you can all appreciate that having a debate is a lot more fun when Senator Karpisek is involved. I get the pleasure of sitting by him each and every day and that's extra bonus pay that the rest of you don't get to take home. But I definitely enjoy it and I really want to thank him for his hard work, not only in support of his constituents in his district, but in terms of helping to move this process forward in a bipartisan way so that we can at least have additional, meaningful, substantive dialogue and discussion that seeks consensus and compromise, which is a vast improvement over where we started today. Debate can sometimes be pointed. Debate can sometimes be light, but nonetheless, debate is just that. And it's our job here and that's what we are here to do. And just like members of our family and friends, circle of friends, there's colorful characters in this body, there's colorful characters outside of this body, and sometimes that comes through during legislative debate. But we've all found a way to keep smiling, keep talking, keep visiting and moving forward on these issues on and off the mike, and that's important because that's the way the Nebraska Legislature works. That's what keeps us separate and distinct from the partisan wrangling in D.C., and that's what our citizens expect and deserve. So again, my thanks, sincere thanks to Senator Lautenbaugh and to Senator Karpisek for starting this important dialogue. And I know I can't speak for my colleagues, but I can speak for myself that we will be willing to be supportive in anyway that we can as that dialogue continues because it's the right thing to do. Thank you, Mr. President. [LB704]

SENATOR SULLIVAN: Thank you, Senator Conrad. The Chair now recognizes Senator Schumacher. [LB704]

SENATOR SCHUMACHER: Thank you, Madam President. In the last several hours I've been trying to figure out which way is up and what is logical and not logical with reference to this. Fortunately, we're not the first people to be here. Our sister state of Kansas in 2002 had a court case in which much of the issues that we were discussing

Floor Debate
May 19, 2011

today were litigated. And the case was called Graham v. Thornburgh. I'm just going to, and hopefully I can get to most of this in five minutes to get you a flavor of what that court considered, and how tight or loose the criteria are. The Kansas Legislature considered in its guidelines building blocks to be used for drawing the districts to be Kansas counties and voting districts as reported in the 2000 Decennial Census. Districts were supposed to be as equal to 672,105 as practical. Redistricting plans were not to have the purpose of diluting minorities, and they should try to recognize a community of interest, social, cultural, racial, ethnic, and economic interests were to be considered. If possible, cores of districts should be considered and counties should be in the same Congressional district as possible while trying to achieve the population equality, and they should be as compact as possible. They looked at 29 plans put forth by their planning office and, in 2002, Kansas redistricted. The total population spread between the most populous and least populous of the Congressional districts was, I think, 33. The court goes on to say, while it may not be possible to draw Congressional districts with mathematical precision, there is no excuse for ignoring the constitutional plain objective of making equal representation for these numbers. The constitution does not always require population deviations among district be as small as mathematically possible. Rather as nearly as practicable standard applies, the state made a good faith effort to achieve precise mathematical equality. A less population variance among Congressional districts are shown to result, despite such effort, the statements justify each variance no matter how small. The plaintiff, the person complaining bears the burden of proving that the population differences among the districts could have been reduced or eliminated altogether by a good faith effort to draw population districts with equal population. If the plaintiff does not show that the differences were avoidable, then the challenge fails. However, if the plaintiff makes the required showing, the burden shifts to the state then to prove that each significant variance between the districts was necessary to achieve some legitimate goal. The court says, we find that the plaintiff has satisfied step one by showing a deviation of 33 people, just 33, was avoidable. Under the Kansas plan there's a difference of 33 people between the largest and smallest districts. Their tasks, the courts, was to determine whether or not the deviation is demonstratively justified by the legislature's other considerations. A key inquiry is whether the legislature made legitimate choices in balancing various objectives, not whether the court would make the same choices. They looked at the guidelines of the legislature noting that nothing in the record indicates that perfect equality is possible without splitting some counties or voting districts. The court looked at the situation whether or not there was any minority dilution. They found none. The court looked at community of interest and common social and racial and ethnic background. They found that was close enough for government work, and basically then concluded after going through the legislature's guidelines, that the 33 people... [LB704]

SENATOR SULLIVAN: One minute. [LB704]

SENATOR SCHUMACHER: ...that the 33 people was not too much. And moreover, the

Floor Debate
May 19, 2011

legislature had previously rejected a plan with a similar district lines but a larger deviation of 132 people which tends to indicate there was a good faith effort to reduce the population disparity to the minimum of what they accepted was 33 people. I hope that maybe gives us a flavor of which way the court would look at in Nebraska. They certainly would look to the district court of a sister state if this ever gets to court. Pretty tight standards we got to deal with. Thank you. [LB704]

SENATOR SULLIVAN: Thank you, Senator Schumacher. Seeing no other senators in the queue wishing to speak, Senator Mello you're recognized to close on your amendment. [LB704]

SENATOR MELLO: Thank you, Madam President and members of the Legislature. AM1508 tries to accomplish many of the principles, many of the goals, many of the objectives that are laid out in LR102. As we described earlier between Senator Karpisek and myself, some of our proposals may not be perfect. I don't know if any proposal is perfect, but it's a goal of ours to try to strive to ensure that each Nebraskan has their vote counted as much as every other Nebraskan, to also ensure that communities of like interest and like mind try to stay together when at all possible, and we tried to not split counties when we are devising maps. We try to take into consideration the core of prior districts, my perspective of the existing district boundaries, as we devise and draw the next decade's political boundaries. AM1508, in my perspective, accomplishes that and is a zero percent deviation. It changes our current proposal in LB704 from 226,000 Nebraskans being displaced to roughly 77,000, an 8 percent change. In my view, that's dramatic, which means that there is more room that we can work on to improve the underlying bill of LB704. AM1508 may not be that final solution. I'm willing to accept that; I'm willing to acknowledge that. But I believe there's room for improvement, whether it's Senator Karpisek's amendment, whether it's the base map amendment, whether it's another senator's amendment. We have work to do still. I urge the body to take a strong consideration as you're pushing red or green of looking at our current proposal, looking at our current Congressional district boundaries, and looking at AM1508. And take a gut check. What maps look similar? What maps look alike? What maps' boundaries appear to be very similar in that sense? That is what LR102 has suggested that we try to do. I believe AM1508 does that. I urge the body to respectfully consider AM1508 as the new bill under LB704. Thank you, Madam President. [LB704 LR102]

SENATOR SULLIVAN: Thank you, Senator Mello. The question is, shall the amendment to LB704 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Mello, for what purpose do you rise? [LB704]

SENATOR MELLO: Could I get a call of the house? [LB704]

SENATOR SULLIVAN: There's been a request to place the house under call. The

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

Floor Debate
May 19, 2011

question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB704]

CLERK: 30 ayes, 0 nays to place the house under call. [LB704]

SENATOR SULLIVAN: The house is under call. Senators please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Mello, all those senators are here or accounted for, how would you like to proceed? [LB704]

SENATOR MELLO: A roll call, regular order. [LB704]

SENATOR SULLIVAN: Thank you. Mr. Clerk. [LB704]

CLERK: (Roll call vote taken, Legislative Journal page 1703.) 16 ayes, 30 nays, Mr. President, on the amendment. Madam President, excuse me. [LB704]

SENATOR SULLIVAN: The amendment fails. The call is raised. [LB704]

CLERK: I have nothing further on the bill, Madam President. [LB704]

SENATOR SULLIVAN: Seeing no senators wishing to speak, the question is the advancement of LB704 to E&R Initial. Excuse me. Senator Lautenbaugh, excuse me...or Langemeier for a closing. Excuse me. [LB704]

SENATOR LANGEMEIER: Thank you, Madam President. I'm ready to move on too. (Laughter) We've had some great discussion on LB704 and the committee amendment that was adopted to it. We appreciate the discussion. I think we still have a good product that was created with the amendment, committee amendment, to LB704 and I'd ask for the adoption of LB704. Thank you. [LB704]

SENATOR SULLIVAN: Thank you, Senator Langemeier. The question is the advancement of LB704 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB704]

CLERK: 32 ayes, 8 nays on the advancement of the bill, Madam President. [LB704]

SENATOR SULLIVAN: The bill advances. Items for the record? [LB704]

CLERK: Madam President, amendments to be printed to LB704, Senator Karpisek and Senator Mello; Senator Flood to LB667. And the Natural Resources Committee offers a new study resolution, LR332, that will be referred to the Executive Board. That's all that

Floor Debate
May 19, 2011

I have. (Legislative Journal pages 1703-1708.) [LB704 LB667 LR332]

SENATOR SULLIVAN: Mr. Clerk, we will now proceed to General File, LB703. [LB703]

CLERK: LB703 is offered by the Redistricting Committee relating to redistricting. (Read title.) The bill was introduced on May 5, referred to the Redistricting Committee for public hearing. The bill was advanced to General File. There are committee amendments proposed by the Redistricting Committee. (AM1493, Legislative Journal page 1675.) [LB703]

SENATOR SULLIVAN: Senator Langemeier, you're recognized to open on LB703. [LB703]

SENATOR LANGEMEIER: Madam President and members of the body, LB703 is the redistricting of legislative districts. I'm going to take the opportunity, since the committee amendment replaces LB703 if adopted, I'm going to talk a little bit about what you're getting right now. What I've handed out, in the ability to try and conserve some paper, is you've gotten handed out an overlayment of the whole state of Nebraska with a rough breakdown of Douglas and Sarpy County, Lancaster County, and the back sheet is deviations. There are packets that we chose not...they are 67-page packets. Instead of making 55 copies of this and handing them out, if you would like to see your district or another district in its fullest of detail, there are two copies under that north balcony, there are two copies under the south balcony, and also in your e-mail you'll see there will be an e-mail from Nancy Cyr, and you'll have to use your legislative laptops to get it, but there's a link. If you click on that link, you will get all the files PDF form, or you can look at the maps on the side. So for procedure and as we deal with committee amendments, we will...or excuse me, amendments offered thereto, we will continue that same process other than reprinting all this paper. So LB703 is out before you. I think it's pretty self-explanatory. Many of you have had the opportunity to look at some of this and have a lot of great discussion amongst yourselves to this bill prior to getting here today. It was the fundamental thoughts of the committee is to follow the LR102 study and the principles that you've heard a lot about today. As we looked at the population of the state of Nebraska with the core of trying to keep legislators in their districts, we recognized that one had to move and that is reflected in this committee amendment. It also then has a deviation acceptable under LR102. And with that, I am going to conclude and we will proceed to the committee amendment. [LB703 LR102]

SENATOR SULLIVAN: Thank you, Senator Langemeier. As the Clerk stated, there are amendments from the Redistricting Committee. Senator Langemeier, as Chair of the committee, you're recognized to open on the amendment. [LB703]

SENATOR LANGEMEIER: The committee amendment, AM1493...first of all, we had a public hearing again on Friday the 13th, May 13th on the legislative district. And we

Floor Debate
May 19, 2011

heard a lot of discussion on this bill, mainly from the Alliance area about the splitting of Alliance. And we learned some great history about the city of Alliance throughout that--great in the regard that we heard it and got to learn it, not so great in what they were telling us about that history. Let me be clear to that. It was not a good thing that's happened over time in reference to Highway 2 or at that time it was Third Street. We have in the committee amendment, you'll see there's been changes made to keep Alliance whole, and that was their main request was to stay whole with the secondary request of keeping Box Butte County together. You'll see the bill before you holds Alliance whole. It does not hold Box Butte County in its entirety whole. That was the testimony that we heard that day both in Scottsbluff and in Alliance, and again, we had to go to a little special effort to get our videoconferencing working in Alliance and I want to thank the ESU unit for helping our Lincoln staff and NET to make that happen. So that is the difference with AM1493 in relationship to LB703, and we'd ask for your adoption of AM1493. Thank you, Madam President. [LB703]

SENATOR SULLIVAN: Thank you, Senator Langemeier. Mr. Clerk, there is an amendment to the committee amendment. [LB703]

ASSISTANT CLERK: Madam President, Senator Harms would move to amend the committee amendment with AM1494. (Legislative Journal page 1691.) [LB703]

SENATOR SULLIVAN: Senator Harms, you're recognized to open on your amendment to the committee amendments. [LB703]

SENATOR HARMS: Thank you, Madam President and colleagues. First, I'd like to take this opportunity, if I might, to thank Senator Langemeier and the committee for all the hard work they have done. I know that this has not been easy. You've had lots of pressure put on you in regard to how people view redistricting, and it's a tough assignment, but I appreciate what you've done. Today, I come before you with an alternative proposal, and I would ask that you give it serious consideration. This amendment does meet many of the principles that you follow in redistricting. It's important for us to have well-thought-out principles, compact and contiguous districts that are recognizable by the public to the extent as possible, and following very clear political and geographical lines as well as preserving the core of existing district, which we've heard some discussion previously about the core. And these are principles that the federal courts over time have held to be responsible direction to follow or to take. Although some of the principles, colleagues, are not required by federal constitution or statute, they are considered traditional, and the Supreme Court does look at that carefully. This redistricting process comes at a time when rural communities are, quite honestly, truly struggling for survival, when corporate farming in many cases have replaced some of the smaller farms and where smaller businesses have closed their doors, and small schools are facing consolidation and unification. So I come to you tonight a little bit frustrated, as well as I know our public in western Nebraska is a little

Floor Debate
May 19, 2011

bit frustrated over the fact now that we look at the possibilities that we will lose another representative from western Nebraska. And I know that in my own heart, and in the conversations that I've had from the people that I represent, they all have great concerns about this. This is rather painful for them because not only do we have all these other issue before us, we know that we're losing so many of our young people, and the reality is, we're struggling. So my question then comes, can we devise a plan that would meet the requirements for redistricting for this great state, taking on the majority of the people's views about redistricting? I believe this can be done and I believe this amendment that I'm presenting to you does address that issue. When I was designing this map for this amendment, I applied the following principles which are recommended by the Brennan Center for Justice at the New York University School of Law, and I used the information entitled, A Citizen's Guide for Redistricting done by Justin Levitt and Erika Wood. And those principles are as follows, colleagues, one, are the districts contiguous? You know, this is where there are several redistricting principles considered traditional and this is one of them by the Supreme Court. What about compactness? That's another issue that I looked at. What about the political and geographical boundaries that are affected here? You know, the Supreme Court expressed respect for political subdivisions of states in regard to counties and towns and precincts. What about community interest? This is the heart of what many consider to be the point of district design to have different characteristics keeping cities and towns and counties and areas together. Electoral outcomes, which is another Supreme Court tradition. And where do your senators live? And one that I added that is not included in this, and that's because I think of Senator Langemeier bringing this forward early, is the deviation. I found when I applied these principles to both proposals, colleagues, I found that the committee's recommendations fell short, especially in community of interest as a principle. And let me quickly define that for you so there's no confusion about this. Community of interest is defined as a group of people concentrated in geographical areas that have similar interests in priorities, whether it be social, cultural, ethnic, economics, religion, or political, the decisions to keep a city together or to keep a compact group of voters together is often a proxy for ensuring that the public or the people of the common interest are grouped within the same district. And I believe very strongly as I've looked at this, that the committee's recommendations in the areas that I'm concentrating on did not meet this principle. And during the video conference and the discussion in Scottsbluff and Alliance there were strong views about community of interest. And I will point out here, regardless of what one of my colleagues has indicated, I did not orchestrate anything in Scottsbluff. It's most unfortunate because, if the person doesn't know me, I don't do those things. And this has been the lost of boundaries that the committee has recommended. In the amendment, you will find the community interests were considered as I looked at these views. I took this into consideration in 43, the western boundaries of 43, 44, 48, and 49, and what we did...and what I did is I took into consideration the following things. I took into consideration, tourism, governance, education, medical, trade centers, highways leading to the trade centers, and air travel. And all of these, colleagues, are important

Floor Debate
May 19, 2011

considerations to use when determining districts and determining what needs to be done. Deviation. Colleagues, deviation on our map, on the map of the committee's map, is 7.4. The deviation that I submit before you in this amendment is 7.2. Now if it's that important then we need to take this into consideration. Compactness. The committee's recommendation is not compact in District 43 and 47. Just look at the maps. It's very clear, it is not compact. The amendment therefore that I bring before you does show this, and it's easy for people to follow it. It's easy for people to understand what their district is going to be. Compactness, colleagues, is generally a common role for drawing districts that directly address the districts' geometric shapes, and changes the shapes of each of these districts. And by the way, and I don't know what those are, at least in the research I looked there's 30-some formulas that you can use in determining those shapes, if you so choose. Colleagues, I want to make it very clear that I am not in any form or in any manner--and I want you to hear this--I am not in any form or in any manner being critical of this committee. I think they've done a wonderful job. What this is, is just simply a disagreement. What this is, is what the people are saying that I represent. You know, if you look at these districts and you say, well, John, you don't have anything in this; why are you worried? Yes, the 48th is taken care of very nicely. But you know what? I'm not looking about my position. I'm not looking about whether or not I have a job in this Unicameral. I don't really care. The point is, what's important for rural Nebraska? What's important for western Nebraska? That's what this is about. It has nothing to do with politics. It has nothing to do about having one person represent a district or not. Not in my thoughts and not in how I feel. So what you have before you is an amendment that I believe answers a lot of the questions that I had, and it answered a lot of questions that the people that I know and that I grew up with in western Nebraska have asked me. And I believe this amendment does this. And I believe it corrects many of the shortcomings. So, colleagues, I would urge you to adopt this amendment, and I would love to have a conversation with you because I think it's important. And the one thing I want you to understand is, that what I used was measurements. I did not in any form or manner get emotionally wrapped up into this. I used what I think is important. And if you look at these two maps, colleagues... [LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR HARMS: ...thank you very much, Madam President...you will see very clearly that it's easy for people to follow in this amendment. It's easy for people to understand what's taking place here. That's what it's about. It's about what rural America feels. It's about what people in western Nebraska feel. It's about what is right and what is the correct thing to do. And I can tell you, in the short period of time that I've been in this Chamber, no matter what the issues were I always believed in doing what is right and correct for the people that you represent. And for me, that's what this issue is about. Thank you, Madam President, colleagues. [LB703]

SENATOR SULLIVAN: Thank you, Senator Harms. We'll now begin discussion on the

Floor Debate
May 19, 2011

amendment to the committee amendment. Those senators wishing to speak are Price, Louden, Avery, Gloor, Langemeier, and others. Senator Price, you're recognized. [LB703]

SENATOR PRICE: Thank you, Madam President, colleagues. Well, here I am. We're talking about Sarpy County again. I guess that's going to be a lot of the conversation. But going into redistricting, what I had heard from the residents of Sarpy County was quite clear. Four senators within the boundaries of the county, and there's as little incursion and tearing off of pieces to complete others as possible. And that if we were going to have a senator's share, that we were going to have them come from the south because we felt that represented best. I'm looking at the proposal before us put by the committee and it does exactly that. Now my district had to undergo a radical change, and I was blessed because of that because we have so much growth in Sarpy County. So there's a radical change in my district and that's just the way the cookie crumbles. What I needed to have and what we wanted to have and what the people asked for, we got. And I'm very thankful for that. When we talk about easy to read, I guess there's two sides to that coin. Easy read to the folks in a compact districts, I mean, I think we heard Senator Burke Harr remark one time how he had 11 square miles. That's pretty compact. I don't know how easy that is to read from one location versus another. When I look at the entirety of AM1493, it's pretty easy to read. And at this point in time, I am in support of AM1493, and with that I'd yield the balance of my time to Senator Langemeier, if he would like it. [LB703]

SENATOR SULLIVAN: Senator Langemeier, you have 3 minutes and 15 seconds. [LB703]

SENATOR LANGEMEIER: Thank you, Madam President and Senator Price. I rise only to talk about technicalities here. Senator Harms has passed out a map. Again if you look on your legislative computers, you've got an e-mail from Nancy Cyr in redistricting. If you click on that, that has the 16 maps that change, or 16 legislative districts that change in the Senator Harms amendment. And also again under the south balcony and the north balcony is a printout of those changes if you'd like to look at them in detail. Otherwise, they will be on your laptop. Senator Harms has handed out kind of an overview of the whole state. Again the 16 that change are in that e-mail. There's an earlier e-mail that has all 49 that go to the committee amendment and so we just want to make sure you have access to those. And if you're not getting them, be sure and let me know. We'll make sure that we get those up on your computers. Thank you, Senator Price, and thank you, Madam Chair. [LB703]

SENATOR SULLIVAN: Thank you, Senator Langemeier. The Chair now recognizes Senator Louden. [LB703]

SENATOR LOUDEN: Yes, thank you, Madam President and members of the body. As

Floor Debate
May 19, 2011

Senator Harms so eloquently explained the maps and the situations, and as I've worked with these I would perhaps try to compare the maps on the reason we've worked with this other map. The reason we worked on the map that we have, which is AM1494, was because of some of the problems that came out of the committee map with AM1493. First of all, it divided Box Butte County. It did divide Alliance and I still ask where it divides Alliance, because now the line goes around the west side of Alliance and I don't know where it cuts back across Alliance, if it goes across 25th Street or it goes around the north side of the town. That still isn't clear on any maps that I've seen yet. And first of all, that divides Alliance away from the Box Butte County area that it has represented all these years and also its trade territory and economic area. The committee map also proposes districts that are over 220 miles or more across the state. A senator has to attend town hall meetings, groundbreaking ceremonies, visit colleges, schools, and generally meet with constituents that are working on issues to improve their well-being. You want to remember, you don't get reimbursed for traveling to meetings in your own district and as you have these legislative districts that are so large, it could very easily be, and I'm sure Senator Fischer will agree with me, you could travel 400 miles in a round trip to attend a meeting in the district, and you do that without any reimbursement. The district court judicial districts are even drawn for reasonable travel patterns because our judges are required to drive in order to hold court. The amended map as introduced by Senator Harms compacts Districts 49 and 43. The amendment puts Custer County back in the 43rd District where it has been traditionally. The amended version keeps seven of the eleven Panhandle counties together. That's been quite important out there over the years as they have their organizations through their county officials and their healthcare facilities and some of the other county health officials or health agencies that work together in the 11 county area. The organization has been very important to the area. I would point out that redistricting is about setting up districts to represent the people of Nebraska. They should be drawn to align communities that work together and have similar interests and trade relations. AM1494 accomplishes this. Also the will of the people must be considered. The first consideration for redistricting should be the best way to represent the people that live in the area. Senators come and go but the people that live and work there, live in that area for generations. So the first consideration is the citizens. If that is prioritized, then much of the other issues can be more easily dealt with. The issue of a senator's seat should be a very low priority. Districts should be formed so that communities can work together with the representatives for all issues. By dividing Box Butte County between two legislative districts, any area of health issues, such as area ageing funding, services for developmental disabilities, county road funding, and many more issues that have to be addressed by two representatives. And I've noticed that when there is more than one representative involved, it's very easy for a representative to push a problem off on someone else, especially when one Legislature is involved, then it is either do or deny. [LB703]

SENATOR SULLIVAN: One minute. [LB703]

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

Floor Debate
May 19, 2011

SENATOR LOUDEN: Thank you. Legislative districts should be formed primarily to allow local citizens the best possible representation. Legislative districts should not be formed to decide senatorial seats. Constituents choose their representatives. Representatives do not choose their constituents. Regions are associated with locations. Many of these communities have worked together for decades for healthcare, trading, economic development, and schooling. Some of those areas have been there ever since the state was founded as representing their own area. I think District 49 in Sioux County, Box Butte, and Dawes has been the core of that district ever since...as far as I know, the Legislature started. The purpose of redistricting is to make the districts comparable, fair, effective, and manageable, and represent the people of Nebraska. I believe the amended map is the best solution to redistricting and I would ask that AM1494 be amended. [LB703]

SENATOR SULLIVAN: Time, Senator. [LB703]

SENATOR LOUDEN: Thank you, Madam President. [LB703]

SENATOR SULLIVAN: Thank you, Senator Louden. Those senators wishing to speak are Avery, Gloor, Lautenbaugh, Schilz, and others. Senator Avery, you're recognized. [LB703]

SENATOR AVERY: Thank you, Madam President. AM1494, if you remember, we had a base map prepared at the beginning of the process of redistricting and to looking at the various options that lay before us. If you look at the map Senator Harms just referred to, you'll notice that it follows fairly closely the original base map produced by the Legislative Research Office. That map was developed without regard for which legislative district would need to move east. It was made without regard for personalities. It followed the principles of LR102 in an objective manner. The product, I believe, was a map far superior to what is being proposed in LB703 and I voted against this in committee. We had a hearing and at that hearing we heard a message, loud and clear, from Box Butte County residents, and from Alliance. They want that county to remain whole. They want the city to remain whole. That was very clear and quite unanimous. There's something else about the two maps that I'd like to call your attention to, and that is LD43. It think this merits some close scrutiny. Senator Fischer has represented 43 as the largest district in the state for nearly eight years now. She knows it well, so I'm going to ask her if she would yield to some questions to inform me more about that district and to help me understand the differences between these two maps. [LB703 LR102]

SENATOR SULLIVAN: Senator Fischer, would you yield? [LB703]

SENATOR FISCHER: Yes, I will. [LB703]

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

Floor Debate
May 19, 2011

SENATOR AVERY: Thank you, Senator. When I look at the map that the committee is recommending, it looks to me as if your district undergoes some rather radical changes. Would you agree with that? [LB703]

SENATOR FISCHER: Those are drastic changes, yes, Senator Avery. [LB703]

SENATOR AVERY: Would you characterize these as distortions? [LB703]

SENATOR FISCHER: I would characterize District 43 under the committee map as being unmanageable. [LB703]

SENATOR AVERY: That was going to be my next question. You're getting ahead of me. [LB703]

SENATOR FISCHER: Oh-oh. (Laugh) [LB703]

SENATOR AVERY: Let me ask you about distances. Now I've often talked to you about how long it takes you to get from one end of your district to another. As it is currently configured, how long does it take? How many miles? [LB703]

SENATOR FISCHER: From...I can tell you like from Valentine to Broken Bow is about 132 miles. Valentine to Atkinson is a little over 100. And I... [LB703]

SENATOR AVERY: Do you have any... [LB703]

SENATOR FISCHER: Oh, go ahead. [LB703]

SENATOR AVERY: Do you have any idea how long the distance would be from Keya Paha here on the eastern end of the district over to the other end of Dawes? [LB703]

SENATOR FISCHER: I can tell you from Chadron to the town of Taylor, which is in Loup County, is 250 miles. [LB703]

SENATOR AVERY: And Custer County, in the committee map, is no longer going to be a part of 43? [LB703]

SENATOR FISCHER: I lose Custer County, I lose Rock, Holt, and Boyd County. [LB703]

SENATOR AVERY: How would that affect the character of your district today? [LB703]

SENATOR FISCHER: My current district is Sandhills ranching district, and that would...

Floor Debate
May 19, 2011

[LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR FISCHER: ...that would not be the case under the committee map. [LB703]

SENATOR AVERY: And a Sandhills ranching community would comprise what we've been talking about here as community of interest? [LB703]

SENATOR FISCHER: Most definitely. [LB703]

SENATOR AVERY: And under the committee proposal, you would lose that? [LB703]

SENATOR FISCHER: It would be destroyed. [LB703]

SENATOR AVERY: Thank you. I think that that is just one example and there are others, and I'd be willing to talk later about what is happening in the Panhandle. I think Senator Harms did a good job with that. But that's one example of what happens when you try to draw maps around personalities and not using objective criteria. Objective criteria should guide everything that we do to the extent that we can, and I intend to support the Harms proposal and I'd urge you to do the same. Thank you, Mr. President, or Madam President. [LB703]

SENATOR SULLIVAN: Thank you, Senator Avery. The Chair now recognizes Senator Gloor. [LB703]

SENATOR GLOOR: Good evening, Madam President and members. I rise in support LB703, AM1493, but on behalf of the residents of the city of Grand Island and Hall County, beyond my district, in objection to AM1494. And I would like folks to listen a little bit and understand that as appreciative as I am of the concerns this redistricting map creates in western Nebraska, don't think it's not without its ramifications as we move farther east for other areas that we consider rural. I appreciate Senator Harms working on this. He didn't have a dog in this fight. It really doesn't affect his district that dramatically, but he's trying to do what he thinks is correct for western Nebraska, as are some of the other senators. And I recognize and appreciate it, but I've got to speak and point out what happens when this occurs has a cascading effect, very much like a game of pick-up-sticks. If you take a look at my District 35, that's not even all of the community of Grand Island, not all of the city limits. Senator Dubas, who is fond of saying she has me surrounded, has a district that goes around the city of Grand Island. She works hard to stay in contact with people who, not surprisingly, see me as the Grand Island Senator and who are very likely to call me on issues. Now what this map does is takes Senator Sullivan's district, who has part of Hall County, and put additional residents of the community of Grand Island in what is predominantly a rural district. Senator Avery used

Floor Debate
May 19, 2011

a term, "distortion." And I would point out to Senator Avery and others that that means that someone who lives farther away than the community of Norfolk will, in fact, have the same senator as somebody who lives within the city limits of Grand Island. I've heard terms thrown out, community of interest, keeping cities and counties and towns together. The city of Grand Island, within the city limits, will now have three state senators. A majority of those residents will be mine, but there will be two others, who I know will work hard, certainly our current senators work hard to stay in contact with the residents in Hall County. But is that fair to the residents of Grand Island? Currently, there are four senators who serve Hall County. That's a distortion. At least AM1493 was going to reduce that to three senators, but what I can't, can't agree to in any way, shape, or form, is having members, individuals, residents within the city limits of Grand Island served by three state senators, and therein lies the problem. The unfairness seen in other parts of the state farther west when corrected, cascade down and have other ramifications and negative impact. And I would tell you for the third largest freestanding community in the state, this is a problem and it is not fair to those individuals; it's not fair to those individuals. And I understand it's all relative. I understand that people can make an argument, well, you're closer at least to somebody if you live in Grand Island in District 41 or District 34 than if you're clear out in western Nebraska in those districts. Yet, it's all relative, and I don't think it's fair. I don't think it's fair to the representatives within those districts, but certainly not to the individuals who will reside within those districts. Please think as you get excited about what this may mean for western Nebraska, that there are counterproductive problems for what it causes as it then cascades... [LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR GLOOR: ...and moves farther to the east. I have...you don't have to click on it. I'll make a clicking sound and point out to you on this particular map the city of Grand Island and what it will look like if we move forward with AM1494. And I don't think it's pretty. Thank you for your consideration. I'd ask you to slow down and think a little bit about this cascading effect because it has a detrimental effect on other residents of the state of Nebraska. Thank you. [LB703]

SENATOR SULLIVAN: Thank you, Senator Gloor. The Chair now recognizes Senator Lautenbaugh. [LB703]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. I do rise in support of the bill as amended with AM1493, and in opposition to AM1494, and let me explain why. We had a lot of talk earlier about splitting counties, whether or not that's right or wrong, and whether or not we should even think about it, in Congressional districts. And we had some points of disagreement. What we can't have disagreement about, however, is whether or not we should be following lines on legislative maps wherever practicable. And it's clear in our constitution, that's what we're

Floor Debate
May 19, 2011

supposed to do. The proposed map from Senator Harms's amendment splits Holt County, Antelope County, splits Hall County four ways, and makes District 34 a very long, narrow district that doesn't really look much like what it looks like now. And that's just for starters. We are splitting counties and it's very safe to say, well, no one from Holt and no one from Antelope came to complain. Well, the proposed AM1494 was introduced at the committee. The people from Holt and Antelope didn't know that this was going to be discussed, or they may have very well said, hey, we don't want our counties split, especially when you're in one of the lesser populated counties, no one wants your county split. Box Butte County doesn't want to be split. I understand that. The people of Alliance didn't want Alliance split, so we've adjusted that with the committee amendment. I think that was the right thing to do. I know that Senator Fischer's district on both of these maps seems about as wide across, but on the committee amendment it doesn't seem as wide north to south, if you will. So if we're waiting for the perfect map to be visited upon us, we're going to be here a long time. But the committee amendment does what we set out to do. I think it represents a good effort. And we all agreed to something, I thought, to kind of move that map forward. There was some compromises struck on Douglas County's look. There's some compromises struck on Lancaster County's look, and we came forward with a map that accommodated all of those things and had a version of greater Nebraska, if you will. And that's what I support and that's what I feel like we agreed to do, a lot of us, and I don't want to really go down the road of opening up all the counties because I have some different ideas about Douglas County. I drew a map that restored what I considered to be traditional south Omaha and it created a majority-minority district. I've yet to introduce that but it's out there. And I think it would be a good thing. We had committee hearings and we had lots to talk about that and I heard lots of support. I'm still hearing support for that particular map. A majority Hispanic district for the first time in south Omaha, and I think my map was compact and I think it was contiguous and I think it's very defensible and I think it would be great. But I didn't push that yet into this map because we have a little give and take, it looked like, and I didn't think I had the votes in committee to do that. But when I look at what we're being asked to support here, and I look at what's done to District 34, and I look at what's described as compact and contiguous, 44 is not on AM1494, 34 certainly isn't, and I look at the counties they split in order to bring this about to avoid splitting Box Butte County, I don't see the point in doing that. If you live in Box Butte County, I see the point in it. I just don't see the point for the rest of the state. [LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR LAUTENBAUGH: Thank you, Madam President. Now this is a statewide map and we had to take everything into account from border to border. And yes, in the lesser populated areas, the districts are going to be large. That's that one man, one vote principle we heard so much about earlier. They're going to be huge as you get into the more sparsely populated areas, geographically huge, but that's unavoidable. And I

Floor Debate
May 19, 2011

would urge you to not support AM1494. Please support the committee amendment, AM1493, and the underlying bill. Thank you, Madam President. [LB703]

SENATOR SULLIVAN: Thank you, Senator Lautenbaugh. Those senators wishing to speak: Schilz, Krist, Carlson, Ken Haar, Loudon, Nelson, and others. Senator Schilz, you're recognized. [LB703]

SENATOR SCHILZ: Thank you, Madam President and members of the body. Good evening. I had the opportunity and the pleasure to serve on the Redistricting Committee this year and it has been one of the toughest and hardest things that I've had to do. I've had to deal, as Senator Harms and Senator Loudon and all of us in rural Nebraska, with population decline. It hasn't been fun, it hasn't been easy, and it hasn't been a short-term type of deal. We've seen populations decline in western Nebraska for maybe over the last 30, 40 years. It doesn't make our jobs easier. As Senator Fischer said, you know, her district is large, it's always been large. She's managed to make it around. She's managed to serve her district well, as I can tell. I don't hear many complaints and that's great. The redistricting process is exactly that, it's a process, and it's a process that requires change, and when change occurs it's never easy. And it's always made more difficult when you have more than one consideration. And in redistricting, there are many considerations to take into account. When I started this process, I sat down with a number of my colleagues from western Nebraska and worked on maps that would keep everybody where they were. Of course, we'd heard at times that western Nebraska could lose as many as three representatives. I was never under that camp. I never made that assertion. I had worked on it because people had told me that, hey, you know, the issue is going to be in western Nebraska. So I looked for ways to minimize those losses, and I think that with the committee map that's there. We do minimize those losses. Let's just talk about the integrity of the Legislature for a second, and I know that we've heard here on the floor that this process and this thing is not about a single senator, and absolutely not, it's not. It is about the people. And as I look at that, I've always been told that western representation is very important because we have so few representatives. Not only is it important but it's essential that we have experience. In 2012, if Senator Harms's map would go through, three of us rural western Nebraska senators will be basically term limited: myself, Senator Fischer, and Senator Loudon. And that would mean that there would be three...or two senators there that would have no experience going forward. And then as you look in 2014 and you start to do the math and you take a look at what you've got, all of a sudden there could be seven senators from Kearney west that have two years of experience or less. I know when I came down here, I'm not going to be too ashamed to say it, there was a huge learning curve. It takes awhile to get your feet under you. We've heard the quote, it's like drinking from a fire hose. I think everybody that comes down here has had that experience. The one other thing that we also know is that this body before... [LB703]

SENATOR SULLIVAN: One minute. [LB703]

Floor Debate
May 19, 2011

SENATOR SCHILZ: ...thank you...before when we had gone through this process, redistricting, we did not have to deal with term limits. Today it's a reality and we need to think about that a little bit, because with term limits, every time that changes over the Legislature changes. So when we say we shouldn't look at one senator or another senator, I don't disagree. I don't disagree, but I do believe that the Legislature's face and the Legislature's makeup changes so often that you do not get that continuity and we need to be mindful of that. So with that, I am here to support LB703 with the committee amendment. Thank you very much. [LB703]

SENATOR SULLIVAN: Thank you, Senator Schilz. Senator Krist, you're recognized. [LB703]

SENATOR KRIST: Good evening, Madam Chair and colleagues. I'm always trying to not back myself into a corner and think just a little out of the box. Many of you know that I spent some time looking at some different numbers over the interim and I was pretty vocal about this great GIS system that we have and the wonderful support that the Legislative Research Office gave me all summer in drawing up...personally drawing up some maps. And I can assure you, I didn't count the number of one kind or another. I simply looked at those things that I knew we could use as parameters to draw maps. I have here...I did not make copies, they are not available for you, but I have here in my hand a map that I drew in July. We are working under the premise that it is absolutely necessary to pluck a district and move it into Sarpy County because that...those are the parameters that we have been working under. Now I'm here to tell you that this is one map that I didn't maneuver. I didn't try to make it better at all. I just said, please hit the button for me. This map does not move any existing district in the state of Nebraska. So let's be clear, what we're talking about here is, does Senator Schilz get to run again for a district or will he not; does 49 stay where it is; does 43 keep its community intact? This does all that because the parameter that I used to begin with was do not move a district and how close can you come. With one punch of the button, the parameter is 9 percent and change. Senator Harms's is 7 and change, the committee is 7 and change, the deviation. I think this map, this concept of not moving a district, with a little more attention, could essentially put some counties in different places and maintain those districts where they are. And it might be, as we discussed earlier from this corner of the room, the first time in history did something better than those who have come before us. So in James Kirk's concept of the Kobayashi Maru, I honestly believe that if we get out of the box and we don't say move 43, move 46, move 49, move 10, that we wouldn't have to move one. My pledge, I think, after tonight is no matter what happens, I'd like to reenergize that conversation again, because when I brought that to the committee members, many of them discounted the fact that we would not have to move a district because it's what we do. And I don't want to make light of the work that has been done by the Redistricting Committee. It's been tough work. I understand that and I applaud what you've done. But sometimes if you go into a situation thinking you have to do

Floor Debate
May 19, 2011

things a certain way, you might not get the best result. So my pledge again is, I'd like to reexplore this and, no matter what happens tonight, potentially look at reintroducing something... [LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR KRIST: ...that does not have to move a district. Now if you believe in that and you want to help me with that, that's great. No matter how you vote on these two amendments, you will move a district and I'm not sure that is absolutely necessary. Thank you, colleagues. [LB703]

SENATOR SULLIVAN: Thank you, Senator Krist. Senators in the queue are Carlson, Ken Haar, Loudon, Nelson, Dubas, and others. Senator Carlson, you're recognized. [LB703]

SENATOR CARLSON: Madam President and members of the Legislature, this is really difficult for me to get up and speak tonight. And I'm looking around to see who is in here and who's listening, particularly the senators from the Lincoln area and the Omaha area. I'd really appreciate your attention to kind of help you realize the things that go through our minds from rural Nebraska as we look at redistricting. Now I'm going to say right off the bat that I stand in support of LB703 and in support of AM1493, and I'm opposed to AM1494. Having said that, by making that statement, it can be construed that I'm saying that there's a certain part of my district that I don't want to represent anymore and I'd rather represent someone else. And those of you in urban areas, try and understand. Now we look at these maps, we got two maps that we're looking at, we're focusing on tonight. We don't have a map that shows existing districts so it's hard for you. You can't look down there and look at District 38 and see what the district is today and how each of these maps change that, but that's what we have to deal with in rural Nebraska. And so whichever way I speak, it appears that I'm picking and choosing, and I don't like it. I represent seven counties in District 38. The committee map, AM1493, with that map I lose Gosper and Harlan Counties, two counties with good people, two counties that I feel I've developed a really good rapport with over the five years that I've served them. I like those people. I like to serve them. I would be picking up Kearney County and a part of Buffalo County. Those are people right next door to me. I know them. I would be happy to serve them. Now, AM1494, I would lose Webster, Nuckolls, and Clay County, so that's three counties on the east end. I'd lose those. I would keep Harlan County and Gosper County. Of course, I live in Phelps County. I would keep Franklin County, then I pick up Furnas County, Frontier County, and Red Willow County. So whichever way I say that I am in favor of, it's not easy and it's not fun. But I have to look at it in a way that I think that over time, over the next ten years, District 38 could be best served. I have no idea or thought in mind that at the end of ten years District 38 will be the next district to disappear. We're going to try and do something about that in District 38 and we need to do something about that through the entire state so that we help rural

Floor Debate
May 19, 2011

Nebraska bring more people into it. But to give you a sense of the difficulty in this debate, you'd like to really share your feelings, you'd like to be adamant about what you say, but it's not easy. And so this is a serious matter, it's a serious vote, and in thinking what I would do, I will support the committee amendment, AM1493, and oppose AM1494. Thank you. [LB703]

SENATOR SULLIVAN: Thank you, Senator Carlson. The Chair now recognizes Senator Ken Haar. [LB703]

SENATOR HAAR: Madam Chair and members of the body, I agree with Senator Carlson. This is very difficult because actually the senators we do know becomes a very important part in all of this. And I haven't decided yet. I look at the two maps side by side with soft eyes, just looking for shape and contiguousness, AM1494 looks really good. What happens in the middle is all of these things getting, you know, smashed together and squeezed and it looks to me like the middle could certainly use more work. I've listened to Senator Gloor talk about Grand Island. I would agree, I think it seems unfair to those people to have three different state senators. I guess what I'm hoping, as we look at this, that something, maybe a third alternative will come out of this that retains some of the shapes that we see on AM1494 for western Nebraska but take some of that squeezing pressure off of the middle. So I want to hear more about these. I'm listening very carefully. And I guess I would give the rest of my time to Senator Harms, should he wish it. [LB703]

SENATOR SULLIVAN: Senator Harms, you have 3 minutes and 24 seconds. [LB703]

SENATOR HARMS: Thank you, Madam President. Thank you, Senator Haar, I appreciate that. I want to just take a moment, if I can, for us to focus. And I hear what you're saying in regard to what happens to your districts, but, you know, when you really weigh it out and you try to evaluate it, you lose a county or two, we lose a representative. That, to me, there's a lot of difference here. We lose a representative. That's one less person or senator that's going to be able to address and deal with the issues in rural Nebraska, at least from where I live. When we then begin to look at, you know, the distance for travel, when I look at the map that the committee has put together, I'll tell you what, colleagues, 43 is totally unmanageable. I don't know how anyone is going to be able to serve that district. And what I'm concerned about here is we already know going in that the people will not have the appropriate representation. And if you look at Senator Schilz's district, which would be 47, I think from where he is located in Keith County up to the farthest point where he's going to have to travel, which will be Harrison, it's about 203 miles one way. And so you couple that with 43 and 47, colleagues, it does not represent well rural Nebraska. It does not give them the opportunity to have the kind of representation that I believe that they really deserve to have. And so I hope as you look at this that you'll understand that, as Senator Carlson said, there was two sides to all these issues and you weigh it out and wherever you go,

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

Floor Debate
May 19, 2011

you go. But keep in mind that as you look at your counties and you look like you might be losing a portion of a county, how do you measure that against losing a complete representative? That's, to me,... [LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR HARMS: Thank you very much, Madam President. That's really what this is about for me, and I don't have...I mean it doesn't affect 48. I mean what the committee has done for 48 is probably the way it ought to be because I ought to have all of Scotts Bluff County, but it's the rest of it that I'm concerned about. And I tell you what, colleagues, and I don't know whether or not you realize this or not, but when...if we accept the committee's recommendation, the senators who are going to have to serve that 47 and 43, they're going to have their hands full. It is just about humanly impossible to do that. Because what you see in rural Nebraska is probably not what you see in urban America; it's for every event that we have in rural Nebraska, at least where I'm at, they want you there, and you'll go and they're going to say, well, you're here, would you like to talk? Well, probably not, but you do. [LB703]

SENATOR SULLIVAN: Time, Senator. [LB703]

SENATOR HARMS: Thank you, Madam President. [LB703]

SENATOR SULLIVAN: Thank you, Senator Harms. Those senators wishing to speak are Louden, Nelson, Dubas, Wightman, Harms, and others. Senator Louden, you're recognized. [LB703]

SENATOR LOUDEN: Thank you, Madam President and members of the body. There's one thing that I, as the discussion has come along, that I would like to point out. First of all, those of you, if you would want to see your Nebraska legislative districts as they are now, why, look on page 37 on your little yellow roster and they're already listed in there so you can see where your districts are in Nebraska at the present time. But one thing, when we talk about Legislative District 35, I think Senator Gloor and Senator Haar both mentioned it, but Grand Island will have a district of its own. It's got enough population to have it. And the present time, if you will look in your little roster book, Hall County has four different senators that would represent some of Hall County. It's 41, 34, 33, and District 35, which is Grand Island. So it is divided four ways now. So whenever someone says, oh, you're dividing Hall County four ways with this map of Senator Harms's, it already is. That's nothing new. And probably any map that you come up with, as near as I notice, has it divided about the same way, because that is a population area and those counties around there have been into it. One thing I would point out with Senator Harms's map or AM1494 is Dawson County is made back whole again. It was split, if you will look on your little roster map; 36 is the one and Dawson County was split down the river there. It's been made whole with the newer map. And of

Floor Debate
May 19, 2011

course Box Butte County is made whole, which in the little roster map shows it that way also. So you have some issues there. Holt County, Holt County is split now, it has been for 10 or 20 years, as far as I know, has been split up, up at that part. So there isn't that much, when you find...try to critique AM1494, that makes that...is that much of a change. There's some change down along the south side of Nebraska, down along the Kansas line. That always has been a problem down there. Senator Schrock was...had to sit out for a couple years. His district got moved in the 1990 redistricting. So that isn't nothing new and it will probably continue because that area has been losing population, especially down in some of those counties right along the Kansas border there as time has went on. And until we get some transportation or something like that going down there, you'll continue to lose population, same way as we've been working for a transportation corridor across the western part of Nebraska. Wherever there's transportation, you have an increase in population, so that isn't that hard to figure out. One other thing I might point out that I've wondered about when they've done their redistricting and they've talked about their numbers and stuff is there's 11 districts in Douglas County. Out of those 11 districts, 10 of them are all under the deviations and those 10 districts have 4,600 less people in there than what they could have had if they would have been at zero. So I'm wondering how come there's such a low percentage of deviations and low population numbers in Douglas County. Was that so that they could have those 11 senators from just inside of Douglas County? But yet when you get to Lancaster County or Lincoln here, with seven senators that are in Lincoln, there's a plus 5,000 population. I'm wondering how that is explained or what the thinking was on that, that you put more people in the districts in Lincoln than what you do in Omaha. If I look at that, that's over 10,000 people difference on your representation. [LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR LOUDEN: Also, in some of the other areas you have District 36, 37, and 41 all have a plus of over 1,200 people in their districts there, and that comes to nearly 4,500, about 4,000-some people there extra in those counties there. One other thing I'd point out with AM1494 is that District 37 stays the same as it was. Kearney County and in the city of Kearney, Senator Hadley's district, doesn't change from the one that you will see in your little yellow book to what Senator Harms's map or AM1494 has. So I think you need to look it over and scrutinize it a lot more. And as Senator Krist said, there's other ways out here to take a look at things and I would hope that you would study them. Thank you, Madam President. [LB703]

SENATOR SULLIVAN: Thank you, Senator Louden. The Chair now recognizes Senator Nelson. [LB703]

SENATOR NELSON: Thank you, Madam President and members of the body. Reference has been made to our current legislative districts, and we're handicapped because we really don't have those maps. But I want to tell you, I have ten colored

Floor Debate
May 19, 2011

maps here, on the corner, of our existing districts, where you can see where things are now and will go for the rest of the year, if you want a page to pick one of those up. And then I think a page is already distributing some that perhaps somebody else is distributing. But to make things a little simpler, I'd like you to look at LB703--that's AM1493, which is the committee districts and Redistricting Committee proposal and which I support. And if you don't mind marking up that map a little bit, I'd like you to go to District 48, which is Senator Harms's district. In the northwest corner, just draw a line to the east along the north of Morrill County. And once you draw that short line, everything below that in our map, the committee's map, is 47 as it exists right now. That's where Senator Schilz is. If you go over to Arthur County, which is to the east there in 47, draw a line along the east line of Grant County up to the corner, go a little bit west, halfway, and draw a line straight north up to the South Dakota boundary, and that's the existing 49. And 49, as we've already talked about, has been moved to Sarpy County. So what are we going to do? What have we done? You'll see...and I should mention on that, on 49, that Senator Louden does have a little bit down in 48, a kind of margin on the left and a margin on the right of the city of Scottsbluff. So what have we done? We have taken 47 and we've added two counties up there, Box Butte and I guess it's Sioux, if we can get the map a little closer. And then what did we have to do with 43? Well, we had to extend 43, then, to the west, and it goes over to Dawes County and takes in Sheridan. And that meant, because we moved to the west, that 43 was going to have to lose on the east. And as Senator Fischer said, she lost Rock and Holt and I believe that's Boyd. And she also lost Custer. But, nevertheless, the population is what it is. And if we're going to be talking about distances, I'd like to point out, as far as Senator Fischer is concerned, in her current district and that proposed by I guess it's AM1494, she has to drive 140 miles from Valentine down to Mason City in Custer County. Under our map, with the changes, she would be driving 160 miles to Crawford in Dawes County--that's about 20 miles farther--and she would be driving 104 miles to Stapleton in Logan County. Let's take a look down at 44. And I might point out in our map, 44, which is Senator Christensen, and 38, which is Senator Carlson--they changed very little. District 44 moves a couple of counties to the east, and I think Senator Carlson has already discussed some of the changes there. But in 44, under the current map, from Imperial, Senator Christensen would drive 104 miles to Beaver City in Furnas County. He would drive, under our map, 142 miles to Republican City in Harlan... [LB703]

SENATOR SULLIVAN: One minute. [LB703]

SENATOR NELSON: ...and under AM1494 he would have to drive 130 miles to Bushnell in Kimball and 114 miles to Hyannis way up there in Grant. Now, there's not much difference in that mileage there. So if we're going to talk about our map and 47 and say it's a long ways up there into Sioux County for whoever winds up in 47, yes, it's a little farther. But it's not much different under the Harms-Louden map as far as that's concerned--if you're going to have to drive way up to Hyannis or you're going to have to

Floor Debate
May 19, 2011

drive west. So it's all how you look at it. And I'm just going to point out that the way we have configured things doesn't change things nearly as much to the east, in some of the counties, as the AM1494 does. [LB703]

SENATOR SULLIVAN: Time, Senator. [LB703]

SENATOR NELSON: Thank you. [LB703]

SENATOR SULLIVAN: Thank you, Senator Nelson. The Chair recognizes Senator Dubas. [LB703]

SENATOR DUBAS: Thank you very much, Madam Chair. I think to say that the angst in rural Nebraska is very real and it's very palpable--and that is becoming more and more obvious as we listen to the discussion on the floor this evening. And I don't think we can minimize what anyone is saying. There is a great degree of truth in what everybody is saying. Because that's the reality that we are dealing with in rural Nebraska. And we knew going into this, you know, we knew we were going to lose a district. And there was that talk of two and even that outside talk of losing three districts. So when the reality set in that we were only going to lose one district, I mean, that was almost cause for celebration. But unfortunately, this is the trend we're in. And until we figure out a way to get more population built up out in rural Nebraska, this will be our reality. So this discussion is just framing what that reality really is. This conversation and what we've tried to do with the maps for redistricting reminds me of that carnival game. And I know I didn't work on maps nearly as much as some of the other senators did, but it was pretty fascinating with the software that we had. But any of you that have played that carnival game where you try to hit all of the heads as they pop up--and so you hit it over here and it goes down, but then something else pops up over on the other side. And there's just no way you can get those critters all to be down at the same time. And that's exactly what happened as we're trying to put these maps together. Because no matter whenever we solved an issue in one area of the state, we created another one in another area of the state. At the hearing last Friday, the residents of Alliance and Box Butte County and others out in western Nebraska made very compelling and very real arguments for why they preferred Senator Harms and Loudon's map. And I'm not going to disagree with a single thing they said. They were all very, very--very valid. But because of the reality of our population and especially the distribution of that population, we are faced with the challenges that we're dealing with here tonight. Senator Gloor--what he pointed out, that's very true. I mean, right now Hall County is divided into four--has four senators. We all work very, very well representing Hall County and Grand Island. But if you look on Senator Harms's map...the map that the committee is proposing is taking that down to three senators. Senator Harms's map still has it at the four, but what that map is proposing is...Grand Island is growing, and it's growing to the west; that's where the bulk of that growth is. So now, with that portion of Grand Island--Hall County being in District 41, the very real--the potential is very real for them

Floor Debate
May 19, 2011

to have a representative who lives as far away as Brunswick or Neligh. And, I mean, they certainly aren't the distances of some of the Panhandle and more western districts, but that's--there's not a lot of commonality between what those up in that part of District 41 would be dealing with versus what those in Hall County are dealing with. So with the committee's proposed map, with the compactness of that, even if you have a rural senator such as myself or Senator Utter or someone else, we have a connection with that area of Hall County and Grand Island in particular. So I think that's--to the citizens and residents in my district and that area of the state, these changes on Senator Harms's map are a--raises a great deal of concern for them. The purpose of the public hearing was to take input... [LB703]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB703]

SENATOR DUBAS: ...and we received input on the committee's map especially. The purpose of the floor debate is for us to continue that discussion. We have two proposals in front of us. You know, I think the committee would be at least willing to look at any other proposals that might be proposed. But again, we can't minimize the concerns of anybody that's being raised. We in rural Nebraska are faced with many challenges, and as we continue--as our population continues to erode and we continue to lose representation, this is a concern that will only grow in the future unless we can find ways to remedy it. It's hard for me to say that what Senator Harms has proposed is a bad map, because he's doing everything in his power to represent those areas in rural Nebraska. It's hard for me to say that the committee's map is a bad map either, because we tried to put together something... [LB703]

SENATOR COASH: Time, Senator. [LB703]

SENATOR DUBAS: ...that we thought represented those same issues also. Thank you. [LB703]

SENATOR COASH: Thank you, Senator Dubas. Those wishing to speak: Senators Wightman, Harms, Hansen, Gloor, and others. Senator Wightman, you are recognized. [LB703]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I want to add my thanks to the Redistricting Committee. I think they've worked extremely hard in a relatively short period of time. I really applaud their efforts. But with that having been said, I want to explore some of the situation that would change--my district would change, which is District 36. And I'd like to ask Senator Fischer some questions, if she would yield. [LB703]

Floor Debate
May 19, 2011

SENATOR COASH: Senator Fischer, will you yield? [LB703]

SENATOR FISCHER: Yes, I will. [LB703]

SENATOR WIGHTMAN: Senator Fischer, the biggest--one of the major differences between the committee map and the Harms map would involve our two districts, is that correct? [LB703]

SENATOR FISCHER: Are you speaking of Custer County, Senator? [LB703]

SENATOR WIGHTMAN: Well, I'm looking at your whole county but the fact that Custer County would be taken out of your district and added to District 36. [LB703]

SENATOR FISCHER: Yes, that would be correct. [LB703]

SENATOR WIGHTMAN: And I know there's been some expression of dissatisfaction with the district plan in Custer County, and I'm sure you've heard some of that. Is that correct? [LB703]

SENATOR FISCHER: Yes, I've heard from constituents in Custer County. [LB703]

SENATOR WIGHTMAN: Would you say that the major factor involved with them is a commonality of interest--that they really don't think they have the commonality of interest with the Platte Valley area and that they consider themselves ranching country, much as the rest of District 43 is? [LB703]

SENATOR FISCHER: The constituents I've heard from in Custer County--yes, they do relate more to Sandhills ranching than they do to the farming in the Platte Valley. It has nothing to do with you being the senator and that they would gain you as senator, because I know they would love you. [LB703]

SENATOR WIGHTMAN: (Laugh) Well, I just wanted to say that I thought probably they were in love with their current senator... [LB703]

SENATOR FISCHER: I hope so. [LB703]

SENATOR WIGHTMAN: ...and would not want to lose her. And I can understand that. But most of it, you would say, does have to do with commonality of interest. [LB703]

SENATOR FISCHER: Most definitely. Custer County relates to the Sandhills; they're part of the Sandhills. That's a trade area for them; it's a center of commerce for that area, for the smaller counties around it. So, you know, that's a concern for them. You know...I'm sorry, I won't use your time, Senator. [LB703]

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Floor Debate
May 19, 2011

SENATOR WIGHTMAN: Go ahead. [LB703]

SENATOR FISCHER: I was just going to say, you know, this has been a, you know, just a really tough process, when you're dealing with this. I mean, you're dealing with change. And it's--in working on the committee, it was tough too. If you look, you know, if you look at the maps, you'll see. The committee tried their best to go through this. It's not easy to lose a rural district. And the committee tried their best to go through it. And it was a question of how is this going to lay out the best. I think the committee did a good job. But we're seeing some major change happen in a couple districts. And that's the concern here. It's not a reflection on the committee, I can tell you. As you know, Senator Wightman, Senator Schilz and Senator Dubas and I--we met with all the other members of our caucus when we had this map, brought it out so everybody could look at it and work with it. And they... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR FISCHER: For the most part, the majority of members in our caucus did agree with it. [LB703]

SENATOR WIGHTMAN: Thank you... [LB703]

SENATOR FISCHER: But, you know, there are a couple areas of concern, and we've heard that from constituents. [LB703]

SENATOR WIGHTMAN: Thank you, Senator Fischer. And just in my remaining time, I do want to thank the committee for restoring all of Dawson County to District 36. We were lacking that part lying south of the Platte River previously. I do think we have more commonality of interest under the Harms amendment, in our district, in that it's all Platte Valley land, including that area of Buffalo County, although part of it gets up into the Loup. But--so I do appreciate the efforts of everybody that's been concerned. With that, I probably will support the Harms amendment. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senators Wightman and Fischer. Senator Harms, you're recognized. [LB703]

SENATOR HARMS: Thank you, Mr. President. Could you tell me how many--is this my second or third time? What--is this my second or third time? [LB703]

SENATOR COASH: This is your first after your opening. [LB703]

SENATOR HARMS: Okay, thank you. Thank you, Mr. President and colleagues. I'd like to take just a moment, if I can, to visit with you a little bit about community of interest.

Floor Debate
May 19, 2011

And you know, in my opening comments, when I was laying out my thoughts about this, community of interest--as you look through some of the research and the people who are experts in this field, as I brought out, this is a very high factor that people look at, about community of interest. And they try to mold a lot of their districts around community of interest. When you look at the map that I am presenting--or the amendment that I am presenting to you, community of interest is really kept whole here. And if you look at the highways that go across the northern tier, they lead into Chadron; you've got 385 that goes south. All--and on the southern tier you have the interstate. We're trying to--I was trying to keep--making sure that we could keep the community of interest alive and viable. Because when you look at it and you get right down to it, the way people shop, the kind of programs they go through educationally and in regard to whether it's Chadron or the community colleges, in regard to how they deal with tourism, how they do with--go about in their economic development, and whether they have interlocal agreements, all of those, colleagues, are kept intact. And all of that is critical and very important to this map that I'm recommending to you. When I look at the map that we have with the committee, when you pull Dawes County out of there and you pull Sheridan County out of there and you take part of Box Butte and give the rest of that, and give that to 43, Senator Fischer, you have lost--we have lost the community of interest, colleagues. It is not there. And I guess, as I look at this, if you're going to do it--if we're doing it right and these principles mean anything to us at all, this is very important. It's going to be very important to the people in western Nebraska; it's going to be very important to Senator Fischer's constituents in 43; it's going to be very important to 44. We've tried to put all that together, and we've tried to make sure that that was correct. And that we kept that all intact, that I think is important. I also want to bring to your attention--if you look further about community of interest and you look at the natural resources districts, the map that I am proposing to you takes almost--almost follows a line in that northern tier. You've got the Upper Niobrara River--or Niobrara--I guess that's North Platte...excuse me, I can't read my--I can't read...it's the Upper Niobrara. I'm having trouble because of the lighting, and I apologize for that. And then you've got the North Platte down in the portion around Scottsbluff. And then south of that, around the Kimball area and so forth, you have the South Platte. Then if you move a little bit further to the east, you'll take a portion of the Middle Niobrara, a portion--a small portion of the Upper Loup. And if you drop on down further, where Senator Christensen is today, you've got part of the Upper Republican. And what I'm trying to bring to your attention is, that still brings forth, when you look at the governmental structures that we have in rural Nebraska... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR HARMS: ...thank you very much, Mr. President...that's really important for us in that whole line of communication and community of interest. The lines that people shop, where they go to shop, is important. And this keeps in this line of the trade centers. And so I hope...as I realize, I understand that all of us have concerns and

Floor Debate
May 19, 2011

differences. And so if you look at community of interest and you look at the two maps, to me there's no question about which map it should be. And so I hope that as you look at this, you'll take into consideration that, as well as I realize that all of us have differences. But I keep trying to wrestle in my own mind about how can you measure the loss of a representative versus a county or versus a portion of a county. I don't know; that's hard for me to understand, because I believe in the fact that this will harm our representation in rural America. [LB703]

SENATOR COASH: Time, Senator. [LB703]

SENATOR HARMS: Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Harms. Senator Hansen, you are recognized. [LB703]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I want to continue on with what Senator Harms was just talking about and the community of interest. And I'm going to come up with a different conclusion, but I certainly do think that these maps should be drawn on a community of interest. I want to go back before we were here, before our grandparents were here, before our ancestors moved to the United States from any other country. There were communities of interest here then. And what those communities of interest are--were and are, is the river corridors. The river corridors--the Platte system and the Republican system in western Nebraska. And that's what I want to tune in here just a little bit. If you look at the map--and Senator Harms's area right now in District 48 is where the North Platte River enters the state of Nebraska. And if you look down in Deuel County, that's where the South Platte comes into the state. Both of these rivers comprise the Platte River system. They both start in Colorado, and they both start not very far away from each other. But they come together in Nebraska. And when we talk about a river corridor, we're talking about an economic community. I don't think we can dismiss that either. And Senator--currently, now, Senator Christensen's area--way before he was around, too, there was a Republican River, whatever it was called in years past. It started in Kansas, came through Nebraska, and goes back into Kansas. That is a community of interest based on a Republican River system. I favor...and we are losing population, and that's why I see Senator--I mean the District 43 that Senator Fischer represents now getting larger; there's less people there. There's less people in the old District 49. There's less people in all these western districts. Population is decreasing. But I want to make one thing very clear--very clear in this community of interest. We have less population, but all the cows get calved out; all the cows get taken to grass; all the corn gets planted; all the corn gets harvested that was ever there before; all the hay gets put up; all the hay gets fed in the wintertime. Why can we do this with less population? And how come we don't have hungry cows out there? How come we don't have empty cornfields? It's because of technology. Technology has made us more efficient in agriculture. And that is another

Floor Debate
May 19, 2011

community of interest based on these river systems, I feel. We have core districts. And we started out the discussion today about cores of interest. And the cores of interest go back way before we were here in these river corridors. You look at the Platte River that comes together in my district, in District 42. The confluence is just east of North Platte. But you go upstream from there, you find the North Platte River. There's miles and miles and miles of tributaries come down and feed those river systems. And it is a system. It's a system that starts in Colorado and goes all the way through Nebraska and empties out at Plattsmouth. This is a very important community of interest. My conclusion is that the Redistricting Committee's map is more correct because it keeps District 44 in the Republican River interest, the corridor of interest. And it keeps District 47, which both the North and the South Platte River flow through. And that's where Lake McConaughy is too. [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR HANSEN: So it's a huge irrigation system; it's a huge river system. Right now that river system is full and a little overfull, but we're dealing with it and we'll get through it. People said a couple years ago that McConaughy will never fill up again. Well, Mother Nature has a different view there, where it's going to fill up and it's going to get dry again, I'll guarantee it; both are true. It's way beyond our control. These river systems were here way before we are, and I think the maps that we politically have to make--the committee map is what I favor. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Hansen. Those senators wishing to speak: Senators Gloor, Larson, Loudon, Christensen, Hadley, and others. Senator Gloor, you are recognized. [LB703]

SENATOR GLOOR: Thank you, Mr. President. Good evening again, members. I want to make it clear, based upon a question that came to me, that I am not talking about trying to keep individuals within my district. My district has grown so much, which is a wonderful thing for Grand Island, that long ago I knew I would be saying goodbye to friends and supporters within my district. It was an inevitability. My district has to shrink and will get more compact. But what I am fighting against, what I am concerned about is, through this mapmaking going on, that people are trying to scavenge this district, to plug in a few numbers here and there to make it more convenient, to make it smoother for the transition to some of the other districts that are further to the west. And I don't blame them, because I'd do the same thing. They're watching out for their districts, their constituents, the concerns about representation--one person, one vote. So am I. But I think the scavenging of Grand Island, one of our state's largest communities...Mr. President, could I have a gavel, please. [LB703]

SENATOR COASH: (Gavel) [LB703]

Floor Debate
May 19, 2011

SENATOR GLOOR: Scavenging one of our state's largest communities is wrong. People have talked about trying to maintain consistency between rangeland, Sandhills, ag along river valleys--I understand all that. But I'm going to use the same argument when it comes to some of what AM1494 would do. You will have two senators who live in ag communities, whose district is primarily ag-related constituencies, who will also have small parts of Grand Island--5,000-6,000 constituents. Those people live within the city limits of Grand Island. They're hooked up with city power, because Grand Island has its own power district. They will be hooked up within the Grand Island Public Schools system, a school system that's been talked about in this body this year about its efforts towards truancy, a community that was talked about last year in its efforts to deal with gangs and gang-related problems. Do these sound like rural issues? And those individuals within Grand Island will be thrown in with people who have rural power, rural school districts, important rural issues, but they're within the city limits of Grand Island. And that's not right either. In fact, I would tell you that's worse, from a standpoint of some of the measures the proponents of AM1494 have thrown out there of compactness, keeping cities and counties together, pushing issues off on other senators who would be closer, and, as Senator Avery pointed out, a distortion. And I think AM1494 creates for an area of central Nebraska--and others, as other senators have pointed out--a distortion. There's no way to avoid some of these distortions. It's sad, but I think it's part of the inevitable discussion we have as rural Nebraska shrinks. I had a fascinating discussion with a reporter from Senator Harms's district at the Star-Herald last week about this whole issue. And since I had lived in western Nebraska some time ago, he wanted my perspective as an eastern senator. He considers me in Grand Island an eastern senator. And I laughed, and I said: In this body, you have to be east of the Pla Mor Ballroom, I think, to be classified as an eastern senator; and even then, that may not qualify you. But he sees me as an eastern senator. I see myself as a western senator. I think most of my eastern peers would also see me as a western senator. It's all relative. Distances that we drive, challenges that we deal with, whether we're manufacturing, farming, ranching, we all have our specific challenges. I think we need to stick with the work that... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR GLOOR: ...was done by the committee...thank you, Mr. President...and support AM1493 and LB703 and reject, unfortunately but I think correctly, AM1494. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Gloor. Senator Larson, you are recognized. [LB703]

SENATOR LARSON: Thank you, Senator Coash and members of the body. I kind of stand where Senator Carlson talked about earlier. You know, it's hard to stand up and say you're supporting one or the other, because you're kind of telling some constituents,

Floor Debate
May 19, 2011

yeah, I want to represent you, and other constituents, I don't want to represent you. And that's by no means the case. I currently represent Cedar, Knox, Pierce, and part of Holt County. And under the committee map I lose Pierce County, and Pierce County has been good to me. I think the people there are great; I had a lot of support in Pierce County; I really like the people there; and it's a disappointment to me that I lose Pierce County in the committee amendment map. But looking at the--at Senator Harms's AM1494 and--I look at his map, and I understand that, you know, the--his whole argument of communities of interest and we can't split up these communities of interest. Well, I look at it, and he's splitting up my district--two counties in my district, not just one. He chops Holt County up more than it already is and then Antelope County as well. And if Holt County is in a community of interest, then, I don't know, you know, it is just as much as Box Butte County. I think they both--Box Butte County has just under 11,000 people, and Holt County has just over 10,000. I think Holt County, with O'Neill and Chambers and Stuart and Ewing and Atkinson--I think they all have very similar interests, as do the towns in Box Butte County. I mean, it's inevitable that, you know, we might have to cut some up here or there. But, you know, Holt County had always been one until ten years ago, when it got split up. And I know the residents there--they didn't like it at the time. And I think it is time that we reunite Holt County as a whole, because--and that's one of the main reasons I like the committee map: it does reunite Holt County, and it puts it back with Boyd County. I know--I was looking back at the history of legislative maps. They've been together for as long as I could remember and saw the maps. So--and the fact that we can reunite those interests and--as well as keep counties such as Knox and Cedar and add Dixon I think is very good for District 40. Like I said, I'm disappointed to be losing Pierce, because I think the people are great there. But looking at it, we have to look at the good of the whole state, and I think the committee map does that. I think that it was a very careful deliberation. I think they did a great job with the deviations and looking. Not everybody is going to be happy, but I think they did a good job. And I'd urge your support of the committee amendment and against AM1494. Thank you. [LB703]

SENATOR COASH: Thank you, Senator Larson. Those wishing to speak: Senators Louden, Christensen, Hadley, Nelson, and others. Senator Louden, you are recognized. [LB703]

SENATOR LOUDEN: Thank you, Mr. President and members. As we--yeah, we talked about the discussion. I've kind of wondered about the deviations, because I'll point that out again that the--that ten of the districts in Douglas County ended up with deviations of under 4,658 people. So I kind of wonder about that. And yet seven districts in the city of Lincoln ended up with deviations of over 5,010 people. So when they talk about deviations, I'm wondering if they're looking at the whole numbers. Some of the things that was being discussed is the distance traveled. And there isn't much difference between the maps that they've shown. I was wondering if Senator Nelson would yield for questions. [LB703]

Floor Debate
May 19, 2011

SENATOR COASH: Senator Nelson, will you yield? [LB703]

SENATOR NELSON: Yes, I sure will. [LB703]

SENATOR LOUDEN: Okay, on--you were talking awhile ago as you were discussing the mileage and that you didn't think there was that much difference from one map or the other. So I guess my question is, if there wasn't that much difference in the mileage or anything, how come you came out with this committee map and didn't use the base map, which is the one that AM1494 is patterned after? I guess, how come you didn't use that map if there isn't that much difference in mileage? [LB703]

SENATOR NELSON: Are you talking about the base map or the current configuration of where the districts are right now, Senator? [LB703]

SENATOR LOUDEN: No, I'm talking about that base map that was floating around there, 23-002 or whatever it was, I think, at one time, which...the map that Senator Harms has brought forth here is patterned after that base map; there's not much difference between it and that base map. [LB703]

SENATOR NELSON: We--I don't have the base map out here. And we looked at it initially, and then we started out, and my recollection is that we really didn't come back to the base map. And I'll be talking a little bit in terms of how the committee's map does fairly conform in a lot of ways to the existing districts as they are now. But I won't take up your time. Go ahead. [LB703]

SENATOR LOUDEN: Well, I would question that, because there's quite a little bit of difference in them, because of where you've moved Custer County. I mean, you've moved a lot of real estate. Sure, there could be something in eastern Nebraska that doesn't move that much, but when you move whole large counties in the western part...I guess I'm wondering how come you used...I think that original base map showed 47 going to Sarpy County, instead of 49. And I'm wondering how come you kept 47 and worked the configuration clear up--cut Box Butte County off and then went up to Sioux County to add to 47. I'm wondering what the reason of thinking for that was. [LB703]

SENATOR NELSON: Well, the base map was what Research came up with to start with as they shifted things around. And we never used that. We didn't have any basis. So what I was interested in was looking at the mileage, the distances that have to be driven now in 47 and 49 and 44 and see how that was going to work out with the committee map as against the Harms map. And so that's--and I'll tell you right now, on a 12-inch ruler it's 38 miles per inch, so I kind of rounded things off. But I just wanted to have an idea of just how much farther the senator was going to have to drive under the committee map or the Harms map as compared with the way things are right now.

Floor Debate
May 19, 2011

That's what I was looking at. [LB703]

SENATOR LOUDEN: Well, I'm wondering, then, when you--if that base map that came out showed 47 going to Sarpy County, if there was any consideration given to a sitting senator or something like that to keep those districts in there so that you had... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR LOUDEN: ...sitting senators in--stayed in those districts. [LB703]

SENATOR NELSON: I just measured from where you are right now and where Senator Schilz is right now and where Senator Christensen is right now and what the difference would be, you know, depending on which map we take here--the committee map or the Harms map. That's all I did. [LB703]

SENATOR LOUDEN: Okay. Then when you were working on these maps for configurations, did you do any calculating for mileage then? [LB703]

SENATOR NELSON: No. No. Not a bit. Didn't even think about that at the time. It's only in our discussions now on the floor and--that this has come up. And so I thought, well, maybe I'd better take a look at it. [LB703]

SENATOR LOUDEN: Oh, I see. And then what was the reasoning, I guess, to make the configuration for 47 like it is now on the AM1493? Was there any particular reason for that type of configuration? [LB703]

SENATOR NELSON: I...it boiled down to... [LB703]

SENATOR COASH: Time, Senators. [LB703]

SENATOR NELSON: ...it boiled down to which district was... [LB703]

SENATOR COASH: Time, Senators. [LB703]

SENATOR NELSON: Thank you. [LB703]

SENATOR COASH: Thank you, Senators Louden and Nelson. Senator Christensen, you are recognized. [LB703]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, this comes down to winners and losers, changes being made, consistency. The difference comes down to--which map you decide is what happens to you individually. You know, I'm one of those that changes drastically: I stay extremely constant, just grow a little bit, versus half

Floor Debate
May 19, 2011

of my district disappears, I gain another new half; I change water basins, or I stay in the Republican. You heard Senator Hansen back there earlier talking about he wants me to stay out of the Platte River. You know, one of them keeps me out. We joke around about it--Senator Hansen and I get along great. But it is--they are different environments. And the Platte is one total different system than what the Republican is. And when you look at that, there is a lot of changes, you know. So that's what this comes down to. Everybody is going to have to make a vote upon this based upon how it affects them, their district, how they foresee the whole map or state and how they think it's the best. And, you know, if you think about it, for me it's nice to be able to concentrate...I've worked a lot on water issues and this being my fifth year down here. And I have concentrated on one basin, for the most part. I've been willing to work with the Platte, been willing to work with Niobrara and other areas also. But it's been nice to be able to concentrate on one area. Trade centers vary. You know, my district is one of those--the northern part will go north; a little of the eastern part goes east or northeast; the rest trade, majority of my district, right there in McCook. Trade centers--we've heard a lot about trade centers, keeping things constant, not trying to split counties or cities. And you know what, it's impossible not to do. But I just want to encourage people to look at this. I support the committee amendment, just--or committee map, just because it makes me constant. And, you know, it's unfortunate, but we all look at it selfishly, how it affects us, how is it going to...you know, I'm term limited, but it could change, you know. Who knows? Being 48, I could run again; I may never. You don't know. But you like consistency. We as humans don't like change. Unfortunately, we have that change because of population. You know, look them over, see what you like and support, and let's make a decision on this. And I'll encourage you to support the committee map and move the bill forward. Thank you. [LB703]

SENATOR COASH: Thank you, Senator Christensen. Those wishing to speak: Senators Hadley, Nelson, Lautenbaugh, Conrad, and others. Senator Hadley, you're recognized. [LB703]

SENATOR HADLEY: Mr. President, members of the body, first time I've spoken on this. I've listened to it a lot. Obviously, part of the problem in western Nebraska is the lack of people, plain and simple. We're going to have distances; it's just a matter of how large the distances are. Would Senator Harms yield to a question? [LB703]

SENATOR COASH: Senator Harms, will you yield? [LB703]

SENATOR HARMS: Yes, I would. [LB703]

SENATOR HADLEY: Senator Harms, I appreciate all the work you put into it, but I do have a few questions. One of the concerns I have with your map is Grand Island--basically, three senators taking a part of Grand Island. Are there many other cities in the state that are divided up like that? I know that Omaha and Lincoln are--but

Floor Debate
May 19, 2011

divide up the third-largest city so three senators take a part of it? [LB703]

SENATOR HARMS: You know, I don't know if there is or not, Senator. I kind of doubt whether we have done that in other cities, but I'm not sure; we'd have to look at it much more carefully. [LB703]

SENATOR HADLEY: Was there any consideration given, or playing around, to try and get Grand Island down to two senators representing it, or...? [LB703]

SENATOR HARMS: No. But if this body is willing to move AM1494, I'd be happy to sit down and work through all the issues that people have, starting tomorrow, to see if we can find a solution to this problem. So I would be open to that. And it all depends upon where they want to--how they want to deal with this issue. [LB703]

SENATOR HADLEY: Thank you, Senator Harms. [LB703]

SENATOR HARMS: You're welcome. [LB703]

SENATOR HADLEY: Senator Christensen talked about, you know, that we look at our districts and we try to see how it impacts our districts. It's interesting, I'm certainly satisfied with either one for my district, personally. In some ways I like one map, and in other ways I like the other map. But I think we have to do what's best for the entire state. And again, it's just too bad we don't have the population out in western Nebraska. And if you think it's tough for us this year, if you want to fast-forward ten years and take a look at what it might look like ten years from now, I think that people ten years from now are going to say how easy we had it when we were doing it here today. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senators Hadley and Harms. Senator Nelson, you're recognized. [LB703]

SENATOR NELSON: Thank you, Mr. President and members of the body. I want to say at this juncture that I think Senator Harms has done a really good job with AM1494. It's just a different approach. It's kind of a basic decision: well, are you going to take 47 out, or are you going to take 49 out? But in his opening remarks he talked about districts that were contiguous and compact and were communities of interest. And Senator Haar was good enough to send around a map that he had enlarged. And I just want you to take a look; that represents how things are right now. And as I pointed out before, District 47 really isn't changed on the committee map; it's--other than Sioux and Box Butte counties, it remains the same. And, you know, for the last ten years all of those people in there have been contiguous and compact, and they've developed a community of interest. If you go down into 44 as it exists now, you can say the same thing. I think Senator Christensen talked about the two river systems. But 44 is compact and

Floor Debate
May 19, 2011

contiguous as it is right now, and it remains pretty much the same under AM1493. So what bothers me a little bit about the Harms map, AM1494, is that 44, Senator Christensen's map, he loses half of it on the southern side there and he gains a lot of new counties up there and basically splits up what is now 47. And I don't know what the trade areas are, but I suspect that if you look at the Harms map, if you look at Ogallala, if you know where that is, and Scottsbluff and Alliance, I think the people are going to trade in the same areas, regardless of whether you lose 49 or 47. So my argument is, you know, if 49 was the one that the committee decided was best served to move, why, then let's keep as much as we possibly can. And that's what we did with 47 and 44; we didn't change much of anything. What we did change, of course, and what we had to change was the upper tier. And as I explained before, then we had to divide that up the best way that we could, and we made allowances; and it was certainly reasonable, in terms of Alliance, to do that. We couldn't avoid dividing Box Butte County, but nevertheless we have the same trade areas there. And it would seem to me that pretty much that land up there and the population is still pretty contiguous and compact, and they have a community of interest. So when you look at both maps, I think that I'm just--I've got a proprietary interest in what the committee did. I think we solved things perhaps in a little better way. And we--if you want to overlay our map with the way it is right now, I think we did a pretty decent job in keeping things in 47 and 44 and not changing them too much. It did affect, of course, 43, but that's pretty much still all Sandhills. And I guess the only thing that bothers me a little bit is Custer County. I don't know Custer County very well, but I suspect that the southern half of Custer County probably travels down into Dawson--Lexington and places like that--to do their trading, although they might trade other places too. [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR NELSON: I think that's all I have to say. I just urge that the body take a good look at the two maps, compare them with the current situation that we have now, and make your decision. And I would urge the members of the body to go with the committee map, AM1493, which is LB703. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Nelson. Senator Conrad, you are recognized. [LB703]

SENATOR CONRAD: Thank you, Mr. President. Good evening, colleagues. I stand in support of the Harms-Louden plan and the pending amendment. And if you look at your Committee Statement, you can see that I was the sole "no" vote against the legislative redistricting plan, and Senator Avery, Fischer, and Mello were present and not voting and had supported this plan that is before us now, when I did move it in committee on behalf of Senator Loudon and Senator Harms. And let me tell you why I think that LB703 in its current form, even with AM1493, is a flawed proposal. Throughout the process I had noted my concerns with the division of the city of Alliance. And also it

Floor Debate
May 19, 2011

hasn't received a lot of play tonight and that's probably because we haven't received a lot of feedback from the area, but in the current plan there is also a division of Nebraska City, which I find particularly odd and suspect in some ways. And if that's going to be how the body decides to move forward...to be clear, I don't represent that area, I don't represent western Nebraska, but as a member of the committee, I did feel that it was important to digest the input from all citizens across the state. And without question, there was a significant amount of opposition to the committee plan. The committee amendment attempts to address and minimize some of that opposition by technically keeping the town of Alliance whole, if you will. But it doesn't address the issues with Custer County, and it still divides Box Butte County, which, again, was very, very clear, from the public input, in opposition to those citizens' desires; and they provided a variety of thoughtful considerations about why they should be kept whole. I'm going to turn the remainder of my time to Senator Louden, but I did just want to point out as food for thought, in closing on my remarks: I've heard senators get up tonight on the legislative proposal and give passionate pleas about "don't divide our school districts, don't divide these counties or these districts that have been together for years, and that's a violation of the principles." Ask yourself those same questions when you go back and you look at the Congressional district map, because those issues are at play. And a lot of the senators who brought forward those issues tonight didn't say a word on the Congressional district map. And I think it's important that we at least be consistent. So with that, I'm going to yield the balance of my time to Senator Louden or Senator Harms, if they would so desire. Senator Louden? [LB703]

SENATOR COASH: Senator Louden, you're yielded 2 minutes 20 seconds. [LB703]

SENATOR LOUDEN: Thank you, Senator Conrad and members. They talked about there's winners and losers. And there shouldn't be any winners and losers in here, because we're supposed to be setting this up to--for the representation of the citizens of Nebraska. They're the ones that are involved in this; they're the ones that we're working for; and they're the ones that we should be looking out for. What I would point out is, as Senator Nelson had mentioned, when they were working on the map--but when you ended up with the map they had...and then if you look at the Committee Statement, there are five people that testified in favor of LB703, and there were 22 that testified against it. Now, that there should have told you something, that you have a problem here, when you--when it's, what, 4 to 1 against the situation. There's other questions when you've drawn this lines as they've gone up there and split Box Butte County and taken Alliance out of the Box Butte County area. I guess my question would be--is how come... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR LOUDEN: ...you didn't--how come you don't split Keith County? How come you don't split out around Ogallala? I think Senator Schilz lives west of Ogallala, so

Floor Debate
May 19, 2011

there's questions there. You could have put all of Box Butte together and all of Dawes, probably, in 47, if you'd had a configuration like that. So I'm wondering what the reason is, if it makes a difference who's on the Redistricting Committee how these are configured. Or are we looking out after the people in the state of Nebraska? Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Louden. Senator Council, you are recognized. [LB703]

SENATOR COUNCIL: Thank you, Mr. President. I yield my time to Senator Louden. [LB703]

SENATOR COASH: Senator Louden, 5 minutes. [LB703]

SENATOR LOUDEN: Thank you, Senator Council and members. When you talk about Grand Island, if you look on your map, Grand Island has been split with four senators for ten years, perhaps before that, for all I know; I didn't pay that much attention 20 years ago where the representatives were from. Grand Island sits out there in the middle of, you might say, a large agricultural area. And it is split four ways at the present time. If you look on there, on your maps, it's split the same way as it always has been split. I think, what, 34--33, 34, and 41, with 35 being the heart of the Grand Island area. As far as I know, it's always been like that. Something that you will see in the future, probably--the Kearney area may be reconfigured different. And that's one thing about AM1494: District 37 stayed the same and, as I say, in District 36--made Dawson County whole. So there are some--quite a few pluses, I thought, with the map that AM1494 promotes. There are some other areas there--probably as you go further east that changes, they will get longer. And as we've worked and as I've talked to people that did redistricting in 2000, the problem is always--it's always been the 800-pound gorilla down along the Kansas line. So those areas, you'd just as well set something up so that you can work in the future to go down through those areas. And as you notice, the map that's drawn by AM1494, as you square it up from the west, it'll probably be a lot easier for the next configuration to happen in ten years from now. Most everything will have to move east, I'm sure, as the population continues to grow in the suburbs around these larger towns. For instance, in Omaha, you want to remember here in the last ten years they lost population in those ten districts in downtown Omaha. And that still amazes me as why you're under the deviations with those districts in downtown Omaha, when they lost population in the last ten years. So perhaps ten years from now, are they going to be 5 percent under the deviations? Will you be creating a hole there in Omaha where the population is going to have to start being siphoned back into there? So this is a map that has been worked on; this is a map that the people have been satisfied with. These are the ones that, as we sent this map out around, is the map that the citizens are the ones that appreciate it. And as far as winners or losers, whether you move 49, if you have a concern about 44--I've said before, you've got two districts there and three

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

Floor Debate
May 19, 2011

numbers. So you can pick a number; you can do 49, 44, or 47. Doesn't matter to me which ones you put in there. I'm here for one more year. Put 47 in there where you have 44 if that will change a configuration, because then you don't have to worry about somebody living along the Republican River, because the Republican River doesn't come in till down by Benkelman or so. So at the western end of the county it isn't necessarily the Republican River Basin; it has some of it in there, but the river actually comes in from Kansas from the south. So there's other issues there that can be done. There were better ways of doing it than, I thought, AM1493. And you've noticed that some of the people... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR LOUDEN: ...testified on this bill testified the same way, that they're not satisfied the way it is. And that's a shame that we have a Farragut mentality here: go ahead and do it, and damn the torpedoes and full speed ahead. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Louden. Those wishing to speak: Senators Utter, Krist, Lautenbaugh, Gloor, and others. Senator Utter, you are recognized. [LB703]

SENATOR UTTER: Thank you very much, Mr. President. And good evening, colleagues. I actually stand here before you tonight conflicted about the two proposals that are before us. I would also tell you that I'm tired and I want to go to bed. But as I have looked at these, I appreciate the efforts that both the committee and Senator Harms has put in to these two proposals, and I recognize that both of them have very good points in them. The heartland of Nebraska, the south-central Nebraska area, a group of us--Senator Carlson, Senator Hadley, Senator Dubas, Senator Gloor, and myself--got together and thought we had a pretty nice little map worked out that we were all pretty much happy with and in agreement. And unfortunately, the Harms edition of the map kind of upset that apple cart a little bit. And while there isn't any of us, I don't think, doesn't think that we could adequately represent our new districts, if that was the way it ended up being, I'd have to say that from our perspective, from my perspective--I shouldn't speak for them--from my perspective, why, the committee map does look preferable to me. And I understand what it does out west, and I understand the problems in Box Butte County. And I understand those problems, but I just--I guess I just felt like I had to register in and indicate a preference. And even though it's close, why, I think I would stand and endorse the committee map at this time. Thank you very much. [LB703]

SENATOR COASH: Thank you, Senator Utter. Senator Krist, you are recognized. [LB703]

SENATOR KRIST: Thank you, Mr. President. The hour is late, and I echo Senator

Floor Debate
May 19, 2011

Utter's sentiments about going home and going to bed. However, the choice at hand here is to do a quality job for the citizens of Nebraska. I want to reiterate one more time, it is my intention to go back and, now that I've confirmed that with our LRO, with Nancy Cyr, to again try to look at that map that does not move any districts, by early tomorrow. And I would ask anyone who has an interest in doing that, including the committee members, to join me in that effort. With that, I will yield the rest of my time back. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Krist. Those still wishing to speak: Senators Lautenbaugh, Gloor, Fischer, Conrad, and others. Senator Lautenbaugh, you are recognized. Senator Gloor, you are recognized. [LB703]

SENATOR GLOOR: Thank you, Mr. President. And Senator Harms and I have been visiting just to get some clarification and confirmation on a comment Senator Louden made, which is that Grand Island has four senators. Grand Island does not have four senators. Hall County has four senators. And our excitement about the committee amendment, of course, was because we'd reduced that at least to three senators, not four. Grand Island within the city limits, at least as we have looked time and time again at the city limits of this community, is such that Senator Dubas, as I said, is fond of saying that she has me surrounded. She has the city limits around the core of Grand Island. The core of Grand Island is District 35. My concern is pretty simple. And that is, we're now talking about three senators representing Grand Island, not two, which is something that is problematic. Today there was a school that was visiting, and I was listed as the senator for that particular school. It wasn't me. It was Senator Dubas. These things happen all the time. They're going to happen even more. Now, those are little inconsistencies and little aggravations, but the reality is: the challenge for those people who live within the city limits of Grand Island is that the issues that they deal with, whether it's truancy, whether it's our struggle with gangs, whether it's our struggles with groundwater as a result of the Platte and the well fields--all of those are issues specific to Grand Island. Having a small number of Grand Islanders thrown in with a larger group of people is no different than some of the same problems that are being brought to us as a result of what's being proposed for western Nebraska. Maybe this is six of one, half a dozen of the other. And as I've said, I understand where Senator Louden and Senator Harms and other senators west are coming from; it's my same argument. The problem is, we take a problem in the western part of the state, we think we address it, but we shift it someplace else. There are no easy answers. Somebody's toes are going to be stepped on. What's the right decision? I'm sticking with the committee. And I'm sticking with the committee because I think it's more commonsensical for a district that represents a large number of people in central Nebraska, a large number of Nebraskans. And with that, I would yield the remainder of my time to Senator Dubas. [LB703]

SENATOR COASH: Senator Dubas, 2 minutes 30 seconds. [LB703]

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Floor Debate
May 19, 2011

SENATOR DUBAS: Thank you very much, Mr. President. And thank you very much, Senator Gloor, for that time. I just would kind of like to pick up where Senator Gloor left off. Right now the way the committee amendment is, it keeps that community of interest around Grand Island together. When I was campaigning in the Grand Island area, that was often a question I heard from those people when I knocked on their door, was: You're a rural senator; how are you going to represent my urban interests? And Grand Island is an urban community. But Fullerton, Central City, Aurora--all of those are communities that work, that go to the doctor, the hospital, they shop, they do a lot of things in Grand Island. So I had a connection with that community. I've worked very hard to build relationships with those portions of Grand Island that I represent. But I can do that because it's a compact area, it's a community of interest, and I share very many of the common concerns with those Grand Island people. But if we take the Harms map, where it takes that portion of Hall County, brings District 41 right down to around Grand Island, so you're going as far north, as I said, as up towards the Norfolk area, where there's a potential that someone up in that area--not that they wouldn't be a good representative, but it would be a whole lot more difficult for them to represent that community of interest. They don't shop there, they don't work there, they don't have any connection with those people in the Grand Island area. Again, Grand Island is growing to the west, and the way we have developed the boundaries between 35 and 34, we've made it a lot, hopefully, a lot easier for those residents of Grand Island to know... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR DUBAS: ...who they belong to, because there is some zigzag in there right now, and we've tried to clear up those boundaries. But, yes, Hall County has been in the past represented by multiple senators. But we're talking about specifically Grand Island, and right now there's two senators that represent the area of Grand Island. With the Harms map, you would be looking at the potential for three and with one of those senators not to even have any real, direct connection with that city. We're all looking out for our particular communities of interest. Everybody's arguments have been legitimate and have rationale behind them. These are very, very, very difficult decisions, but... [LB703]

SENATOR COASH: Time, Senator. [LB703]

SENATOR DUBAS: Thank you very much. [LB703]

SENATOR COASH: Thank you, Senator Dubas and Senator Gloor. Senator Fischer, you are recognized. [LB703]

SENATOR FISCHER: Thank you, Mr. President and members. In listening to the

Floor Debate
May 19, 2011

discussion, it's very obvious that we're a diverse state. And while many of you have talked about, just now, the situation in Grand Island and moving within that community and representing those folks, we've heard about representing different river basins in the state of Nebraska. My district currently is 1,700 square miles, and I represent seven NRDs and numerous river basins. I would hope my constituents would say that I've done a good job, even though there's a variety of interests there. Senator Gloor said that he represents a large number of people. I would remind him we all represent the same number of people in legislative districts; mine are just spread out quite a ways. I've always told you I represent more cows than I do people, and I think that explains the character of my district. I did vote to advance Senator Harms's map from the committee. It's similar to the base map that we had before us. It is similar to the first map that I drew as a member of the Redistricting Committee. I feel it is a more compact map. Obviously, I like it for my legislative district. This discussion reminds me of our school finance discussions, because we're looking at how it helps our district, and that's what I'm doing right now. As a member of the committee, those of you in the 3rd District caucus, we met, you worked on your areas, we tried to accommodate everyone. It's not possible. It's not possible because we lose a rural senator; that's tough. It's very tough to go through. But I need to tell you about the concerns of my constituents. There's concerns in Custer County; you've heard that. And again, it's no reflection on Senator Wightman. What my constituents are concerned about is they don't feel that connection with the Platte River Valley. They feel the connection with the Sandhills ranching community. If you look at the committee map, which I did not vote for, if you look at the committee map, my legislative district--we've gained Sheridan County, which is a ranching county and similar. We would gain Dawes County, which I would be honored to serve as well. And I would gain part of Box Butte with the city of Alliance. I worked--after the hearing that we had in order to make the city of Alliance whole, I have been in correspondence with a number of those people who are still Senator Loudon's constituents, but I have been in correspondence with a number of those people in trying to meet their needs in making the city of Alliance whole. And I hope I've been able to do that for them. But I would like to point out the distances involved here. If you're looking at compact districts, from Chadron, as I said...and I appreciate Senator Nelson's comments. You know, from Valentine to Broken Bow I said that's 132 miles, and--but the next senator won't be from Valentine, maybe, Senator Nelson,... [LB703]

SENATOR COASH: One minute. [LB703]

SENATOR FISCHER: ...because things change. And I only have one more year left. So we need to look at the entire size of the district. And as I said earlier in answering Senator Avery's question, from Chadron to Taylor--from Dawes County to Loup County--250 miles. Nobody in here can say that's reasonable. It's not. As we work through this, we need to take into account the entire state. I thank Senator Harms for introducing his amendment, and I do support it. Thank you. [LB703]

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Transcriber's Office

Floor Debate
May 19, 2011

SENATOR COASH: Thank you, Senator Fisher. Those wishing to speak: Senators Conrad, Ken Haar, and Christensen. Senator Conrad, you are recognized. [LB703]

SENATOR CONRAD: Thank you, Mr. President. I'd be happy to yield my time to Senator Harms, if he would like it. [LB703]

SENATOR COASH: Senator Harms, 5 minutes. [LB703]

SENATOR HARMS: Thank you, Mr. President. Thank you, Senator Conrad. Well, we've had good debate, colleagues. And I think there's just a couple more on the queue and we'll probably bring this to closure. But what I want to share a little bit with you as we begin to look at this, I would like for you just to keep in mind that I think for rural Nebraska and at least western Nebraska, I don't think it sends a very good signal to them and that we're willing to allow at least one representative to be moved to eastern Nebraska. And as I said earlier, I struggled a little bit with how do you weigh that out, about, you know, some of--or districts, maybe, or counties might be changed. But the major change is, quite frankly, in western Nebraska. A major change is in rural America, the very place that we're struggling for existence, the very place that we need to find a way to rejuvenate. So, colleagues, I don't--however this comes out, the one thing I think I will tell you, for whatever time I have left in this body that I'm going to work extremely hard to find a solution to recharging, regenerating, whatever term you want to use, to redevelop rural Nebraska. I've heard comments in here saying, well, you know, wait till the next decade. I don't want to wait till the next decade. By that time it will be totally a crisis. And what we have before us, colleagues, is the challenge to address the issue that's here. And if we walk away from this and we ignore this over the next three or four years or five years, we will be sorry for this. There are good opportunities and there are good possibilities for rural Nebraska. But we have to commit ourselves to that. We have to commit ourselves to understanding that rural Nebraska as it is today is at risk. I grew up in rural Nebraska, and I refuse to walk away from that issue. I think it's important for us to understand that unless we make that commitment, unless we start to put plans together to make it different, so that it has a future, hey, maybe District 44 or 38 or 41 will be next. What a tragedy that will be. Because we can--we can make a difference here. We can make the necessary changes in the future. And we need to make those fairly soon, because it takes a long time to bring this about. It takes a long time to change a direction. It takes a long time for us to be able to grow any part of Nebraska. I do believe that we have put the right things in place. The battles we've had, the debates we've had over the economic development bills all place us into a position to maybe start to turn this around. The University of Nebraska, in regard to its Innovation Campus, opens a door. For the first time, I think we see light possibility for rural Nebraska. Because not every business has to be--or every company has to be in Lincoln. As they grow and they develop and they spin off, we got opportunities here. Not only that, the University of Nebraska has been putting together a program to rejuvenate rural Nebraska. And, hopefully, there will be... [LB703]

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Floor Debate
May 19, 2011

SENATOR COASH: One minute. [LB703]

SENATOR HARMS: ...thank you, Mr. President...hopefully, there will be an opportunity this summer where rural senators can get together and have this discussion. Because we now have the challenge before us, and unless we step to that--step up and address the issue, the next time you have this conversation it is going to be much more difficult. And it doesn't have to happen. So I thank you, Mr. President and colleagues. [LB703]

SENATOR COASH: Thank you, Senator Harms. Senator Christensen, you are recognized. [LB703]

SENATOR CHRISTENSEN: Thank you, Mr. President. I won't take much time. I did want to correct one statement on the Republican that was made by Senator Louden. The Republican River has twin forks--one does come in from Kansas, one comes in from Colorado. But the river basin, when I speak of it, is where the drainage comes in--the Frenchman comes in on the north side. And every county in District 44 right now is in the Republican River shed, which means it all drains to the Republican. So it is one shed right now, and that was the consistency that I talked about earlier. I just wanted to correct that statement. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Christensen. Seeing no other lights on, Senator Harms, you're recognized to close on your amendment to the committee amendments. [LB703]

SENATOR HARMS: Thank you, Mr. President, colleagues. Well, I thank you tonight for the discussion, and I think it's been good discussion. But now it boils down to making a decision. And I've listened to everyone tonight, and I pretty much am sure and know how this vote is going to come out. But I think it's important to remember that we have a lot of challenges before us in regard to rural Nebraska. And a commitment that we're going to have to make, as I was talking to you earlier about, is what are we going to do to regenerate, redevelop rural Nebraska. So as you look at this redistricting, I guess you have to let your heart be the guide. I've done the best I can do for you. I've laid it out appropriately. I've told you how I reached the conclusions that I did. I told you what the principles were. And I suggested and showed you in discussion about how I felt about where we--whether the committee met those challenges. So now the time is to make a decision. And if--as I said, let your heart be the judge and the gauge. And I thank you for the opportunity to introduce this amendment. And I would urge you to support AM1494 to AM1493. So thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Senator Harms. Members, you've heard the closing to AM1494 to AM1493. The question is, shall the amendment to the committee amendment to LB703 be adopted? All those in favor, vote aye. Senator Harms. [LB703]

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
May 19, 2011

SENATOR HARMS: Thank you, Mr. President. I would like to have a call of the house. And then I would request a roll call vote for a record, please. [LB703]

SENATOR COASH: There's been a request to place the house under the call. The question is, shall the house go under call? All those in favor, vote aye; all those opposed, vote nay. Record, Mr. Clerk. [LB703]

CLERK: 40 ayes, 0 nays, Mr. President, to place the house under call. [LB703]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, return and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Lathrop, please check in. All members are present or accounted for. There's been a request for a roll call vote. Members, the question is, shall the amendment to the committee amendment to LB703 be adopted? Mr. Clerk. [LB703]

CLERK: (Roll call vote taken, Legislative Journal pages 1708-1709.) 12 ayes, 28 nays, Mr. President, on the amendment. [LB703]

SENATOR COASH: The amendment is not adopted. Speaker Flood for an announcement. Raise the call. [LB703]

SPEAKER FLOOD: Thank you, Mr. President. Good evening, members. Working into the night again. Appreciate everyone's efforts. It's my intent to stay in tonight until this bill is resolved, if possible. I want to make very clear that the CIR amendment, as it relates to LB397, the Commission on Industrial Relations bill, introduced by Senator Lathrop, has been filed. This does represent the compromise that was discussed earlier this afternoon. It is found on your gadget as AM1528. That should be showing up right now on the public. And for citizens across the state, I want to make everyone aware of that. Again, it's my intent to stay in tonight until we resolve LB703. And for two reasons tomorrow we will start at 10:30 a.m. Again, we will start tomorrow morning at 10:30 a.m. The first reason is obviously because we have been working late the last two nights. And the second, and equally as important, is that I want to give the citizens of the state time from now and into the start of the business day tomorrow an opportunity to review the language that represents the compromise in LB397 relating to the Commission on Industrial Relations. And a 10:30 start accommodates both of those interests. So with that, thank you again for your efforts tonight, and I look forward to resolving LB703 this evening. Thank you, Mr. President. [LB703]

SENATOR COASH: Thank you, Speaker Flood. We return to discussion on AM1493. Seeing no lights on, Senator Langemeier, you are recognized to close on AM1493. [LB703]

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Floor Debate
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SENATOR LANGEMEIER: Mr. President and members of the body, I appreciate the discussion we've had here today. I've got to say, in my seven years in working in the Legislature, this has got to be the hardest issue I've ever been asked to take on. And so many of you that had asked me as a member of the Exec Board to be on Redistricting, many of you have come to me and said: Man, I'm glad you didn't put me on there. I might have joined you on that same discussion, as of today. Again I'd ask for your support of AM1493, one more time, and then LB703 after that. Thank you. [LB703]

SENATOR COASH: Thank you, Senator Langemeier. You've heard the closing to the committee amendment, AM1493. The question is, shall the committee amendments to LB703 be adopted? All those in favor, vote aye; all those opposed, vote nay. Have all voted who wish? Record, Mr. Clerk. [LB703]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB703]

SENATOR COASH: The amendment is adopted. Discussion on the advancement of LB703 to E&R Initial. Seeing no senators in the queue, Senator Langemeier, you're recognized to close on the advancement of LB703. [LB703]

SENATOR LANGEMEIER: Mr. President and members of the body, I thank all of you that are still here at this late hour to deal with one of the biggest issues--one of many big issues that we have dealt with this session and ask for your support of LB703. Thank you. [LB703]

SENATOR COASH: Thank you, Senator Langemeier. The question is the advancement of LB703 to E&R Initial. All those in favor, vote aye; all those opposed, vote nay. Have you all voted? Record, Mr. Clerk. [LB703]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB703. [LB703]

SENATOR COASH: The bill is advanced. Mr. Clerk, items? [LB703]

CLERK: Mr. President, one. Senator Lathrop would offer AM1528; that will be printed. (Legislative Journal page 1709.) [LB397]

I have a priority motion. Senator Bloomfield would move to adjourn the body until Friday morning, May 20, at 10:30 a.m.

SENATOR COASH: Members, you've heard the motion. All those in favor, say aye. All those opposed, nay. We are adjourned.