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Floor Debate
February 04, 2014

[LB48 LB54 LB96 LB278 LB399 LB474 LB503 LB588 LB711 LB718 LB719 LB740
LB790 LB843 LB850 LB859 LB869 LB872 LB967 LB1001 LB1010 LB1102 LR433]

SENATOR KRIST PRESIDING

SENATOR KRIST: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the nineteenth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Senator Avery. Please stand.

SENATOR AVERY: (Prayer offered.)

SENATOR KRIST: Thank you, Senator Avery. I call to order the nineteenth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: Your Committee on Health and Human Services reports LB54 and LB711 to General File with amendments attached. That's signed by Senator Campbell as Chair. Senator Sullivan has selected LB967 as one of the two Education Committee priority bills. That's all that I have, Mr. President. (Legislative Journal pages 439-440.) [LB54 LB711 LB967]

SENATOR KRIST: Any corrections for the Journal?

CLERK: No corrections.

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

CLERK: Senator Crawford would move to withdraw LB1102. [LB1102]

SENATOR KRIST: Senator Crawford, you're recognized. [LB1102]

SENATOR CRAWFORD: Thank you, Mr. President and good morning, colleagues. Today, I'm withdrawing LB1102. In November of 2013, Shelley and Dominic Gillen brought their son, Will, to one of my town hall meetings to share their story. Will suffers from severe seizures that have been resistant to other treatments. In 2013 increasing attention had been given to promising results from initial peer-reviewed research on CBD oil and highly publicized cases in Colorado where CBD oil can be legally used in that state. I introduced LB1102 on day ten of this session after many discussions with

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families, the Department of Health and Human Services, physicians and others. At that time we were still in discussions with physicians since this issue came to our attention so late in 2013. Also at that time we knew that the top pediatric neurologist from the flagship university in Utah had come out in support of efforts in Utah to pass a similar bill. So we knew it was possible that a reputable epilepsy specialist in Nebraska might take a similar position. From the beginning, our intent was only to pursue this bill if at least one epilepsy specialist affiliated with our Level IV Epilepsy Center in our state, was willing to support the law and use it in their work with patients. At this time, these physicians in our state are not ready to do that. I introduced this bill because I felt it was important that we have a conversation about hemp oil and its potential to help children and others who suffer from devastating seizures. With this complex of an issue my initial plan usually would have been to start with an interim study, but the situation for these children is so dire, and the legal landscape and research on this issue is moving so fast, that I wanted us to have a framework for moving forward if the epilepsy specialists in our state were ready to do so. There are now 2,800 signatures on an on-line petition started by the Gillen family in support of legalizing hemp oil. All of these people have expressed an interest in having this discussion in Nebraska. I am grateful to Senator Ashford, a cosponsor of this bill, who agreed as Chair of Judiciary, to allow us to have a hearing in the interim on this issue. This morning I will introduce a legislative resolution that calls for an interim study on hemp oil and its use in treatment of epilepsy. Efforts are underway by Republican lawmakers in at least two other states, Utah and Alabama, to allow narrowed decriminalization based on severe risks these children face and the promising initial results from hemp oil. Moreover, the farm bill making its way through Congress includes an industrial hemp provision. And we have a bill before us, Senator Wallman's LB1001 that could change the legal landscape for hemp in our state. An interim study will allow us to see what has happened in other states that are attempting to decriminalize hemp oil, and to examine the implications of changes in the legal landscape of hemp production and licensure, and any advances in additional medical research. I urge your support of the motion to withdraw LB1102. Thank you. [LB1102 LB1001]

SENATOR KRIST: The floor is now open for debate. You've heard the motion to withdraw. Senator Wallman, you're recognized. [LB1102]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I would like to thank Senator Crawford for the effort she put into this and we'll see where we go from here, and thank you. [LB1102]

SENATOR KRIST: Thank you, Senator Wallman. You have heard the motion to withdraw. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB1102]

CLERK: 41 ayes, 0 nays, Mr. President, to withdraw the bill. [LB1102]

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SENATOR KRIST: Speaker Adams, you're recognized. [LB1102]

SPEAKER ADAMS: Thank you, Mr. President. Members, in light of the impending weather, what I think we'll do tomorrow morning is to start at 10:30 rather than 9:00. That will give those traveling a distance a little extra time to get here and the weather promises to straighten itself out a little by...as the day wears on tomorrow. So a 10:30 start tomorrow. Thank you, Mr. President.

SENATOR KRIST: Thank you, Speaker. Next item.

CLERK: Mr. President, LB399, on Select File, discussed yesterday. When the Legislature adjourned for the day, Senator Chambers had pending a motion to bracket the bill until April 17 of 2014. [LB399]

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

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, from the very beginning I've been opposed to this bill. It does offer the appearance or badge of authority which ought not be done. These people may have the purist of motives, the best of intentions, that is not what is at play here. We are dealing with a situation where these lights are to be made available to an indeterminate number of people and an indeterminate number of organizations. I'd like to ask Senator Lautenbaugh a question or two, if he will yield. [LB399]

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

SENATOR LAUTENBAUGH: Yes, I will. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, and if you don't know the answer, I don't know the answer, how many of these groups currently are operational in Omaha? [LB399]

SENATOR LAUTENBAUGH: A number around 200 sticks in my head, but I can't vouch for the accuracy. [LB399]

SENATOR CHAMBERS: That's...okay. That gives kind of...I started to say graveyard. That gives a ballpark number. Now I'm not through quite. If an officer of the law in certain areas were to stop one of these people, will the individuals have some kind of identification provided by whoever authorizes them which shows that they are part of this group? [LB399]

SENATOR LAUTENBAUGH: That was a detail we left to the local authorities. [LB399]

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SENATOR CHAMBERS: Okay. But right now, that is up in the air. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: The county attorney would have sole and complete discretion to determine the conditions, the areas, and who should be authorized to utilize these lights. Is that true or is that false? [LB399]

SENATOR LAUTENBAUGH: To the point of whether or not they're even used at all, yes. [LB399]

SENATOR CHAMBERS: Okay. That's all that I would ask you. Thank you. Members of the Legislature, I will tell you that this morning there will be a discussion of some legal issues and I wish that those who have an interest in this bill would pay attention. But being practical, if you don't pay attention, I thoroughly understand that. One matter which I touched on when I was first attacking the bill was elaborated on by Senator Lathrop yesterday and that is the total absence of any guidelines whatsoever. The county attorney would have absolute discretion in determining who will use these lights, the conditions under which they will be used, and the areas where they will be used. I'm going to ask Senator McGill a question, if she would answer. [LB399]

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

SENATOR MCGILL: I will. [LB399]

SENATOR CHAMBERS: Senator McGill, does your committee deal with cities or would that be a different committee? [LB399]

SENATOR MCGILL: That's my committee. [LB399]

SENATOR CHAMBERS: Senator McGill, do you have any idea of the number of cities in Douglas County? [LB399]

SENATOR MCGILL: (Laugh) A metropolitan class, one. [LB399]

SENATOR CHAMBERS: That's one. [LB399]

SENATOR MCGILL: Yes. And then there are... [LB399]

SENATOR CHAMBERS: I don't mean just metropolitan class. [LB399]

SENATOR MCGILL: Okay. So Valley, Bennington...I would guess around five. [LB399]

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SENATOR CHAMBER: Okay. Thank you. That's a good ballpark figure. I would like to ask Senator Ashford a question or two if he will respond. [LB399]

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

SENATOR ASHFORD: Yes. [LB399]

SENATOR CHAMBERS: Senator Ashford, do you have any idea how many neighborhoods or neighborhood groups there would be in each of these cities? [LB399]

SENATOR ASHFORD: I think there are over 100 in Douglas County, but I could be wrong. In the smaller cities there are probably...guessing, probably, I suppose 10 to 15. [LB399]

SENATOR CHAMBERS: But quite a few in any case. [LB399]

SENATOR ASHFORD: Yeah, yeah. [LB399]

SENATOR CHAMBERS: Now if the county attorney is going to be the one authorizing these people, that places responsibility on that office...I'm not through with you yet, Senator Ashford. That would place...if the county attorney is the one to authorize and register these people, that would place a duty on the county attorney to deal with potentially at least a hundred of these organizations throughout the county. Is that true or false? [LB399]

SENATOR ASHFORD: I think that number is a fair number, yes. [LB399]

SENATOR CHAMBERS: Thank you. That's all I will ask you. Members of the Legislature, this bill is impractical, it is unworkable, and it is unconstitutional. And I will go into that in more detail as we proceed. This bracket motion would rid us of this piece of legislation without a discussion on killing it. If we reach the point where cloture is invoked--and I'm going to say this several times--failure of this bill to succeed in obtaining a vote to cloture does not prolong the discussion, that ends the discussion. It doesn't kill the bill. It doesn't bracket the bill, but in effect it assures that it will not come up again this session unless Senator Lautenbaugh, or somebody, would prioritize it. I'm serious about this bracket motion and I'm serious in my contention that the bill is unconstitutional, but I wouldn't expect you to take my word for that, so I will present you with arguments as to why I say it. When we were talking about this bill yesterday and had talked about it on previous days, the Trayvon Martin case was mentioned. That is the incident in a Florida city where a white guy whom some say is Latino, but he was adopted by a white family, was a member of one of these watch groups. He patrolled the area in his own vehicle. People knew he was a member of their organization. As far as was developed, there were no incidents similar to this one involving Trayvon Martin

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in which he had been...with which he had been associated. He saw a young black man...actually he was a youth, in a neighborhood where even though the young man's father lived, Zimmerman, the shooter, felt he had no right to be there. So he began to follow him. He called the police. The police told him, don't follow him, don't contact him. But Zimmerman disregarded those instructions from the police. There was an encounter and the young black person was shot dead. Zimmerman said he acted in self-defense. A jury acquitted Zimmerman. When jurors were questioned later, they said they felt that Zimmerman had acted inappropriately, but based on the instructions given to the jury, they felt they had no choice. Other developments later caused some of them to say that they regretted the vote of acquittal. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: All of that is neither here nor there as far as whether Zimmerman should have been convicted of a crime or not. It is very relevant in terms of how people who do these kind of activities can go beyond what ought to be the case, and once that happens, somebody is liable. As it turned out in Florida, a settlement was reached between that neighborhood organization and the family. In this case, the county attorney is going to be exposed to liability because of the deep involvement of the county attorney. I hope you will vote in favor of this bracket motion. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers. (Doctor of the day introduced.) Continuing with debate, Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, I had said this bill, in my view, is unconstitutional. And I'm going to pass around some material which would state and give authority for that opinion. When I ask Senator Lautenbaugh questions, I had asked him and he answered yes, does the county attorney have absolute discretion in determining the conditions under which these lights will be granted, the people involved will be authorized and the areas. I'm handing out this sheet and it has pasted on it the amendment which has become the bill. I underlined the following words, "under such terms and conditions and within such areas as determined by the county attorney." There are two citations. The number of such citations would be almost limitless but the principle is articulated here. The first is from Black's Law Dictionary. Defining...9th Edition, defining the term "delegation of powers." That is a transfer of authority by one branch of government to another branch, or to an administrative agency. See Delegation Doctrine. This is the definition of Delegation Doctrine. It has in parenthesis, 1883, the two words italicized "constitutional law," period. The principle, parenthesis, based on the separation of powers concept, closed parenthesis, limiting Congress' ability to transfer its legislative power to another governmental branch, especially the executive branch. Then beside that is a citation to a Nebraska case. School District No. 39 v. Decker. It's found at Volume 159 of the Nebraska Reports, page 700. And this is

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the quote, and there are several of these quotes in the cases dealing with the unauthorized delegation of legislative power. A statute which in effect reposes an absolute unregulated and undefined discretion in an administrative body bestows arbitrary powers and is an unlawful delegation of legislative powers. The presumption that an officer will not act arbitrarily but will exercise sound judgment and good faith cannot sustain a delegation of unregulated discretion. There is total absolute discretion in the county attorney with no guidelines or limits. The Nebraska Supreme Court has stated that it is not an unconstitutional delegation of legislative authority if the Legislature enacts a bill, clearly states the goals and the purposes, authorizes an agency to carry out the details of that legislation, but it gives guidelines, directions, limitations... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: ...and regulations which that agency must follow. None of that is available in this bill. It is, in my opinion, unconstitutional, and if you want to ask the attorney general, ask him for an opinion. But the law is crystal clear. And there is a conflict in the bill itself, but I will deal with that later. We are going to take this bill to cloture. So it really doesn't matter what is discussed, but I wanted that aspect dealing with the unconstitutionality of the bill in the record at the outstart. And if people don't read it, if they read it and reject it, that doesn't matter. It is a part of the legislative history. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

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

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do anticipate asking for a cloture vote at 11:00. I apologize--give or take--I apologize for the weather and the inconvenience of this, but it is what it is. To no one's surprise, I don't share Senator Chamber's constitutional concerns on this. If they were genuine, I think they may have been brought up in the interim. Careful observers of the Legislature will note that we have had ample, ample, ample discussions with attorneys in the interim between General and Select File, all sorts of attorneys, named and otherwise, repeatedly. And this is the first we're hearing of this concern and I don't share it. And I don't think it's real. And I remember referring in sessions gone by to something called constitutional open mike night where, if you didn't like something, you would raise constitutional concerns and say, oh, gee, I have constitutional concerns about this, maybe we should wait while we get an attorney general's opinion. We had a bill earlier this year where someone suggested that you'd be laughed out of whatever, the

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Governor's Office, if you requested extradition. I wonder what the response would be in the AG's Office if we requested a constitutional opinion on the amber lights bill. I'm sure they would drop everything and pounce on the seminal issue of amber lights and the constitutionality of...keep in mind what we're talking about here. The constitutionality of the county attorney, or his designee as my amendment would provide, approving neighborhood watch organizations who want them, having amber lights. Often things are constitutional until they're challenged. Can you imagine the individual who would even mount the constitutional challenge to this. Maybe one guy. Other people would look at this probably and go, wow, it's amber lights on neighborhood watch cars. Who would have a problem with that? The neighborhood watch groups surely don't. And this will just probably offend some people to no end, but people do watch the Legislature and I had someone tell me last night, I was at that same rally that was decried as a carnival yesterday, and I had people come up to me and say, hey, we're in neighborhood watches too, we would like the amber lights on our cars too. And I realize that makes me a poser or a Johnny-come-lately, or whatever the term was yesterday, for even mentioning that someone said something at the rally that was supportive of this bill, but unfortunately it was said and it was at the rally. So am I supposed to not say where it was said? I'm certainly not going to identify the speaker because we all know what happens there until someone has to come to the mike and confess because it's suggested I'm manufacturing it, until someone fesses up to it. But I think we all need to take a deep breath here and recognize that just because someone says, oh, I think there are constitutional concerns, that doesn't mean in the real world outside of this Chamber there really are constitutional concerns that have any legitimacy whatsoever. And this is one of those times where you're being told... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR LAUTENBAUGH: ...because it's getting late and cloture is nigh, well, gee, there's constitutional issues here on the amber lights bill. It's curious it eluded committee counsel last year, a constitutional issue of this magnitude. I'm sure it wasn't the county attorneys involved, it was local law enforcement, but I'm assuming the same grave constitutional infirmities would apply whether it was the sheriff or the county attorney with this unfettered discretion to do something of this magnitude. Now I'm not throwing committee counsel under the bus, I'm pointing out the absurdity of this constitutional argument to those who are still listening, both of you. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized, and this is your third time, sir. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Lautenbaugh wants to talk about the orange lights, the amber lights. I'm talking about a constitutional issue. When I was not in the Legislature, Senator Lautenbaugh

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and others voted for a bill that will let a county sheriff or a jailer determine what constitutes contraband and if somebody brought it in, it would be a crime. I wasn't even in the Legislature. I read about it in the paper. I've talked to the Governor's Office, I've talked to the Speaker of the Legislature, and the Governor called in the person who had brought the bill and it was deemed to be an unconstitutional act because Senator Lautenbaugh and others who supported it did not realize that the only entity in government that can create a crime is the Legislature. They had delegated that power to a jailer. That bill was withdrawn by the introducer. An attorney general had said, we could not as senators get expenses during the session. I'm showing you concrete cases that I handled, that I initiated, that I worked on. I brought the legislation. It went to the Supreme Court. All of the attorneys general who had said we could not get the expenses were found to be wrong. A judge allowed a very critical insulting grand jury report to be included in the court files. I read the law and pointed out that it was in violation of the law. It went to the lower court, ruled against me. I took it to the Supreme Court. The Supreme Court agreed with me and expunged that from the record. That was taken out of the record. I've had speeding tickets and I would take them to the Supreme Court and win. I would win those tickets at lower courts because I used the law. I can show you a case where Senator Lautenbaugh, as election commissioner, violated the terms of the law by switching numbers of school district...of the districts that comprise OPS. And certain people would have been given an advantage, others disadvantaged. He admitted when it went before the court that he had not...he didn't have the authority to do what he did. And the Supreme Court said, you can't do that. You don't have that authority under the law. We're talking about the law here. And whenever the issue is raised, it should be given consideration, but I wanted to be a part of the record and I will. I will challenge it just as I challenged the ordinance in Omaha to have red light cameras at intersections and the city attorney mocked. He said, there's no way Chambers can win this. But the judge ruled in my favor because I read the law, applied the law, and the ordinance violated state law. You can laugh with Senator Lautenbaugh if you want to. This issue is not amber lights. This issue is the improper delegation of legislative authority. And since he has persuaded some of you, I guess, by simply saying what he said, this is what will be discussed additionally. I'm going to offer, probably a reconsideration motion. And it won't make Senator Lautenbaugh any difference because he knows we're going to continue the discussion. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: And there is, as I stated, a conflict in the law as amended by Senator Lautenbaugh and his friends, the County Attorneys Association. I said, we'll deal with legal issues and that's what I intend to do. I'm going to show you where he had initially said the county attorneys were okay with the amendment as he offered it. Then when he brought a letter from them, they told him, we're not okay with that, you have to change it. You have to put "or designee" and that will take care of the problems we had with it. Well, why didn't they tell him those problems when he first talked to them

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and told us that he had talked to some of them and that they were all okay with it? He talks and he says things, but they're not accurate. And we'll have an opportunity to...at least, I'm going to present matters to you. He can discuss them or ignore them... [LB399]

SENATOR KRIST: Time, Senator. [LB399]

SENATOR CHAMBERS: ...but they'll be a part of the record. Mr. President, I will ask for a call of the house. [LB399]

SENATOR KRIST: Was that your closing, Senator? [LB399]

SENATOR CHAMBERS: Oh, I thought you said it was. [LB399]

SENATOR KRIST: That's your third time. You still have your closing left. [LB399]

SENATOR CHAMBERS: Oh, okay. All right. [LB399]

SENATOR KRIST: So are you withdrawing your call? [LB399]

SENATOR CHAMBER: Yes. [LB399]

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

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Chambers would yield to a question? [LB399]

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

SENATOR CHAMBER: Not only to this one, but to any number that you have. [LB399]

SENATOR LAUTENBAUGH: Thank you, Senator Chambers. You mentioned that lawsuit about the OPS districts? [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR LAUTENBAUGH: Do you know the name of that case? [LB399]

SENATOR CHAMBERS: Your name was in it. [LB399]

SENATOR LAUTENBAUGH: Do you know anybody else's name that was in it? [LB399]

SENATOR CHAMBERS: I don't know, it might have been a school board member or a

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citizen. But a school board member had resigned when he wound up in the same district and he was concerned, so I don't know if he's the one who brought the lawsuit. [LB399]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator Chambers. We're going again, it appears, have another discussion of my accuracy, I guess, in reporting what the county attorneys said and maybe go down discussing what this letter that we have actually means for those of you paying attention. Let me point out one thing. Senator Chambers just went through a litany of lawsuits that he was involved in to somehow demonstrate that he's authoritative on this stuff and he mangled the holding of a lawsuit regarding an OPS redistricting case I was involved in. Curiously, there was a lawsuit that Senator Chambers neglected to mention, but you can look it up if you're inclined to. It's called Chambers v. Lautenbaugh. Yes, Ernie Chambers v. Scott Lautenbaugh, where Senator Chambers sued me because I redistricted the Omaha City Council Districts to put them in balance back in 2001. Because of annexation, the west Omaha districts were huge and the east Omaha districts were small populationwise. Senator Chambers sued me because every fool knows you can only redistrict every ten years, I was told. Went all the way to the Supreme Court and Senator Chambers lost to that lawsuit. The Supreme Court said, you are not reading the law correctly, Senator Chambers, even though you may have been involved in crafting it. So I don't know why that one lawsuit...it would seem to be germane to this discussion since it seems to involve the two of us, oddly enough, unlike all the other ones that were mentioned. And it involved a law that you drafted that you weren't reading correctly, I believe, if memory serves. And somehow that did not make the hit parade of legal decisions that you were discussing earlier. So I have some decisions I can talk about, too, at the Supreme Court where I have had some success recently and historically, one of which involving yourself. And when I stand here and say I don't believe this is unconstitutional, I have a little bit of background as well. And this is not unconstitutional. This is a new issue here thrown up at the eleventh hour. And I again don't think that I've made any attempt to mislead any of you on any of this. I don't think the County Attorneys Association has made any attempt to mislead any of you on this. I think they would pay real money not to have ever been involved in this discussion. I can think of one man in particular who wishes he was never, ever, involved in this discussion. You heard erroneously yesterday, it was alleged that I'm the one who brought him up. I demonstrated that was not true from the transcript, but I'm sure we'll hear more about him today. And it was not his intention to be involved in this. He is a good public servant up in Omaha, in Douglas County, and he will faithfully implement this because again, at a very basic level, this is not a big deal. And we are being told today... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR LAUTENBAUGH: ...that somehow people who make decisions whether or not to charge people with capital murder cases, should not constitutionally be trusted

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with the discretion as to whether or not neighborhood watch groups should have amber lights. And this is a remarkable argument, I think. And so I will have the constitutional discussion and I'll be happy to discuss the bill with anyone who would like to, but I do have some background in this as well. I just don't stand up and choose to crow about it and try to intimidate people from talking about the topic. But I have my credentials as well, and I'll engage in the debate as needed. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Ashford, you're recognized. [LB399]

SENATOR ASHFORD: Thank you. I have a slightly different concern, but I'm going to give Senator Chambers some time to maybe respond. My concern has to do generally with the idea that a county attorney...a prosecuting attorney would be involved in making a decision on neighborhood watch groups in any way, shape or form, because it is potentially possible that you could have a prosecution involving a neighborhood watch group and another individual, hopefully not Trayvon Martin, but something similar where there is a prosecution initiated by a neighborhood watch group and that neighborhood watch group is, in effect, empowered to do various things, including have lights on the cars or whatever it may be. So my question is really more precedential. But with that, I'd give the rest of my time to Senator Chambers, if he wants to answer that or talk about. [LB399]

SENATOR KRIST: Senator Chambers, you're yielded 4 minutes. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I mentioned cases that I had directly engineered or handled. I'd like to ask Senator Lautenbaugh a question or two. [LB399]

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

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, in the case that I mentioned involving you, who represented you in that case? Who was your lawyer? [LB399]

SENATOR LAUTENBAUGH: The one about the school districts? [LB399]

SENATOR CHAMBERS: Yes, the one that you lost. [LB399]

SENATOR LAUTENBAUGH: That would have been...his last name was Smith, on appeal. In the trial level, I handled it personally. [LB399]

SENATOR CHAMBERS: And who handled the appeal? [LB399]

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SENATOR LAUTENBAUGH: I believe his name was Dan Smith. Smith was the last name. [LB399]

SENATOR CHAMBERS: And is the appeal handled on the basis of the record established in the trial court? [LB399]

SENATOR LAUTENBAUGH: Generally, yes. [LB399]

SENATOR CHAMBERS: So he used the record that you compiled when you were handling your own case. Is that true? [LB399]

SENATOR LAUTENBAUGH: Yes, I would...if memory serves in this case, yes. [LB399]

SENATOR CHAMBERS: Okay. So you handled that. I'm not quite through yet. Do you know who handled the case that you mentioned involving me which did turn out in the way you said it did. Did I handle that case? [LB399]

SENATOR LAUTENBAUGH: I think it was Bob Broom and Vard Johnson. [LB399]

SENATOR CHAMBERS: Right. Thank you. And members of the Legislature, I had mentioned that case before and I laid out a litany of cases which I had handled and won. And I hired lawyers to handle this case at the trial level and the appeal level. And my name was on the case for sure because I was the one bringing it, but I didn't handle it. I handled the case involving the expungement of the grand jury report and the others. And the reason I do that is because it demonstrates that I have knowledge of the law. I mentioned the case...I'd like to ask Senator Lautenbaugh a question or two. Senator Lautenbaugh, were you in the Legislature when that bill was passed unanimously by the Legislature which would allow a jailer to post signs of what constituted contraband and if anybody brought such contraband in, he or she could be charged with some class of misdemeanor? Do you remember that law? [LB399]

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

SENATOR CHAMBERS: And you did not object to it, do you...did you? [LB399]

SENATOR LAUTENBAUGH: I don't think so, no. [LB399]

SENATOR CHAMBERS: Okay. Thank you. And it was withdrawn for the reasons that I gave. I raised the constitutional issues, raised them with the Speaker of the Legislature, raised them with the Governor's Office. They took it seriously enough to talk to the introducer of the bill. [LB399]

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SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: That's the way I operated. That's the way I'm operating now. If I raise this issue a minute before we end the discussion, it is still valid. He wants to talk...Senator Lautenbaugh wants to talk about amber lights. He does not want to talk about the unregulated discretion granted by the Legislature to a member of the executive branch of government. That is an unconstitutional delegation of authority and he can argue with Black's Law Dictionary if he wants to, he can argue with the Nebraska Supreme Court if he wants to, and I will bring the case. But if you pass it, I'm going to talk to the Governor, and let...of course, he'll be out of office, but that's what I will do. And Senator Lautenbaugh, when I say these things, I will carry them out as I did on the red light cameras where I was mocked and scoffed at even by the World-Herald editorial board. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

SENATOR CHAMBERS: But I was right. Thank you, Mr. President. And thank... (microphone malfunction.) [LB399]

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

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I received a text last night from a former senator, one who in the next 24 hours will face the perilous duty of removing snow from property in his district, and who points out that it would really be in the public interest for his pickup with a blade in front of it to be able to have amber lights. And that would be consistent with our use of amber lights. I'm not sure if the text was tongue in cheek or real. Almost tempted to offer an amendment to include neighborhood snow removal vehicles to this particular piece of legislation. I rise in support of the bracket motion. I think this debate has been fruitful and it has pointed out one really good idea. And Senator Lathrop raised the idea. It requires no additional legislation. It identifies these vehicles if they want to be identified. It's more economical to do than flashing lights. It does not confuse the public. It does not involve what might or might not be liability created by the county attorneys' intervention in this process. It does not involve delegation of authority and it is dirt simple. You put one of these car top advertising tents upon these vehicles, no more weight, no more friction, no more rubbing spots on the top of the roof than one of these amber light signs would do, and it says, you know, Jones Neighborhood Watch. Call, you know, phone number, if you see anything that you want to report to Mr. Jones as he drives around. That's a commonsense way of approaching this. It avoids all these issues. It is inexpensive. It is safe. It does not confuse the public and it does not give us an excuse to add pickups with snow blades next year to this legislation as everyone who seems to think they need something special comes to us with a request for amber lights. I also had a constituent

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point out to me that if we demanded amber lights on every vehicle that is operated under the rules of this state, it would make a very pretty picture when the Google satellite filmed Nebraska at night, because we would all be enclosed in flashing amber lights. I'll support the bracket motion. It makes common sense and yield the balance of my time to Senator Chambers. [LB399]

SENATOR KRIST: Senator Chambers, 2 minutes. [LB399]

SENATOR CHAMBERS: Thank you, Senator Schumacher. Thank you, Mr. President. I'd like to ask Senator Lautenbaugh a question or two. [LB399]

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

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, the form of the bill now which is identified as Enrollment and Review Amendment 123 is the language that you persuaded the Legislature to adopt and that's what we're discussing now. Is that correct? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Okay. Now that language was shown, I presume, to the county attorneys and that led them to write the letter that I have discussed and that you have alluded to which mention some words, if added, would alleviate their concerns. Is that a correct reflection of what has happened? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: And what are those words because I don't want to misstate anything and you're here and can tell us because it will be your amendment. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR LAUTENBAUGH: Well, they're embodied in the next amendment, but if memory serves, it's "or his designee." My gadget is not pulling them up, so I don't want to misquote them either. [LB399]

SENATOR CHAMBERS: Okay. And I've written them in, but since my time is up and this is my last time to speak, I can't go into that. But there are still difficulties with the bill because of what Senator Lautenbaugh is going to offer pursuant to the request of his friends, the County Attorneys Association. Thank you, Mr. President. [LB399]

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SENATOR KRIST: Thank you, Senator Chambers. Seeing no one else wanting to speak, Senator Chambers, you're recognized to close on your bracket motion. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm not going to tip my hand when I can only do it during a closing. But before we finish this bill and reach cloture time, I am going to mention once again that the bill, as it exists, is unconstitutional. And I think I will tip my hand. Senator Lautenbaugh has an amendment filed which says in line 7, after the word "attorney" would be inserted the words, "or his or her designee." I said there's a contradiction or a conflict. Why in the world would I say that? Senator Lautenbaugh certainly examined his amendment and he examined the language that the county attorneys gave him. So all of these lawyers...he's said all kind of lawyers have looked at it. Well, if we go to the very next sentence starting in line 8, such volunteer members shall be registered and authorized by the county attorney. On the one hand, they say by the county attorney or his or her designee, and in the very next sentence they say, these people shall be registered and authorized by the county attorney. So the "shall" is placing that responsibility on the county attorney. You all may not care about the language of a law. You all may accept the notion that sloppy legislation should be enacted because you're upset with me. But I invite you to read it and it's in the record now. On page 2 of the E&R Amendment, in line 7, Senator Lautenbaugh proposes to add an amendment which allows the county attorney or his or her designee. And the county attorneys did say in their letter that would give them leeway to allow somebody other than the county attorney to have to do it. But the very next sentence takes that away. Each...such volunteer members shall be registered and authorized by the county attorney in the county where the use occurs before they are allowed to display such lights. Mock me if you want to with Senator Lautenbaugh. Laugh at me with Senator Lautenbaugh, but I'm reading the language of his bill. When it was the green copy, I was the one who offered the amendment that got rid of language that was in his bill, the meaning of which he didn't even know, but he accepted the amendment because he agreed it had no significance, no meaning. He didn't know what it meant. Now we have a letter on which he is relying to get you to accept an amendment to this current E&R Amendment which constitutes what he brought to us. So the E&R amendment is going to be changed if we get to amending it with what he's suggesting. But the county attorneys didn't read the next sentence. Whoever wrote that amendment or the letter, had probably been exhausted adopting Senator Lautenbaugh's mocking approach and could not read the next sentence which did not allow the attorney...the county attorney's designee, but mandated that the county attorney do this work himself or herself. So which is it? [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: Did you say time? [LB399]

SENATOR KRIST: One minute. [LB399]

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SENATOR CHAMBERS: One minute. I'm repeating it because I want it crystal clear in the record. And if you pass it, I will challenge it. I have time to do it. I can do the research myself. I will find myriad of cases all over the country talking about unlawful or unconstitutional delegation of legislative authority, and it invariably settles on the notion that the Legislature delegated that authority unlawfully because it did not give adequate guidelines, directions, or restrictions on how the discretion of the one carrying it out would behave. Mr. President, I will now ask for a call of the house. [LB399]

SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed, nay. Mr. Clerk, please record. [LB399]

CLERK: 31 ayes, 0 nays to place the house under call, Mr. President. [LB399]

SENATOR KRIST: The house is under call. Senators 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 Burke Harr, Senator Kintner, please return to the Chamber, the house is under call. Senator Burke Harr. Everyone is accounted for. Senator Chambers, how would you like to proceed? [LB399]

SENATOR CHAMBERS: I would like a roll call vote. [LB399]

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

CLERK: (Roll call vote taken, Legislative Journal page 441.) 16 ayes, 24 nays, Mr. President, on the motion to bracket. [LB399]

SENATOR KRIST: The bracket motion fails. Raise the call. Items for the record, Mr. Clerk. [LB399]

CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports they've examined and engrossed LB278. Series of hearing notices: Several from the Natural Resources Committee, chaired by Senator Carlson; Judiciary Committee, several notices, chaired by Senator Ashford; and the Revenue Committee, chaired by Senator Hadley. Also have a new resolution, LR433 by Senator Crawford calling for an interim study. That will be referred to the Executive Board. (Legislative Journal pages 441-443.) [LB278 LR433]

Mr. President, returning to LB399. Senator Lautenbaugh, I now have FA186. (Legislative Journal page 432.) [LB399]

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

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. The floor amendment, I believe is simple and speaks for itself. It provides the flexibility that the County Attorneys Association requested to add "or his or her designee" on line 7 to give the county attorney flexibility for delegation. Again, simple, speaks for itself. I'd urge your approval of the floor amendment. Thank you, Mr. President. [LB399]

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

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

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

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Now, Senator Lautenbaugh, let me say the primary delegatee of this legislation would be the county attorney. Would you agree? [LB399]

SENATOR LAUTENBAUGH: Yes. Yes. [LB399]

SENATOR CHAMBERS: And the county attorney in turn can make a delegation of the duties that this law would repose in the county attorney? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, if we were dealing with hearsay, this would be called hearsay within hearsay or double hearsay. Not only do you have an unconstitutional delegation of authority to the county attorney, but the county attorney is allowed to further delegate this authority. And I'm going to deal just with what he's offering here, not the second sentence which said the county attorney himself or herself "shall" do these things. But if you want to parse words, you can say, well, the county attorney can delegate part of it, but the other part the county attorney has to do him or herself, and this is what's called a bifurcated system. Now you have created a two-headed monster. I would like to ask Senator Coash a question. [LB399]

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

SENATOR COASH: Yes. [LB399]

SENATOR CHAMBERS: Senator Coash, from my dealing with you, when you vote on a

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bill that has been discussed this much, generally you have studied it. Have you studied this amend...this form of the bill that's before us? [LB399]

SENATOR COASH: Yes, Senator Chambers, I've looked at it. [LB399]

SENATOR CHAMBERS: All right. And you know that Senator Lautenbaugh's amendment allows the county attorney to designate anybody he or she chooses to carry this out. Isn't that what the language allows? [LB399]

SENATOR COASH: Yes. [LB399]

SENATOR CHAMBERS: It could be the postman, couldn't it? [LB399]

SENATOR COASH: Well, I don't think the postman would... [LB399]

SENATOR CHAMBERS: I'm not asking you what you think. I'm asking you what the language allows. Then let me ask it this way. Show me in that language, or any other language in the bill, that limits or restricts whom can be a delegatee? [LB399]

SENATOR COASH: I don't see that language, Senator Chambers. [LB399]

SENATOR CHAMBERS: So it could be the postman, couldn't it? [LB399]

SENATOR COASH: Yes. [LB399]

SENATOR CHAMBERS: It could be you. [LB399]

SENATOR COASH: Yes. [LB399]

SENATOR CHAMBERS: Have I told you how delightful I find your little boy? [LB399]

SENATOR COASH: Yes. [LB399]

SENATOR CHAMBERS: And when you saw him and me interact, would you say he at least thought I was an okay guy, if not the greatest in the world? [LB399]

SENATOR COASH: He talks about you all the time. [LB399]

SENATOR CHAMBERS: And was he where...oh, very good children always have great things to say, so it will seem like I asked him that question for this reason. But your son could be designated to do it as preposterous as that might sound, there's nothing in this that would prevent that from happening, is it? [LB399]

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SENATOR COASH: No. [LB399]

SENATOR CHAMBERS: So let's leave it in the realm of adults. A person could have a felony conviction that the county attorney does not know about, or knows about, and could nevertheless be delegated...designated. Is that right? [LB399]

SENATOR COASH: Yes. [LB399]

SENATOR CHAMBERS: Thank you. That's all I will ask you. Members of the Legislature, Senator Lautenbaugh likes to mock and taunt and I like that kind of bantering because it opens the door. This designee could be somebody who is in prison and Senator Lautenbaugh will say, well, he wouldn't do that. He would use good judgment. But what the Nebraska Supreme Court said, the presumption that an officer will not act arbitrarily, but will exercise sound judgment and good faith cannot sustain a delegation of unregulated discretion. And Senator Lautenbaugh agreed, this is a delegation of total... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: ...unregulated discretion to the county attorney in the bill itself. There's nothing that limits the county attorney's discretion in choosing a designee. The Supreme Court said, you can't rely on an officer. You have to look at the nature of the legislative authority, and I said I'm going to keep discussing that and I am, because I want it in the record that at least one person knows something about the Nebraska Constitution and the separation of powers. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Chambers and Senator Coash. Senator Coash, you're next. Senator Coash waives. Senator Schumacher, you're next. [LB399]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. The county attorney already has authority and his deputies have the authority of the county attorney with the county attorney's consent. So there is more than one person who is available to do these particular duties in any given county. By adding "designee," when we already have these deputy county attorneys available to do these assignments, it implies that it's going outside of the county attorney's office. Senator Lautenbaugh, would you yield to a question? [LB399]

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

SENATOR SCHUMACHER: Senator Lautenbaugh is not here. The word is "designee" and what I'm curious is to whether or not that means designees, whether or not the county attorney is restricted to selecting one person outside...which may be outside his office, and applied is outside his office to handle this particular duty. If he designates

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somebody out of his office, it then contravenes what we've been talking about for all this time, that the county attorney's office is the place where the decision should be made. He should not be able to designate the postmaster or the town chieftain or the local fire chief or anyone like that in order to do these duties. We said, the county attorney. This particular amendment is not necessary if what we're talking about is designating a deputy county attorney because they're already designated under the common law to be able to be empowered to handle the duties of the office of county attorney. So we are devolving ourselves into a mess we should never have gotten into regarding not only the extension of the power to have amber lights to people who call themselves watchmen, and then what I started out what I thought was a good idea, I now see was a bad idea involving the county attorney in the middle of the mess and doing something that is completely unnecessary, unrequired for the public safety. You scratch your heads and you say, when are these people going to turn those lights on? Do they turn them on just for show and tell? Do they turn them on when they're going to pick up a pizza themselves? What is the purpose behind this? What conceivably could they accomplish with these yellow lights that they can't do by pressing their flashers? And this is the kind of thing that bogs down the Legislature, consumes excessive time for absolutely no reason, and may, in fact, endanger the public, as has been pointed out several times on this floor, that these amber and yellow lights are for caution, for a dangerous situation. They do not single...signal out someone with authority, someone with special privilege, someone with the right to be obeyed or their orders carried out, that this new application of the amber lights seems to imply. And this is a bad idea designating somebody as broad ranging as the postman is contravention of the intention that we've been talking about for the last several hours, and just underlines and underscores the fact that this legislation is not what we should be about. And I'd yield any additional time to Senator Chambers. [LB399]

SENATOR KRIST: Senator Chambers, you're yielded 1 minute. [LB399]

SENATOR CHAMBERS: Thank you, Senator Schumacher. And since Senator Lautenbaugh is back, I'd like to ask him a question. [LB399]

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

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, under your language, this designee could determine the terms and conditions and within which areas this will occur. Isn't that true? Your language allows the designee to do that. [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: And the designee could be the head of one of these

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neighborhood watch programs, couldn't it? [LB399]

SENATOR LAUTENBAUGH: At some point you would have to trust the county attorney to bring judgment to (inaudible). [LB399]

SENATOR CHAMBERS: Well, I just read where the Supreme Court said you cannot make that presumption. That is possible, isn't it, under your language, the head of neighborhood watch could be the one who would exercise all of these duties and authorities, except the ones mandated in the next sentence? [LB399]

SENATOR LAUTENBAUGH: Well, the head of the neighborhood watch could be appointed to the Supreme Court too. Anything is possible. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, do you see how Senator Lautenbaugh dances around the issue? He likes... [LB399]

SENATOR KRIST: Senator Chambers. [LB399]

SENATOR CHAMBERS: Yes. [LB399]

SENATOR KRIST: Your time is up. However, you're next in the queue. [LB399]

SENATOR CHAMBERS: Thank you, Mr. President. He likes to talk about how Senator Chambers won't mention this, Senator Chambers won't mention that. I'll mention what I think I should and if he asks a question, I'll answer it directly. He did not answer the question, but the answer is yes. The head of the neighborhood watch is now in a position to exercise all of these authorities under this bill. I'd like to ask Senator Seiler a question. [LB399]

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

SENATOR SEILER: I will. [LB399]

SENATOR CHAMBERS: Senator Seiler, since you're on Senator Lautenbaugh's team, I don't want to make any presumptions that will come back and bite me, so excuse the way I'm going to approach this. Are you or have you ever been a member of the bar association? [LB399]

SENATOR SEILER: I am. [LB399]

SENATOR CHAMBERS: Do you practice law currently? [LB399]

SENATOR SEILER: Yes. [LB399]

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SENATOR CHAMBERS: Have you practiced law as a member of the Attorney General's Office in the past? [LB399]

SENATOR SEILER: 1966 to '68. [LB399]

SENATOR CHAMBERS: Are you familiar with the term "unlawful delegation of authority?" [LB399]

SENATOR SEILER: I am. [LB399]

SENATOR CHAMBERS: That's not what I'm going to ask you about, though. Have you looked at Senator Lautenbaugh's proposed amendment that we're debating now? [LB399]

SENATOR SEILER: I have. [LB399]

SENATOR CHAMBERS: Is it your intent that the county attorney designate somebody to do all of these...carry out all these duties that the Legislature thought it was placing on the county attorney? [LB399]

SENATOR SEILER: I see that in the language it leaves a unrestricted delegation there. [LB399]

SENATOR CHAMBERS: And it could be the head of each neighborhood organization under this language, isn't that true? [LB399]

SENATOR SEILER: That could be the neighbor lady that takes in washing. [LB399]

SENATOR CHAMBERS: Thank you. That even adds more punch to what I'm getting at. Members of the Legislature, Senator Lautenbaugh just wants a bill. He'll do anything to get it. He knows better than this. He won't admit it, but I know he knows better. I've listened to him debate other issues. And if you adopt this language, you have done away with everything else that you have been up here talking about, those of you who have talked, those of you who have listened. Hasn't it gone far afield in change because he went to the County Attorneys Association, they gave him this language. But before I lay that on them, I'd like to ask Senator Lautenbaugh a question. [LB399]

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

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, was this language suggested by the

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County Attorneys Association in the letter that you handed around and we all had the opportunity to read, if we chose to do so? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Thank you. And you know what the county attorney succeeded in doing, taking themselves out from under it all together. They're not neutral. They're subversives. Agents provocateur making a laughing stock of the Legislature. Actually, I hope you adopt it. I hope you adopt this most silly amendment. The pages are busy, but a page could be designated. Anybody. And you know why I handed out that quote from the Nebraska Supreme Court? I knew when I pointed out the ridiculousness and the silliness of this, Senator Lautenbaugh would fall back on his favorite argument, you have to trust somebody. You have to trust the county attorney. Here's what the Nebraska Supreme Court said: The presumption that an officer will not act arbitrarily but will exercise sound judgment and good faith cannot sustain a delegation of unregulated discretion. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: First of all, you delegate unregulated discretion to the county attorney and the county attorney may choose to delegate unregulated discretion to anybody in the world. It doesn't even say that the person has to be a citizen. That ought to rattle Senator Janssen's cage, except he's not here. Look at what you're doing. I will take this to court. Pass this amendment. And I'm not using child psychology because that doesn't even work on children, but pass this amendment. Senator Lautenbaugh is the one who has offered you changes in his bill which each time before he offered the change, he told you it was all right. And each time before and after, I told you it's still nonsense, that it should not be passed by this Legislature. But I've made you so irritated with me that you were... [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

SENATOR KRIST: Thank you, Senator Chambers. (Visitors introduced.) Returning to debate. Senator Chambers, you're recognized, and this is your third time. [LB399]

SENATOR CHAMBERS: On this amendment? [LB399]

SENATOR KRIST: Yes, sir. I trust these pages are keeping a good count, sir, but if you'd like to approach the Chair we can talk about it. [LB399]

SENATOR CHAMBERS: No, no, I'll find a way to continue. [LB399]

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SENATOR KRIST: Okay. [LB399]

SENATOR CHAMBERS: Mr. President and members of the Legislature, the government of the state has a division of powers or an allocation between three branches, the executive, the judiciary, and the legislative. No one, or collection of the others, can exercise the duties and powers of the other branch unless specifically authorized, not by the Legislature, but by the constitution to do so. All power to legislate is reposed in the Legislature. Only the Legislature can enact laws. The Legislature cannot delegate that authority to any individual or collection of individuals. It cannot be delegated to the Supreme Court. It cannot be delegated to the Governor. It cannot be delegated to an agency or an individual. What the Legislature can do is enact a law and state clearly what the goals and purposes of that law would be. The Supreme Court has said that certain types of law require so much detailed work that the Legislature cannot take the time or expend the effort to consider every detail. So in authorizing an agency to carry out its will as expressed in the law, the Legislature must provide, very clear, guidance, rules, regulation, direction, aimed at carrying out the goal of that stated legislation and the legislation that is enacted must state that goal. That is not what this bill does that's before you. If you read the current law on use of these amber lights, you will see that there's a statement in the law authorizing it, something about the nature of the vehicle that is to use it, and it also provides definitions where needed. This bill doesn't define anything. And it also cross-refers to other sections of statute which this does not do. You don't have a definition of a crime prevention organization. You don't have a definition of anything in this statute. All you're doing is granting carte blanche to a county attorney to grant carte blanche to some unnamed, unidentified individual to carry out all these duties that you thought you were putting on the county attorney, and you're doing it because the County Attorneys Association got all of their best minds together and said, here's how we can make a jolly heehaw out of the Legislature, let's see if they'll swallow this. And I'm going to watch you swallow it. I'm not going to do anything to hinder you from taking a vote on this one and I hope you pass it. It's my third time, but I'll find additional ways to discuss the bill itself. Thank you, Mr. President. [LB399]

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

CLERK: Mr. President, I understand Senator Lautenbaugh wishes to withdraw FA186 and offer as a substitute thereto, FA191. (Legislative Journal page 444.) [LB399]

SENATOR KRIST: Are there any objections? Senator Chambers, did you want time to object or do you want...no, sir, okay, thank you. Seeing none, I recognize Senator Lautenbaugh. [LB399]

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

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hoping it's up on your gadget now. Truth be told, I never thought we would actually get to this amendment. I was preparing to pull it and offer it on Final Reading after we did cloture. I did not think we would be here this morning. All this does is, I followed up with the county attorneys and said, hey, do you want the designee inserted in both places or not? And the association said, yeah, insert it in both places. So this does that. So it's the same amendment as before. It's just in both line 7 and 9 where it says "county attorney" it inserts "or his or her designee." In all other respects, it is the same amendment. Yeah, this was meant to be on Final Reading. We got to it today, so this is the substitute amendment and that's all it does. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Lautenbaugh. You have heard the substitute amendment, FA191. Senator Chambers, you're recognized. [LB399]

SENATOR CHAMBERS: Thank you. Mr. President, now I will oppose the amendment. You know why they brought it, because I raised the issue. While you all are joining Senator Lautenbaugh and scoffing and mocking and laughing at me, the county attorney suddenly realized, they're the ones who look like the jackasses. They drafted that amendment. This bill, which is now this amendment that Senator Lautenbaugh persuaded you to adopt in the first place, has only a few lines. The actual language that this amendment deals with consists of fewer than a dozen lines, not a dozen sentences. You mean to tell me these county attorneys, Senator Lautenbaugh described them as all kinds of lawyers looking at this, 12 lines. What do they think you all are? How foolish do they think you all are? You cannot read 12 lines if you're a lawyer? And not just you, but your whole association. There's "Parson" Carlson going along and swallowing the okey-doke. These county attorneys couldn't care less about what we're doing here. They have no respect for the Legislature anyway. So they told Senator Lautenbaugh what to put in his bill and he did it. But I read this stuff and you all don't. Then you get angry at me because I read it and point out that you didn't read it. Is it my fault that you didn't read it? It would be my fault if I didn't bring it to your attention. I'm a part of this Legislature. I don't want slapdash, sloppy legislation to be presented to the Governor, to go across this floor. If nobody else will address it, I shall. And I made the county attorneys out there in that Rotunda where the orders come from to people on this floor, they sent in an order and said change it, but don't say that Senator Chambers was correct. Say that you were going to offer it at another time. Well, were the county attorneys too busy to read one more line down and see that the same kind of language is on the next line? Therefore, if they're amending that idea, amend it in the two places it appears in their legislation. It is theirs now. They're calling the shots on it. Senator Lautenbaugh is not trying to please these groups and organizations. He's now the water carrier for the County Attorneys Association. That's who sent this amendment in here. And if you all believe that they had planned to call the bill back when it's on Final Reading to offer this when we're going to discuss the bill all of this time, you'll believe anything. I don't believe it. I do not believe it. It would have been more sensible to amend it in both places, but they know that others on the floor will not read the

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legislation and they hoped that I'd be so caught up in an argument with Senator Lautenbaugh that I wouldn't read this, but I read it. What he ought to do is just reject what the county attorneys have offered and go with the bill the way he told us it ought to go. You know what Senator Lautenbaugh told all of you that you didn't listen to, or you forgot? Senator Seiler even forgot it. Senator Lautenbaugh stood on this floor yesterday and said that the language of this amendment that has now become the bill was offered by Senator Schumacher. And Senator Lautenbaugh went around the floor... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: ...and talked to you all and rounded you up like sheep or lemmings and told you, this is what the amendment will be. And you went for it without analyzing because he told you to. Senator Schumacher may not have thought you would seriously consider it, but he saw the error of his ways and withdrew it. Senator Lautenbaugh then took it and put it before you and you adopted it and that's what we're dealing with now. But he changed it because I did raise issues and he went to the County Attorneys Association and they said whereas we told you initially we had no problem with the bill, now that Chambers has been talking about liability and so forth, we do have issues. Change it and here's how you should change it. Read the letter they sent around. It said, add these words and it takes care of our issues. That's what they told him and Senator Lautenbaugh did what they told him to do. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

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

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Will Senator Lautenbaugh yield to a couple questions? [LB399]

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

SENATOR LAUTENBAUGH: Yes, I will. [LB399]

SENATOR SCHUMACHER: As used in your proposed amendment, Senator Lautenbaugh, is designee one person or does that mean he can do...authorize many people? [LB399]

SENATOR LAUTENBAUGH: I read it as a singular designee. [LB399]

SENATOR SCHUMACHER: So there's only one person can be delegated this

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authority? [LB399]

SENATOR LAUTENBAUGH: That's how I would read...it does not say designees, it says one designee. [LB399]

SENATOR SCHUMACHER: Is the designee in the first substitution, the person who can make the decisions and determine the terms and the conditions and the area, the same person as the second designee who holds the records and registrations? [LB399]

SENATOR LAUTENBAUGH: Not necessarily. It's not defined as such, but as a practical matter, I don't think they're going to set up a division of amber lights and have multiple designees. So I would assume it would be the same person, individual. But it does not specify that both...each designee is the same person as a practical matter. [LB399]

SENATOR SCHUMACHER: In the first case, this party has the ability to determine the terms and conditions and the area of use. What is the function of taking that authority away from the county attorney and having it delegated to some party? [LB399]

SENATOR LAUTENBAUGH: I would...well, simply put, in the case of Omaha, it is currently done by law enforcement as far as working with the homeowners association groups, and I think this is the county attorney's way of saying we'll continue to work with law enforcement and they would have input regarding where, if, when, the areas that are appropriate for the neighborhood groups, etcetera. [LB399]

SENATOR SCHUMACHER: But if the county attorney says, I don't want to be bothered with this, I'm delegating this to the Douglas County sheriff, then that authority rests with the sheriff not with the county attorney after the delegation, does it not? [LB399]

SENATOR LAUTENBAUGH: Well, I think the argument was made yesterday that there would still be responsibility on some hypothetical level with the county attorney for the fact if the sheriff did it poorly, whether we're talking political or...again I did not ever understand the liability angle, but the designee is still the designee of the county attorney, but yes, what you're saying is essentially correct. [LB399]

SENATOR SCHUMACHER: Now if the county attorney designates the Ralston Police Chief to make a decision, and the Papillion Police Chief is unhappy with that decision, what's the chain of authority there? Does the Papillion Police Chief have to go back up to the county attorney, or does he have to deal with the Ralston Police Chief? [LB399]

SENATOR LAUTENBAUGH: I believe it would be the county attorney as they're both designees. [LB399]

SENATOR SCHUMACHER: Well, no, we only have one designee here. You indicated

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that was singular. And maybe I'm mistaken, maybe Ralston and...are they both Douglas or Sarpy County? [LB399]

SENATOR LAUTENBAUGH: They would both be Douglas County. [LB399]

SENATOR SCHUMACHER: Okay. [LB399]

SENATOR LAUTENBAUGH: They would both...I did not contemplate a circumstance where he would designate more...he or she would designate more than one designee because we refer to it in the singular, whether it was within his department or otherwise. [LB399]

SENATOR SCHUMACHER: Right. But if Ralston was the designee and Papillion was unhappy, who would the Papillion Police Chief take his gripe to, the Ralston Police Chief or to the county attorney? [LB399]

SENATOR LAUTENBAUGH: Well, presumably both, I mean, the designee and the person who did the designating. [LB399]

SENATOR SCHUMACHER: Doesn't that circumvent what we're trying to do here and have the county attorney, on whose shoulders as an elected official and as chief law enforcement officer, needs to make the decision at least in the first case? [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR LAUTENBAUGH: I would say ultimately no, because ultimately it is still on his shoulders if his designee is still acting through him or for him. [LB399]

SENATOR SCHUMACHER: Why would we not want him to write the terms and conditions and determine the area in which these things were permitted? Why would we want him to delegate that to anybody? I mean, he's only going to have to do this once. [LB399]

SENATOR LAUTENBAUGH: That's probably correct. Maybe he would want to defer to law enforcement, he or she, I don't know the answer to that. [LB399]

SENATOR SCHUMACHER: Right, but why are we changing it in both places? I might be able to understand why we change it in the second place because who wants to keep a bunch of records. But this is a responsibility that we're saying we're going to give to somebody who should know his job because he's a chief law enforcement officer and it would...thank you, Senator Lautenbaugh. It would seem to me that this is circumventing the intention that we started down to to put the responsibility and decision making on somebody elected to have that responsibility and who has overall authority in

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the county given by the electorate. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

SENATOR SCHUMACHER: Thank you. [LB399]

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

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, even if the senators are not listening, this exchange is a matter of record now. Senator Lautenbaugh cannot answer the questions that logically arise under the language he's asking you to adopt. The language did not originate with Senator Lautenbaugh. Right now the county attorneys can say what the scriptures say, well done, thou good and faithful servant. He's been a good and faithful servant of the county attorneys. He's doing what they're asking him to do. I'd like to ask Senator Lautenbaugh a question or two about what he discussed with Senator Schumacher. [LB399]

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

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, I believe I heard you say that currently law enforcement handles this activity with homeowners groups. You used the term "homeowners group," didn't you? [LB399]

SENATOR LAUTENBAUGH: I probably meant neighborhood watch associations, not homeowners associations, I think they differ. [LB399]

SENATOR CHAMBERS: Oh, excuse me. Do you know whether it's designated neighborhood watch or homeowners groups? And if you don't, that's not a stickler. I just wonder if the homeowners group is what law enforcement currently sees them as being. [LB399]

SENATOR LAUTENBAUGH: You know, I've been involved in our homeowners association and we don't have a neighborhood watch and we've had no contact with law enforcement, so the neighborhood watch must be something separate and distinct... [LB399]

SENATOR CHAMBERS: Okay. [LB399]

SENATOR LAUTENBAUGH: ...because our homeowners had no contact with law enforcement to my knowledge. [LB399]

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SENATOR CHAMBERS: Okay, now where in this bill do we see the term "neighborhood watch?" [LB399]

SENATOR LAUTENBAUGH: It's not specified in the bill. [LB399]

SENATOR CHAMBERS: But that's what we're talking about, isn't it? [LB399]

SENATOR LAUTENBAUGH: Generally, yes. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, did you read your legislation? Did you read what it says? See, Senator Lautenbaugh says I raise issues at the end. That's when you might pay attention. This bill talks about a public safety organization or a crime prevention organization, nothing about a neighborhood watch. Nothing that says anybody has to be a member of any neighborhood watch. We are talking about one thing and you're putting other things in the statute. You don't know what these terms mean, nobody knows. You think I won't take it to court? Pass it. I'm going to see how many of you will give him 33 votes for cloture. If you vote for cloture, you may as well vote for the bill. If you don't believe in the bill, don't vote for cloture. There are not 33 votes here to do what Senator Lautenbaugh, at the behest of the County Attorneys Association, is trying to get you to do. It's not even recognizable as what he brought to us. When he brought it to us, it had to do with law enforcement. Law enforcement is out of the picture altogether now. He persuaded you that it ought to be the county attorney. He persuaded you, Senator Dubas, and you agreed with with...well, I don't know if you did or not. Enough agreed with him to put that into the law. Now what is he trying to do? Remove the county attorneys from the position of having to do what he told you they ought to be the ones to do. He brought this. Senator Schumacher pulled it back because he saw it wasn't good. Why didn't Senator Lautenbaugh stick with the green copy of the bill? Why? Because he began to play politics on the floor. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: He went around and rounded up his votes on the county attorneys and you gave it to him. Now he's rounding up votes to say take it away from the county attorneys. And he doesn't know who or whom will be the designee. There is no limitation, no restriction, and this designee will not just operate in his or her city, but make the decisions for everybody in the county, everywhere in the county where it can operate. That designee could say, there will be no operation like this in Ralston and there couldn't be one. There's no provision in here for an appeal. The kind of direction and guidance I was saying the law requires if you're going to delegate authority, it's not here. No hearings, no final authority, everything is up in the air, trust. What did Reagan tell you? Trust, but verify. I'm telling you how to verify, but you don't want to accept what

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Mr. Reagan told you or what I'm telling you, that he's streaming to me from wherever he is. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

SENATOR KRIST: Thank you, Senator Chambers. Senator Chambers, you're recognized. This is your third time, sir. [LB399]

SENATOR CHAMBERS: Thank you. Thank you, and I counted them, Mr. President. I got so enthralled with some of the things being said that I lost count, but you notice, I didn't challenge. Members of the Legislature, when time comes to take a cloture vote, Senator Lautenbaugh needs 30 votes...33 votes. He had 24 votes not to bracket it. There were enough people who don't feel comfortable about this to even vote against a bracket motion. Are you now going to vote for cloture? If you vote for cloture, then you may as well vote for the bill. Some people are under the mistaken notion that if a cloture vote fails, that the debate will resume. That is wrong. If the cloture vote is unsuccessful, debate on this bill ends. I would like to ask the Speaker a question. [LB399]

SENATOR KRIST: Speaker Adams, will you yield? [LB399]

SPEAKER ADAMS: I'll yield. [LB399]

SENATOR CHAMBERS: Mr. Speaker, if a cloture vote fails, what becomes of the bill that was the subject of that cloture vote? [LB399]

SPEAKER ADAMS: We're done with it and we move on to the next bill on the agenda. [LB399]

SENATOR CHAMBERS: Thank you. Members of the Legislature, do you want to do this again? If you vote for cloture, some of you are going to feel that you have got to vote for the bill. You want to do it again on Final Reading? And if you put it to Final Reading, then we have one location where that bill is found. It will not be raised out of its order. Any bill that's in front of that bill may be the subject of discussion. I'm not saying that will happen, but it has in the past to prevent bringing something like this up again. Senator Lautenbaugh at the outset said, it would be absurd to take eight hours on this bill, but he's prepared to do it and he's showing that he will do it. He has said several times that the shape of the bill was what it ought to be and each time he had to change it. He's making another change right now after carrying out the authority or the orders of the County Attorneys Association. They gave him the language, he accepted what they gave him, but it turned out to be flawed. Not because he analyzed it, but because I embarrassed the Douglas County...I meant the County Attorneys Association. They're

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the ones who called him out there. They were embarrassed. And they said, we got to do something about this, go in there and change it. And that's what he's asking you to do now. First, it was to bail him out. Now it's to bail out the County Attorneys Association. Here's what will happen. If you get to a vote on this and you reject it, then at least you have the form of the bill that Senator Lautenbaugh persuaded you, you needed. That was the form of the bill he persuaded you all to vote for. Now if you reject his amendment, that's the form of the bill you have. But if you have the form of the bill, we have now had a polygraph activity. The County Attorneys Association have now told you that in fact that is not a bill that's all right with them. At first, they weren't worried. Now they'll have to tell you, we don't want it like that. That's why we're going through this second amendment that Senator Lautenbaugh is offering. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: What he ought to do is pull that amendment and stand on his own bunions. That's what he ought to do and give you what he persuaded you, you ought to do. Persuaded you what you ought to accept. Senator Seiler is sitting back there as a lawyer. There's no way in court he would be on the side of an issue like this which is so messed up as it is. But there's not the same concern and consideration given to what we do as a Legislature as we give if we're handling a case in court. This is where I'm working. This is where I said I would do the best that I can and that's what I'm trying to do. I am doing the best I can. I'm trying to persuade you to join me. Thank you, Mr. President. [LB399]

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

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. I'd just like to stand in support of Senator Lautenbaugh and what he's trying to get done here and get accomplished. As we know, when we come into this body and we work on bills and we work on stuff, things get brought up that maybe somebody misses in bill drafting or maybe somebody doesn't understand the effects of that. Senator Chambers, as we have seen, is very good at pointing some of these things out and where they need fixed. I've noticed that people stand up and fix what's needed to be fixed. So I think we need to be careful. When we make laws here, it's not...it's not ever really too pretty nor is it always smooth sailing at times. But that's the way it goes. I do think the idea and the intent of the law is good. I think it makes sense to let people know who is driving around the neighborhoods. I mean we can talk all day and we can have discussions of which is the best way to identify those vehicles, and we've had some of that. And so I guess it comes down to that. If you think this is a good way to do it, we should do it. If you don't, then I guess we move on and maybe next year we can do something. But, you know, it seems that this is what's before us right now and if what's before us right now can be made to work, then that's probably what we should do. And,

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of course, as everybody knows, there will be opportunities to come back and change things in the future if we need to as well. So I appreciate Senator Lautenbaugh's work on this bill. I appreciate Senator Chambers passion for what he believes and what he thinks needs to happen, and in the end we'll get a vote and we'll find out where everybody sits on this. So thank you very much, Mr. President. [LB399]

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

SENATOR BRASCH: Thank you, Mr. President and good morning, colleagues. I have listened for many hours here to compelling arguments from Senator Chambers with his longtime experience in law and with his community, and I've also listened to other members on this floor rise and contribute to the debate on whether the amber lights will prove helpful as tools for the many volunteers who take time to be visible and proactive in their communities. They watch for crime. They are there for assistance of individuals, but most of all, they are trained to contact law enforcement officers. They are also trained to act and react in a case of an emergency. They are also vetted very carefully before they take this role in their background. And they act in goodwill and in good faith and they have done this for so many years, and this is one thing that they have asked for that they believe where at night, that perhaps someone in the distance will see that there is that amber light, I can go there for help. I don't have to go to a stranger's store. If someone knocks on your door in the middle of the night, there is a risk, perhaps, in opening up the door. You don't know who is behind that door. You're hopeful that it's a good Samaritan who can assist you. That's an option, if you're...but also an option would be if you see this car. Now if it was a person who was perhaps considering breaking a law, or engaged in illegal activity, that it may act as a deterrent seeing that the car is there with amber lights that they will contact law enforcement and law enforcement will come, that it may not be a wise idea to break the law and deter them, or move them to another location where perhaps another person with an amber light is located. When my colleagues mentioned the fact that another one of our colleagues...I don't know if in jest, or in a serious nature, asked for an amber light, I'm a little saddened that this is diminishing what this group of volunteers have intended to do. They did not come to their senator or to the Legislature to be mocked or made little of. That they are hoping that as crime increases, they can participate in changing the tide, that communities become stronger communities, that neighbors work together with their neighbors in saying no to crime. That's what it's all about. They do use T-shirts, they use decals and other items, but they're saying that... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR BRASCH: ...when it comes to a nighttime watch, they're concerned about being run into. They are also very concerned about the calls to 911 reporting them as a call that...as a car that is driving slowly through the neighborhood. This is a safety

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factor, an identification factor. And to bring the legal community into this for assurances and clarity, so be it. We're in a legal world. We're legislators, that's what we intend to do. But let's not take our role of legislating to diminish the goodwill of these brave men, women, and individuals who want to keep our neighborhood safe. This is a safety bill. And I do support LB399 and FA191 and respectfully acknowledge each senator has had information that will add value to this bill. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

SENATOR BRASCH: Thank you, President. [LB399]

SENATOR KRIST: Thank you, Senator Brasch. Senator Murante, you're recognized. [LB399]

SENATOR MURANTE: Thank you, Mr. President and members of the Legislature. Good morning. I rise in support of LB399. I think Senator Lautenbaugh has fairly, carefully, laid out his reasons for supporting the legislation. I can tell you, I think from a logical perspective, I think it will have some positive impacts. I think like a lot of us, last night I went home and talked to my wife about the issues that we were discussing today. And she sometimes sits at home or while she's at work and tunes into the Legislature, puts it in the background and listens to what we have to say, and her comment to me was that if there was a neighborhood watch association and we live in a fairly safe neighborhood in...just outside the city of Gretna, but if there was a neighborhood patrol and she was familiar that those people were out and about and she could see the car driving up and down the streets of our neighborhood with an amber light on its roof to signify that people were there and present, it would bring a feeling of safety and security in her mind, and I think that it would...that would be the case across the state of Nebraska in neighborhoods that decided to employ this tactic. I think it makes sense not just to deter crime but for the mentality of the neighbors in the various neighborhoods across the state to make sure and to let all of them know that somebody is watching, that people who are out there who care, and who are active in the neighborhood watch programs, are taking notice and that if there are any instances of people in the neighborhood out for nefarious purposes that there is someone watching. I have a bill right now in the Government Committee to deal with the issue of solicitors, door-to-door hawkers, people doing those sorts of things. And it has been a major problem in western Sarpy County where we will have people going door-to-door selling magazines, being extremely aggressive. They won't go away. When the police get called it takes a while for them to show up because, of course, it's not on the top of their priority list of things to do. It's a challenge, and it has resulted in legislation being introduced this year. I hope that the Government Committee supports it once we have a public hearing on it in a couple of weeks, but it's a problem. And there are people even in safe communities in western Sarpy County who feel at risk and the extent to which we can authorize neighborhood associations to be active in their neighborhood, be

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visible, be present, I think we'll add that degree of safety and security, it will make our neighborhoods just a little bit safer. And I do have a slightly different perspective from Senator Chambers, at least what it means to not invoke cloture on this bill or any other, and although technically speaking it's true, failing to invoke cloture does not immediately result in the indefinite postponement of LB399. I think the Speaker has made pretty clear and the schedule is what it is that we will not hear from it for the remainder...from LB399 for the remainder of this year. It will not become law and the practical impact... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR MURANTE: ...of failing to invoke cloture is functionally the same as indefinitely postponing the bill. I think it's a good bill. I think it has merit. It might not...we've spent a lot of time on this bill and on others this year which perhaps aren't earth-shattering, groundbreaking bills, but this is a step in the right direction. It's one of the little things that we can do for Nebraskans to make them feel just a little bit safer in their homes. I urge you...we do appear to be heading towards a cloture vote. Many on this floor in the last year railed against filibusters and moving...voting against motions to invoke cloture saying it was our public duty to take up or down votes on issues. Well, this is our opportunity... [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

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

SENATOR SCHUMACHER: Thank you, Mr. President. Would Senator Brasch yield to a question? [LB399]

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

SENATOR BRASCH: I will yield. Yes. [LB399]

SENATOR SCHUMACHER: Thank you, Senator Brasch. In your comments a few moments ago, did I understand you to basically be saying that as you saw this thing in operation, whenever these watchmen were watching, that they would be running their yellow lights? [LB399]

SENATOR BRASCH: They would use their discretion. When we had the transcript and the testimony there, it was their concern was that in the evenings they cannot be seen and the amber lights would help them be seen in the evenings. [LB399]

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SENATOR SCHUMACHER: So at 3:00 in the morning, if these folks wanted to drive the neighborhood with yellow lights flashing into people's windows to disturb their sleep, that would be perfectly okay? [LB399]

SENATOR BRASCH: If there are no shades, then yes, perhaps. And I don't believe the intensity of the lights, that's a question, but it could and if they believe they need to be out there at three in the morning and they need their lights on, they will. [LB399]

SENATOR SCHUMACHER: And if they...if these flashing lights wake up the neighborhood dogs and start all the dogs in the neighborhood barking, that's okay too? [LB399]

SENATOR BRASCH: There are many possible scenarios. The garbage man can wake you up in the morning as well, too, at four in the morning. But yes, this could. [LB399]

SENATOR SCHUMACHER: Okay. Thank you, Senator Brasch. Those things we used to call disturbing the peace when you send all the neighborhood dogs barking, when somebody is trying to sleep, maybe having just fallen asleep, and all of a sudden there's a flashing light flashing through their window or their patio door. If this is completely discretionary and if the object is so these people are seen, they naturally, we're saying flash your lights, and there's no limit on the intensity of these lights and a strobe light or a beacon light goes sweeping through your bedroom at 3:00 in the morning and wakes you up and you can't get back to sleep, and you may not be as efficient at work the next day, all of this in the context of something that really isn't necessary. We have not seen one iota of evidence where a lack of amber lights has restricted the good that these people can do, has resulted in injury, has caused any problem. I know we're right up on cloture now and I just would encourage the body to put an end to this. Thank you. [LB399]

SENATOR KRIST: Thank you, Senator Schumacher and Senator Brasch. Mr. Clerk. [LB399]

CLERK: Mr. President, I understand Senator Lautenbaugh would like to withdraw FA191 and offer as a substitute thereto FA192. (Legislative Journal page 444.) [LB399]

SENATOR KRIST: Is there any discussion? So moved. Senator Lautenbaugh, you're recognized to open. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. There's a song that comes to mind, What a Long Strange Trip It's Been. Well, here we are. This, again, was a very simple bill that came out of the Transportation Committee with no opposition. We've heard a lot of discussion here. Well, those of you who are still listening heard a lot of discussion here about Senator Lautenbaugh doing the county

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attorneys bidding this morning and Senator Lautenbaugh doing this, bringing the county attorneys in, etcetera, etcetera. Senator Lautenbaugh working the floor and playing politics and whatnot, getting support for the county attorneys involvement. Understand, folks, so we know how we got where we are, the county attorneys came in, as Senator Schumacher acknowledged, under a proposal from Senator Schumacher that was designed to alleviate some people's concerns. So, yes, I spent time on General File going around to get people who were...I hate the word "stakeholders" because first of all, I don't even know what that means, but in any event getting people to say, okay, yeah, I'm fine with that. And then to my surprise after lunch, Senator Schumacher pulled his own amendment after I had gotten what I believed to be assent to that amendment from a lot of the people in the body here. I've had people tell me now, look, we've had this county attorney adventure and that's great, but you gained nothing by adding the county attorneys if they're designating people to make these calls, and it's going to be local law enforcement, what was so bad about the green copy in the first place. And the short answer for me was, nothing was bad about the green copy. We only brought the county attorneys into this, you may recall, to try to placate some people who were inexorably opposed and remained inexorably opposed. And I probably should have never even tried to placate those people. But a little bit ago I was advised, you don't have me on cloture anymore by some unless you just get the county attorneys out of this and let law enforcement make this call as they are already on other issues regarding these neighborhood watch groups in Omaha. So that's what this amendment does. The county attorney adventure is just plain over. It's been much maligned this morning. I've been supposedly carrying the county attorneys water on this. They've been supposedly against it, secretly against it, secretly for it, scheming with me. You know, that's over. This is a very simple concept. Law enforcement can authorize these in the areas where they have jurisdiction or they cannot. I mean, that's the end of it. This is a crime fighting tool for these homeowners associations who want it, you're not required. This may never come up where you live. It has come up in the city where I live and other groups want to do it. That's the long and the short of it. That's the point of this floor amendment. This gets us back to where we were trying to go with this before this digression that took us down this crazy rabbit hole in the first place. I would urge you to continue to support the bill. Conceptually, this doesn't really change anything. This just gets us back to where we were trying to do. And I think it makes sense, because it made sense in the first place. Thank you, Mr. President. [LB399]

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

SENATOR BRASCH: Thank you, Mr. President and thank you again, colleagues. And my good colleague, Senator Schumacher, did bring up some disturbing facts about the potential loss of sleep from a yellow flashing light. My goodness. Well, perhaps this benevolent group, this group of goodwill who would like to keep your home safe shouldn't use the lights, but instead the neighborhoods can wait for the flashing red

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lights to come, the flashing red lights that turn off after a home has been broken into, or a home invasion has taken place, or perhaps a group of cars have parked and participated in some sort of illegal activities, or even human trafficking in our communities. Those red flashing lights might be harder on our sleep and our eyes and our good conscience. Again, these are citizens, benevolent, willing to dedicate some time away from the ball game that's on, the gadget or whatever device they may be watching. If lights are a concern, then we need to help make less red lights with safer neighborhoods, safer communities, and recognize these volunteers for the important task they are undertaking. Every day you open the paper, you turn on the radio, you turn on the TV, and you hear about terrible incidents. These people want to turn that around and should not be chastised, or made little of, or considered deviants of the community. They are good Samaritans. Have we forgotten what the word "good Samaritan" involves? They are trained for protection. They are trained to call law enforcement. They look for signs of danger. They know when the drug dogs are brought out, they know what to look for. They are trained for their own personal safety and they don't take those responsibilities lightly. And there are neighborhood watches. There are McGruff Houses. We have a whole community that wants to look after the well-being of children, adults, our elderly, and bring their community to a safe, good place to live. Nebraska is the good life. We need to continue on that train of thought where because of our volunteers, because of some individuals who have taken every measure from a T-shirt, to an identification form, to a car identification, are now saying that in the evening...and evening starts early here. In December, what, the winter equinox starting in December, it's dark at 5:00. Many of us have, you know, experienced that and look forward to lighter days. There are children coming home from school activities at 5:00 or 6:00. There's sports activities, club activities. You know, these neighborhood watch organizations are of great value to our young people as they traverse to and from home and their events during our dark winter months here. And I think that what they ask is reasonable. And I trust after all of their training and all of their discretion, they will not turn on these lights arbitrarily just for the sake of... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR BRASCH: ...being seen. They are using these lights for public safety. And I would like to respect and honor them for that request and that is why I am supporting LB399 knowing that this group has benefited these communities historically, not just in the Omaha area, but across the state. So I do ask for your support and I do thank you, colleagues, for your careful deliberation here. And an amber light is not something that they take lightly, they take it seriously in the delivery of their services, public services to their community. Thank you, colleagues. [LB399]

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

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I could chortle right now. See, I made them go full circle. Brought it right back to where they started, but it took all of my discussion. There is young Senator Murante talking about what a great bill it was. Then the rug was pulled out from under him, well, it wasn't so great after all. Now you got to go back to the green copy, more or less. They follow. They need to read and study. Senator Murante, I believe is going to still be here. Senator Lautenbaugh is not. The reality is that people are going to be looking for individuals to put in positions of leadership. I don't want any of them. I'm not talking about for me. And when you see people who follow blindly, it gives you some insight into how well they can function as the head of a committee. These things need to be looked at and if there's nobody else who's going to look at the integrity of the Legislature as an institution, I'm going to do it. And now we're right back where we started. You all went along with Senator Lautenbaugh. I'd like to ask him a question or two. [LB399]

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

SENATOR LAUTENBAUGH: Yes, I will. [LB399]

SENATOR CHAMBERS: Senator Lautenbaugh, I'm the one who said you were carrying water for the County Attorneys Association. Isn't that correct? [LB399]

SENATOR LAUTENBAUGH: That's correct. [LB399]

SENATOR CHAMBERS: And the first time you offered that amendment to put his or her designee, that was at the behest or the suggestion of the County Attorneys Association, is that correct? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: And when you offered it in that second place, one line below, that was something the County Attorneys Association had suggested or thought would be wise to go ahead and do. Is that correct? [LB399]

SENATOR LAUTENBAUGH: Actually... [LB399]

SENATOR CHAMBERS: Well, if it's not, just say, no, I'm not going to argue. [LB399]

SENATOR LAUTENBAUGH: Well, they agreed to it. I think I'm the one who suggested it to them, but it doesn't matter. They agreed to it, so certainly it was at their assent, if you will. [LB399]

SENATOR CHAMBERS: Well, then I'm going to get my pound of flesh. What I said made sense, huh, that if you're going to have it in that upper place, it should be in the

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lower place also. [LB399]

SENATOR LAUTENBAUGH: Yeah. [LB399]

SENATOR CHAMBERS: Okay. Senator Lautenbaugh, we accept what each other say when it's inescapable. Here's what I'm going to get to now. In Douglas County, the sheriff provides law enforcement throughout the county, isn't that true? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: The sheriff has jurisdiction in the city of Omaha also, is that true? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: And there's a police department in the city of Omaha, correct? [LB399]

SENATOR LAUTENBAUGH: Yes. [LB399]

SENATOR CHAMBERS: Which one will have that authority in Omaha since your bill says sheriff or police department? [LB399]

SENATOR LAUTENBAUGH: Both. [LB399]

SENATOR CHAMBERS: So they could go contrary directions. One could say yes and the other could say no. [LB399]

SENATOR LAUTENBAUGH: On amber lights, yes, they possibly could. [LB399]

SENATOR CHAMBERS: On anything. [LB399]

SENATOR LAUTENBAUGH: Well, I think we're talking about the seminal issue of granting amber lights. [LB399]

SENATOR CHAMBERS: Well, you want to come down to that petty little item and I'm talking about serious legal matters because I've dealt with the sheriff's department, the county attorney's department, and the city prosecutor. And one will see it one way and one will see it another. So for people to get the impression from what Senator Lautenbaugh said that these are always in lockstep, that's not true. I'm not just talking about amber lights. That's what's before us but it raises these legal issues. But that's all I'll ask you, Senator. Oh, one other thing. Why did you put police department instead of police chief? I'm just curious. [LB399]

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SENATOR LAUTENBAUGH: No reason. I mean, it would be the chief would be in charge so there's no particular reason why I chose police department. I could have said sheriff's department and police department, but I... [LB399]

SENATOR CHAMBERS: But you didn't draft the original bill, did you? Now that you have had a chance to think about it, because you would have put police chief because you're dealing with individuals who run offices. There's a sheriff's department. You could have said the sheriff's department or the police department, but you said the sheriff, identifying a person and/or the police department... [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR CHAMBERS: ...which defines an entity. [LB399]

SENATOR LAUTENBAUGH: I don't think that it matters. [LB399]

SENATOR CHAMBERS: Okay. [LB399]

SENATOR LAUTENBAUGH: I mean they're both run by the individual, either the sheriff or the police chief, so it's the same to me. [LB399]

SENATOR CHAMBERS: Okay. Thank you. Members of the Legislature, they're not the same to me. When you use words which in their ordinary meaning don't mean the same thing, then you all are going to say on the floor because you're tired, well, Senator Lautenbaugh said they mean the same thing to him, so they should mean the same thing to everybody. This is still a bad bill. And the unconstitutional delegation of authority is still there. You just don't send it to the county attorney, you now send it to the sheriff and the police department. Now these people in law enforcement are part of the executive branch of government. They're not a part of the legislative branch. They're... [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

SENATOR KRIST: Thank you, Senator Chambers and Senator Lautenbaugh. Senator Lautenbaugh, you are next in the queue. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Again, we've come full circle on this and that's not bad. This is essentially the language that came out of the committee 8-1, I mean, 8 to nothing, I should say, if I've counted my committee members correctly. There's the deletion at the end there for, like I said,

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applicable law enforcement agencies. That clearly, in retrospect, was an oblique reference to the State Patrol which would be the only thing that wouldn't be police, sheriff, that I could think of that would be in the business of authorizing these, but I couldn't imagine when they would be the go-to entity when the police and sheriff would not be, so there was no problem taking that out. But that became an issue in this. And we went pretty far afield as you're inclined to do and we often do on a filibuster, but let me bring this home again to where we are as we're getting very close to the cloture vote. And where we are is, we're talking about amber lights. I don't see the possibility of a heated disagreement between the police and the sheriff over amber lights. They may choose never to authorize them. Fine. But they were at that same thing I was at and they go to a lot of community fora. And one of the real problems with today, going to cloture today, is that this was a close vote on General File. And Senator Mello is not here and I don't ever presume to speak for Senator Mello, and that's at Senator Mello's insistence, I'm sure, because he wouldn't want me speaking for him. We rarely agree. But let me tell you one of the first things I told you on General File again, I introduced this bill last year. Senator Mello came to me in December and said, I'm glad you did that. We've been approached by neighborhood associations in east Omaha and we were going to introduce a similar bill, but you have already taken care of it, let me help you. And Senator Mello stood with me on General File. Senator Mello spoke in favor of this. Senator Mello just had his first child and is not here today to speak in favor of this, but he encouraged me to go the distance on this and that's what I said on General File when it was in vogue that week for a bill to meet headwinds and be pulled after a couple of hours because it just wasn't worth the fight, I said, you know what, I'm going to fight on this one because I understand what these people are trying to do. And I think the woman who came to me was from Mountclair Neighborhood Association. I looked last night when I fumbled yesterday and couldn't remember. I first said it was south Omaha, and Mountclair is not north, south, east Omaha, by any measure. I think it's around 120th and Pacific. But, so what? That's who brought me the bill and it was a big issue on General File that I couldn't remember if I'm the one who sat down and drafted it, or if I had Brent in my office draft it, or if it was brought to me drafted and we tweaked it. At what point does it become yours? Looking back since it was last year, I don't think I drafted it, but I think we tweaked it some. I think the language was brought to me by the woman who is an attorney by the way. I know her professionally. That's how she brought it to me. I'm not her Senator. She's not a constituent. She does juvenile court work, but she's also part of a citizen's watch group, citizen's patrol in her neighborhood. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And this was important enough to her. And she was mortified last year when this well-meaning and innocuous bill was denounced as leading to vigilanteism and the parade of horrors on the NPR story, because that seemed out of bounds. And I don't know if she's been watching the

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filibuster so she has a better perspective of what's really out of bounds, but sometimes you have to kind of dig in and say, look, enough of this, I'm going to stand and go eight hours and I'll prove to you I can go eight hours and whatnot. Sometimes a bill has to pass if you can identify a purpose for doing so and you feel for the people who will benefit from it. And Senator Brasch just had some great comments. We're talking about how people are going to be irritated by the people driving around with these lights flashing all the time. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

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

SENATOR SCHILZ: Thank you, Mr. President. I yield my time to Senator Lautenbaugh. [LB399]

SENATOR KRIST: Senator Lautenbaugh, you're yielded 4:50. [LB399]

SENATOR LAUTENBAUGH: Thank you, Senator Schilz. Thank you, Mr. President. We were talking about how people might be annoyed by these flashing lights. We act as if people don't exist in the real world outside of this building. Do you really think these patrols are going to drive around with the lights flashing all night long? Well, what's going to happen? I'm thinking of Omaha because that's what I'm familiar with. If that were the case and people were annoyed, they'd call the police, they'd call their city councilmen, and the authorization for these would either be withdrawn or the rules governing their use would be changed. But I think Senator Brasch made a pretty good point. The people who are going to be most inclined to ask for these are probably worse than annoyed by the flashing red lights. And more than annoyed by gun fire, and more than annoyed by having their cars broken into, and more than annoyed by being victims, all the time. Repeatedly, constantly, victims of crime. And this is a modicum of support for anticrime groups in their own neighborhoods trying to take back their streets, to use a cliché, and show a visible presence on their own streets in their own neighborhoods. They're not trying to be police. Under existing rules without the amber lights they exist. They're not authorized to pursue. They're prohibited from being armed. They observe and they report and that's the end of it. This would just increase their visibility. That's all. And that's become lost in this debate what we're trying to do here. We're supposed to assume that everyone is going to behave irrationally if this bill is passed, including the public officials who would have to authorize this. The county attorneys we're supposed to assume would behave in the most irresponsible manner because they'll never have to face an electorate again. Police chiefs will now just go insane because they have the authority to authorize amber lights. Sheriffs will lose all

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sense of perspective and reliability because, again, we are delegating this huge authority. To be clear, letting neighborhood watch organizations have amber lights within designated areas. And sometimes these groups can be authorized to help with parades, crowd control, safety issues like that where visibility is important in daytime too. And that does take this within the ambit of storm chasers, and other visibility type issues that we've talked about, which is the traditional use of amber lights. And this does not do violence to the current authorized users of amber lights. This is not a bad bill. This is not an unconstitutional delegation of authority. This is not somehow contrary to our traditions. This is not going to be the end of the Republic and this certainly is not going to be damaging to law and order. Quite the contrary. And this amendment takes us back to basically the green copy which had no opposition in the hearing, if memory serves, no opposition whatsoever, if memory serves. And if I'm wrong on that, I'm hoping someone will correct me, but I don't think that's the case. [LB399]

SENATOR KRIST: One minute. [LB399]

SENATOR LAUTENBAUGH: Thank you, Mr. President. So you have to ask yourselves, how did we go so long on this topic? Was I just being bullheaded? Case could be made, but I have talked to the people who would benefit from this. And at the end of the day, I think we're supposed to say, or we're supposed to do things that actually help people. And I resent the criticism that, well, why did you go down the road with the county attorneys? Why did you even try to work the floor and get people to be accepting of that amendment? Because it was offered as a compromise to allay some concerns. It was a miserable failure in that regard, but I had told people I would go forward with that and so I did. I tried to keep my word. To say I got nothing for that is an understatement. [LB399]

SENATOR KRIST: Time, Senator. [LB399]

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

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

SENATOR AVERY: Thank you, Mr. President. I had a bill on amber lights a couple of years ago, or maybe three, that might have made consent calendar. And I am just totally mystified that that would happen then and now we spend all this time on amber lights in this case. I just tell you that to kind of put this debate in perspective. My bill on amber lights dealt with storm spotters, probably a significantly different sort of animal than we're talking about here, but that seemed to strike me as a bit ironic. I know I have some time left and if Senator Lautenbaugh can make good use of it--so notice I said, good use, Senator Lautenbaugh--I will yield the rest of my time to him. [LB399]

SENATOR KRIST: Senator Lautenbaugh, you're yielded 4 minutes. [LB399]

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SENATOR LAUTENBAUGH: Thank you, Senator Avery and I think you know as long as you're here and I'm here, none of your bills have made consent calendar. (Laughter) So, amber lights or otherwise. But that's not correct. Senator Avery and I, careful observers of the Legislature will recall, have been historical antagonists, but we have come together in recent years over such things as, again, the shrinking of the OPS board, and a few other bills. And we worked together successfully on those. Veering back to this, one last time, a lot of times we have to work to put ourselves in other people's shoes. I don't have a neighborhood watch in my neighborhood. It's not a terribly high crime area, it's not a gated community by any measure. It's just a middle-class area, but we don't seem to have a lot of crime. We have a homeowners association but no one has ever, to my knowledge, suggested a neighborhood watch. That doesn't mean I don't talk to people who do have neighborhood watch programs, and they don't have them because they have a lot of time on their hands and nothing else to do at night. I mean, there's got to be something on cable, there's got to be something more to do than sitting out in your car watching your neighborhood. They're out there for a reason. I really think that this is another tool we can give them. I would urge us to go ahead and give that tool to them and that's all I can say. I urge you to vote for this amendment. I'd urge you to vote for cloture of the underlying bill. I have the order of that wrong. I'd urge you to vote for cloture. I urge you to vote for this amendment and to advance the underlying bill. Thank you, Mr. President. [LB399]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Smith, you're recognized. [LB399]

SENATOR SMITH: Thank you, Mr. President. And I yield my time to Senator Lautenbaugh. [LB399]

SENATOR KRIST: Senator Lautenbaugh, you're yielded 4:53. Mr. Clerk, you have an amendment. Senator Lautenbaugh, would you like to speak for the 4:50 or not? [LB399]

SENATOR LAUTENBAUGH: I will waive. [LB399]

SENATOR KRIST: Mr. Clerk, you have a motion on your desk. [LB399]

CLERK: I do, Mr. President. Senator Lautenbaugh, would move to invoke cloture pursuant to Rule 7, Section 10. [LB399]

SENATOR KRIST: It is the ruling of the Chair that there has been full and fair debate afforded to LB399. Senator Lautenbaugh, for what purpose do you rise? [LB399]

SENATOR LAUTENBAUGH: I would request a call of the house and a roll call vote in reverse order. [LB399]

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SENATOR KRIST: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB399]

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call. [LB399]

SENATOR KRIST: The house is under call. Senators, please record your presence. All 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 McGill, Senator Burke Harr, Senator Lathrop, Senator Ashford, and Senator Davis, please return to the Chamber, the house is under call. Senator Davis, please return to the Chamber, the house is under call. All members are accounted for. There was a request for a roll call vote in reverse order. Mr. Clerk, please proceed. This takes 33 votes for cloture. [LB399]

CLERK: (Roll call vote taken, Legislative Journal pages 444-445.) 32 ayes, 12 nays, Mr. President, on the motion to invoke cloture. [LB399]

SENATOR KRIST: The motion does not pass. Debate ceases. Raise the call. Mr. Clerk. [LB399]

CLERK: Mr. President, next item, LB588. Senator Murante, I have E&R amendments pending to the bill first of all, Senator. (ER131, Legislative Journal page 377.) [LB588]

SENATOR KRIST: Senator Murante for a motion. [LB588]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB588]

SENATOR KRIST: You have heard the motion. All those in favor aye. Opposed, nay. Motion passes. [LB588]

CLERK: I have nothing further on the bill, Mr. President. [LB588]

SENATOR KRIST: Senator Murante for a motion. [LB588]

SENATOR MURANTE: Mr. President, I move to advance LB588 to E&R for engrossing. [LB588]

SENATOR KRIST: Stand by, please. Senator Gloor, you're recognized. [LB588]

SENATOR GLOOR: Thank you, Mr. President. Senator Watermeier knows that I have no objection to his bill, in fact, will vote in favor of it and many of the other bills that relate to programs and services we wish to provide for our veterans. But I analyze these

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bills looking for an opportunity to attach a bill of mine as a possible amendment. My bill, which many of you I know, know about, seeks to bring programs and services of the state that are being moved from community to community to the body for approval. And the more controversial aspect of that is a look-back provision that would relate to the decision made to move the Grand Island Veterans' Home. As I analyzed these two bills, there were two common themes. One is that there were a lot of veterans advocacy groups who attended these meetings speaking on behalf of these programs and services being provided to veterans. The other is that all the veterans impacted by these are, for want of a better term, in the prime of their life. These are young veterans, veterans who are trying to kick-start their life. In the case of those disabled, make a better life for themselves as well as in the businesses that they may choose to get into. These are worthy bills also, also ones that I will support. But as relates to the Grand Island Veterans' Home decision, we are dealing with older veterans. And is the case in a lot of things in society, we forget about people who are older. None of these advocacy groups sought to seek out these elderly veterans who were losing their home, moving elsewhere to get feedback from them. And given the age of these veterans, the fact that some of them resigned to wheelchairs, dealing with early dementia or worse are unable to vocalize their concerns, weren't in a position to be able to come to this body and express their concerns because the department never included in the evaluations and the scoring what the veterans wish to do. They were never asked. And in fact, obstacles were put up for those who sought to try and reach out to anybody who would listen to them about this decision. Now bringing this decision back to this body may not result in a change of any kind and I understand that. But this is the people's body of government. And if we are going to pit communities against each other, and in this case if we are going to dislodge people and their family members and a large pool of employees, shouldn't this body be involved in weighing the pros and cons of this? Once again, the decision may ultimately be the same. I'm disappointed in advocacy groups. I'm uncomfortable, embarrassed, and obviously this is my district and I have a strong vested interest in trying to keep the culture of this veterans' home alive in the community. But these elderly veterans deserve some degree of recognition and respect, and perhaps that can be given to them by bringing this issue back here. Douglas MacArthur, after his storied career, made a farewell speech at West Point, which interestingly enough is the alma mater of our Governor, in which he said old veterans never die; they just fade away. A famous saying, I'm sure you heard it. Apparently within the Department of Veterans' Affairs you can add to that, fade away to invisibility. I hope that doesn't happen in this case. And I appreciate the opportunity to express my concern and frustration about the lack of involvement in these worthy veterans who are older, who don't catch the imagination younger veterans do, but still are worthy of hearing their voice. Thank you, members. Thank you, Mr. President. [LB588]

SENATOR KRIST: Thank you, Senator Gloor. Senator Hadley, you're recognized.
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SENATOR HADLEY: Mr. President, members of the body, I do have to stand because...I have to calm down a little, but let's make everything retroactive. Let's look back the last five years, let's look at bills and the way we've done things and change everything. I sat in a meeting where we lost a helicopter facility to Grand Island. We took it. We didn't complain. We didn't stomp. We didn't say that the National Guard just made a terrible decision, horrible, cry, bang on the table. I could talk to Senator Karpisek. I think at one time you were a little upset about the State Fair moving. Correct? Still is upset, but it happened. You know, if we're going to spend our time looking back, we can look back at a lot of things. Either we trust how we set up the system and let it work and you accept the decision, rightly or wrongly, whether it helps your district or doesn't help your district, but you accept the decision. And if you think there was bias in this decision, then you need to stand up and say so. If you think people intentionally moved something because they liked Kearney better than Grand Island, if that's the case, they must have liked Hastings better than Grand Island because they rated Hastings higher. I'm sorry. I've just had enough of this. It's been going on a long time. There's a bill in Government that's going to try and make it retroactive. I will certainly oppose that--bad policy by the Legislature, bad way to handle business. You stand up and you accept what happens, right or wrong. If you think there is bias, bring the proof. But you're dealing with a very open, transparent scoring system. And you can go look at it. You can see the score on every item by every community. So I guess I've just kind of had it. I haven't said a word on this yet, but I have now. Thank you, Mr. President. [LB588]

SENATOR KRIST: Thank you, Senator Hadley. Those still wishing to speak: Senator Dubas, Senator Gloor, Senator Hansen, and Senator Chambers. Senator Dubas, you're recognized. [LB588]

SENATOR DUBAS: Thank you very much, Mr. President. I stand up and echo and strongly support the comments that Senator Gloor made. This is an issue where our veterans were...their voice was not heard. That's just plain and simple. The residents who live in this facility were not heard. We're not talking about a business like we talk about other businesses. We're not talking about an Internet company or any kind of manufacturing. We're talking about a place that people call home and, for some, have called home for a very, very long time. I mean it would just be like someone coming to us and saying you have to move from your home. We're talking about a place where families have actually relocated so that they could be close to their loved ones and made Grand Island their home. So to me from the very...I mean, there can be a lot of discussion about the process and how it unfolded and the fairness or the unfairness of it. But to me, the voice that was sorely missing, the consideration that was not given was to those veterans who call the Grand Island Veterans' Home their home. The relationships that they've built with staff and with others from the community, those are just things you just don't put price tags on, you don't put a point system to, to determine what is good and what is not so good. Anytime I've been interviewed about this subject,

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I've tried to make this the first point that I make: that the veterans' voice was lacking. And, you know, I'm the proud daughter of a veteran. He raised me with the utmost respect and admiration for our veterans who have served this country. And, you know, we like to talk a lot on the floor about how important we believe the veterans are and what they've not only given to our state but to our nation as well. And for whatever reason in this circumstance, we chose not to seek out the input or the opinion of these people, of these veterans, about where they are going to live their remaining days. And to me, that's what makes this whole process sad. I mean, it really is sad. We've had other veterans' homes in the state where there's been moves and changes, and no system like this was used. And I don't know if the veterans had a voice in that decision so I guess I can't speak to that, but I can speak to this. And this isn't, in my view, this isn't sour grapes. It's unfortunate that we're now pitting communities against each other. But at the end of the day, I don't know what the bill will look like when it comes out to the floor. I think it's good that we're going to have this debate at some point along the line. But at the end of the day, I hope we will always, always, always put the veterans...give them the opportunity to have a say in where their future is, what their future looks like, and where they choose to...what...the place that they choose to call home. So I thank Senator Gloor for introducing his bill. I am cosigning it, and I will support his efforts in every way that I can. Thank you. [LB588]

SENATOR KRIST: Thank you, Senator Dubas. Senator Gloor, you're recognized.
[LB588]

SENATOR GLOOR: Thank you, Mr. President. I will be brief in my comments. And Senator Hadley's frustration and aggravation is an example...and by the way, Senator Hadley and I have visited about our individual communities, our perspectives on this. We've been friends for years prior to this issue. We will be friends hopefully, for his case, hopefully for a lot of years. I'm young enough so that that's not an issue with me clearly. But we will remain friends after this issue. But that frustration shows you the problem with pitting communities against each other in bidding for books of state business, which is the main reason behind my bill. And it is not to dispute the scoring, it's not to drag up whether one community has more trees than the other community, has sites and so on and so forth. But there is one issue that I will say when we talk about helicopters and when we talk about state fairs is that the root of my concern and the look-back provision and that is that helicopters and pigs and cattle and sheep don't care where they spend the night and sleep. Elderly veterans do. And I'm trying to get this issue back here so that those veterans, those elderly veterans, since we all wrap ourselves in the cloak of, gee, what's good for veterans is good for Nebraska, that should extend...that courtesy should extend to elderly veterans. And that's all I have to say about that topic. LB588 is a good bill and I urge its moving forward. Thank you.
[LB588]

SENATOR KRIST: Thank you, Senator Gloor. Senator Hansen, you are recognized.

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[LB588]

SENATOR HANSEN: Thank you, Mr. President. Good morning, Legislature. I think LB588 is a good bill, too, and I will certainly support Senator Watermeier's bill. Just to get in this little conversation about who picked what and why and why not, North Platte was in the mix too. And the reason North Platte was in the mix and a logical choice is because it's in the center of the state. Moving the veterans' home 40 miles did not do very much for very many people. If they'd have moved it the 140 miles, then it would have been in the center of the state. The name of it is Central Nebraska Veterans' Home. North Platte made a great bid and it came down, like so many other things do, to the tri-cities area. There's good things happen in Omaha; there's good things happen in Lincoln involving government, university. There's also some good things happening out west, not out west, in the central part of the state. We need to keep that in mind. Look at a map sometime. Look up where North Platte is. It's in the center of the state. And I thought that was the idea of this...of looking at the veterans' home and where it should be. It should be in the central part of the state. If you leave Lincoln and go to North Platte, you're exactly half way to Chadron. It's in the middle of the state. We were disappointed in the choice too. It seems like the tri-cities get most of the projects. It's where that...those tri-cities work together because they have a large population base, and we can't match that anywhere out in the west of Buffalo County. We're disappointed, but we're not going to throw a fit. I'm not going to come to the Government Committee and testify one way or the other. It's a done deal. I was satisfied with the transparency of the study. And all there is left to do is congratulate Kearney. Thank you, Mr. President. [LB588]

SENATOR KRIST: Thank you, Senator Hansen. Senator Wightman, you are recognized. [LB588]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I stand in opposition to the attempt to join the two bills. I'm much in favor of Senator Watermeier's LB588. I have part of my district also in Buffalo County, a very small part of it. But it seems to me, and I disagree with Senator Hansen a little bit over where the center of the state is. Actually, from everything I read it's in my district in Custer County at about Anselmo. But actually the city of Cozad has the hundredth meridian running through it, and it probably is the center of the state. So it just doesn't seem to be appropriate that these two bills be joined. We had a bidding process. Kearney outbid everyone else. I think Grand Island was second and then, or excuse me, I think Hastings was second maybe and Grand Island third. But whatever it is, I just don't think we need to go beyond what we did in our action last time in approving Kearney. And the Governor did approve Kearney. So I'm opposed to joining the two bills together. Thank you, Mr. President. [LB588]

SENATOR KRIST: Thank you, Senator Wightman. Seeing no one else in the queue,

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Senator Murante for a motion. [LB588]

SENATOR MURANTE: Thank you, Mr. President. I move to advance LB588 to E&R for engrossing. [LB588]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Mr. Clerk. [LB588]

CLERK: Mr. President, LB96. I do have Enrollment and Review amendments. (ER132, Legislative Journal page 379.) [LB96]

SENATOR KRIST: Senator Murante for a motion. [LB96]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB96]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It moves. [LB96]

CLERK: I have nothing further on the bill, Senator. [LB96]

SENATOR KRIST: Senator Murante for a motion. [LB96]

SENATOR MURANTE: Mr. President, I move to advance LB96 to E&R for engrossing. [LB96]

SENATOR KRIST: You've heard the motion. All in favor, aye. Opposed, nay. It advances. Mr. Clerk. [LB96]

CLERK: Mr. President, items. Your Committee on Health and Human Services, chaired by Senator Campbell, reports LB859 to General File; LB869 General File; LB790 General File with amendments; LB843 indefinitely postponed. Government, chaired by Senator Avery, reports LB718 and LB719 to General File with amendments. Education, chaired by Senator Sullivan, reports LB740 to General File with amendments; likewise with LB872. Priority bill designations: Senator Crawford has selected LB740. Senator Coash would like to print an amendment to LB503; Senator Hadley to LB474. I have a notice of hearing from the Transportation Committee. I also have an amendment to be printed to LB399 from Senator Chambers. An announcement, Mr. President: The Judiciary Committee will meet in Executive Session in Room 1113 immediately; Judiciary Room 1113 immediately. Name adds: Senator Coash to LB1010, LB850; Senator Krist to LB48. (Legislative Journal pages 445-451.) [LB859 LB869 LB790 LB843 LB718 LB719 LB740 LB872 LB503 LB474 LB399 LB1010 LB850 LB48]

Mr. President, a priority motion. Senator Brasch would move to adjourn the body until

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Wednesday morning, February 5, at 10:30 a.m.

SENATOR KRIST: A reminder, at 10:30 a.m. All those in favor, aye. Opposed, nay. We are adjourned.