

on the Withem motion.

SENATOR ROBAK: I would surrender my time to Senator Chambers.

SENATOR CROSBY: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Robak. Members of the Legislature, this will probably be the last time I will speak on it because I have raised the kind of issues that I believe are important. Senator Kristensen's scenario, and I can't ask him questions because I will run out of time, Senator Kristensen's scenario is a hybrid which is not going to work. He says that in his opinion any taxpayer would have standing, and I'm not challenging that because I want to find a way to get it before a judge. Some district judge in Nebraska is going to call in an elector by virtue of a mandamus action and order that person to carry out this activity. First of all, even though it's a state statute involved it relates to a federal activity, and I don't believe that a district judge in Nebraska has the authority, under the state's mandamus law, to compel an elector in a federal activity to do anything in the same way no injunction from a state court can order a federal official to do anything that is tied into that persons federal duties. Let's say though that that happens and some judge is dumb enough, in my opinion, to try to do that. The elector would just ignore the mandamus and the judge would try to cite the person for contempt and in the mean time these ballots would go on to Congress for counting. Senator Kristensen seems to think that because some district judge in Nebraska had rendered this...had allowed this mandamus to issue that the counting of the ballots for president and vice president will be stayed pending what a district judge in Nebraska has said. I don't believe it, but again we're giving our opinions. We are dealing with a strictly federal activity. The electors cannot cast more votes than what is allowed under the constitution and the state cannot restrict them in terms of saying for whom the vote must be cast. Now clearly they couldn't write on their ballot, I'm writing in the name of Senator Vrtiska for U.S. Senate or the House, that cannot be done because the constitution determines for whom these ballots shall be cast. So I believe that this provision that the parties may have gotten into the statutes in other states, if such language exists, existed in the statutes of this state at an earlier time. None of that means that they are constitutional. Who other than the parties, in most instances, would have a desire to challenge? One thing we notice LB 65