

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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February 18, 1999 LB 60

introduced on January 7, referred to the Government Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

SPEAKER KRISTENSEN: Senator Schimek, you're recognized to open on LB 60.

SENATOR SCHIMEK: Yes, thank you, Mr. President, members of the body. There's probably...there really should be no need for this bill. Throughout the...well, there is a need though, however, Senator Janssen. Throughout the history of our state, the state board of canvassers has traditionally been a board that simply met and tabulated and tallied votes, but this past summer there was an occasion on which the state canvassing board met and, in my estimation, exceeded their authority, and it involves some races for the NRDs. And what happened is some people who were supposed to get ballots didn't and some who didn't were...should have gotten ballots, and the upshot was that the state board of canvassers met and decided, instead of just tallying the votes and certifying the votes of the election, they met and decided to put all of the candidates' names on the general election ballot, not only those who won the election but those who opposed...or who did not win the election, who came in third and fourth and fifth and whatever. This was highly irregular. I don't recall it ever happening before. And the thinking of the board, at least some of the board, not all of the board, Secretary of State did disagree about what they were doing, but the thinking of the board was that it made...it was a common-sense solution to a problem. And I understand where they were coming from and what they were trying to do, but they...they didn't have the authority to do that. So what this particular bill does is says, very simply, the duty of the Board of State Canvassers to canvass the votes is ministerial in nature. If you will look at the handout that I passed out just a few minutes ago, you will see a court case and it dates back to 1935. It's Campbell v. Campbell, and in that court case the court did say we are of the opinion that the directors of the district have mistaken and overestimated their powers as a canvassing board. This was a particularly...particular canvassing board at that time. The duties of a canvassing board are purely ministerial. It is its duty to tabulate the votes as returned to it. An election