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Floor Debate  
February 07, 2007

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[LB35 LB39 LB43 LB63 LB64 LB74 LB108 LB110 LB111 LB148 LB150 LB173 LB186  
LB192 LB204A LB205 LB206 LB207 LB211 LB295 LB296 LB299 LB315 LB349 LB434  
LB466 LB527 LB549 LB549A LR8CA LR24 LR25]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning and welcome to the George W. Norris Legislative Chamber for the twenty-fifth day of the One Hundredth Legislature, First Session. Our chaplain for this morning is Father Michael Christensen, from St. Peter's Catholic School, here in Lincoln, Nebraska, Senator Fulton's district. Would you all please rise.

FATHER CHRISTENSEN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Father Christensen. I call to order the twenty-fifth day of the One Hundredth Legislature, First Session. Senators, please record your presence by roll call. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB108 and LB204A to Select File. Enrollment and Review also reports LB35, LB43, LB63, LB64, LB74, LB110, LB111, LB148, LB150, LB186, LB206, LB207, and LB315, all those reported correctly engrossed. And that's all that I had, Mr. President. (Legislative Journal pages 487-488.) [LB108 LB204A LB35 LB43 LB63 LB64 LB74 LB110 LB111 LB148 LB150 LB186 LB206 LB207 LB315]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR24 and LR25. (Doctor of the day introduced.) We'll move to the first agenda item under legislative confirmation reports. [LR24 LR25]

CLERK: Mr. President, the Natural Resources Committee, chaired by Senator Loudon, reports on the appointment of Ann Bleed to the Department of Natural Resources. (Legislative Journal page 460.)

PRESIDENT SHEEHY: Senator Loudon, you are recognized to open on the Natural

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Resources Committee confirmation report.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. Ann Bleed, appointed by the Governor as director of the Department of Natural Resources, appeared before the Natural Resources Committee for her confirmation hearing on February 2, 2007. Ann is a registered professional engineer in civil engineering, and is a resident of Lincoln. Her educational background includes a bachelor's degree in biology from Earlham College; a master's degree from Pennsylvania State University, majoring in zoology; and a Ph.D. from the University of Wisconsin-Madison, with a major in ecology. A second master's degree was earned from the University of Nebraska-Lincoln, with a major in industrial and management systems engineering, focusing on water resources management and engineering. From the mid-1970s through 1988, Ann was on staff at the University of Nebraska-Lincoln as an instructor for the School of Life Sciences, a graduate research assistant in industrial and management systems engineering, and an assistant professor for the Nebraska Water Resources Center and the School of Natural Resources, and an assistant professor for the conservation and survey division. She has been an adjunct professor and member of the graduate faculty with the Institute of Agriculture and Natural Resources, and College of Engineering, from 1988 to the present. Ann worked for the Department of Water Resources from 1988 to 2000 as state hydrologist, and was appointed deputy director of the newly formed Department of Natural Resources in 2000, serving in that position for five years. When Roger Patterson resigned as director in 2005, the Governor appointed Ann, acting director, and she has served in that capacity for the past 16 months. Ann has extensive facilitation and negotiation experience. She is one of two people representing the state of Nebraska on a six-member team that settled the Nebraska versus Wyoming case, and one of the three people representing Nebraska that settled the Kansas versus Nebraska case, both complex interstate water lawsuits before the U.S. Supreme Court. Ann's former memberships include the Lincoln-Lancaster Planning Commission, serving as chairman; the Lincoln-Lancaster County Board of Health; the citizens advisory board for the State Environmental Control Council; vice chair of the mayor's landfill siting committee for the city of Lincoln; and former president of the Lincoln-Lancaster League of Women Voters. Ann was named a Leadership Lincoln fellow, and is a recipient of the YWCA Tribute to Women Award. She has authored several publications pertaining to water resources. The committee recommended approval of her appointment as director of the Department of Natural Resources.

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening to the legislative confirmation report from the Natural Resources Committee. Any discussion on this item? Seeing none, Senator Louden, you are recognized to close. Senator Louden waives closing. The question before the body is, shall the legislative confirmation report from the Natural Resources Committee be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

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CLERK: (Record vote, Legislative Journal page 488.) 35 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. First item under General File, Mr. Clerk.

CLERK: LB549A, a bill by Senator Synowiecki. (Read title.) [LB549A]

PRESIDENT SHEEHY: Senator Synowiecki, you are recognized to open on LB549A. [LB549A]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor, members of the Legislature. Yesterday, we had somewhat substantial debate on LB549, a bill to create microdistilleries in the state. The A bill that is attached provides for a one-time General Fund expenditure of \$2,000. This is to add a license categorization at the department for the microdistilleries. I might note that the projected revenue in the fiscal note reflects an estimate of \$158,000 of revenue, but I note also that this revenue projection might be lowered with the adoption of the amendment yesterday. I further note, however, that the projected revenue does not include revenue that may be derived from the purchasing activities to acquire the raw materials to make the product as envisioned in LB549. The raw materials needed to distill the liquor would include, but not be limited to, corn, wheat, fruit, beer, cider, and wine. Also, the revenue projection does not include potential job creation with a microdistillery business in our state or those beginning in our state. We have found that the craft brewery law has created hundreds of jobs in our state, and hopefully this craft distilling has the potential to do this, as well. I know the constituents I brought this bill on behalf, have business plans to immediately call for the hire of three additional employees. And if the endeavor is successful, they in all likelihood would increase the number of employees, if...again, if they arrive at any degree of success in microdistillery. That's the introduction to LB549...LB549A. LB549 was advanced to Select File. I'd appreciate your support to advance the A bill, as well. Thank you. [LB549A LB549]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. (Visitors introduced.) You've heard the opening on LB549A. The floor is now open for discussion. Anyone wishing to speak on this item? Senator Synowiecki waives closing. The question before the body is, shall LB549A advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB549A]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB549A. [LB549A]

PRESIDENT SHEEHY: LB549A does advance. Next item, Mr. Clerk. [LB549A]

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CLERK: LB434, Mr. President, a bill by Senator Avery. (Read title.) The bill was introduced on January 16, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB434]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Avery, you are recognized to open on LB434. [LB434]

SENATOR AVERY: Thank you, Mr. Chair and colleagues. LB434 was heard before the Government, Military and Veterans Affairs Committee. It received unanimous support in committee, and no one testified in opposition. The bill is really a technical clarification to existing statute. It seeks to remedy a problem that was brought to my attention by the Accountability and Disclosure Commission, and it's intended to clarify how the commission assesses late filing fees. By changing the calculation of late fees, it is the commission's intention to eliminate current confusion and make the fees more equitable. The problem was brought to light by two situations that recently developed in which the commission assessed the filing fees. Situation one involved the financing of a ballot question in 2004. A major out-of-state contributor was required to file a report in November of 2004, but did not file until April of 2005. The filing showed expenditures of \$970,000, and the group was assessed a late fee of \$97,000, or 10 percent of the reported expenditures. The second situation involved another group that supported a ballot issue in 2006. That group was required to file a report on June 12, 2006. The report was filed one day late. The way the filing fee was calculated, it led to a late fee of \$140,000, or 10 percent of the reported expenditures of \$1.4 million. Now, what's important about this latter situation is that the group that was fined \$140,000 had been a good citizen, they had actually been very prompt in all previous filings, so this seemed to be a rather harsh punishment for one day. LB434 seeks to do two things. First, it clarifies the late filing fee provisions as they apply to reports of late contributions, reports of late independent expenditures, major out-of-state contributor reports, and special lobbyist reports. Clarification is important to the Accountability and Disclosure Commission. One of their commissioners, Andre Barry, appeared before our committee to advocate this. It's important to the commission because the current language has resulted in a difference of interpretations and some ongoing litigation. The second point is that the bill will change the working of the late fee statutes in these areas so as to avoid potentially unreasonable harsh results when a report is late, but not very late. Now currently, the late filing fee for certain reports is \$100 for each day that the report is late, but caps at \$3,000, or 10 percent of the amount discussed...disclosed on the report, whichever is greater. For example, if the amount disclosed on the report is more than \$30,000, then the 10 percent calculation applies, because that amount is greater than \$3,000; however, if the amount disclosed on the report is less than \$30,000, then the \$100 per day calculation applies, because the maximum fee of \$3,000 is greater than 10 percent of the amount disclosed on the report. That should be sufficiently convoluted. This is what we're trying to clean up, and make it a little clearer. Under this

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bill, a person or entity that does not file required reports in a timely manner would be accruing late fees at the rate of \$100 per day for the first ten days. Thereafter, in addition to the \$1,000 in accrued late fees, the late fees would also continue to accrue at the rate of 1 percent per day, but would be capped at 10 percent. So the maximum late fee would be 10 percent of the reportable expenditure, plus \$1,000. This adds clarity. I just want to make one additional comment. In my brief time in this body, I've come to be very wary of bills that are described as technical and noncontroversial, because all we know, I think most of us, anyway, know that everything we do in this body produces winners and losers, some of which are obscured in this category we call "unintended consequences." This bill, I am convinced, really does not have any serious policy implications, and is in fact a technical corrective proposal. I urge you to advance the bill. Thank you, sir. [LB434]

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening to LB434. The floor is now open for discussion. Senator Stuthman. [LB434]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. First of all, I want to thank Senator Avery for the information that he gave in his opening. I think it's very clear as to what the attempt is with this bill. I did have some concerns earlier on, before he had his opening comments, as far as, you know, what would this realistically do as far as who it's going to affect. And he did explain that. There's one thing that I would like to ask Senator Avery, if he'd be available. [LB434]

PRESIDENT SHEEHY: Senator Avery, would you yield? [LB434]

SENATOR AVERY: Yes. [LB434]

SENATOR STUTHMAN: Senator Avery, the average person, you know, the candidate that files or committee that files, this clearly defines exactly how many dollars per day that the fine would be. This is very true, isn't it? [LB434]

SENATOR AVERY: Yes, it is. [LB434]

SENATOR STUTHMAN: Yes, I think that's the important part, and it does give the opportunity for the first ten days, where there is the possibility that it could be \$1,000, you know, in those ten days, at \$100 a day. And I think that's very clear. As far as the percent, you know, that, and when it gets to a certain level, I think that's very good that he has defined that as to what it clearly states, \$100 a day. And that's plain and simple. You know, and I really respect that part of it. The thing that I was also concerned with was that, you know, is this just to get someone who has just inadvertently failed to file? Or is it someone that, you know, has spent a lot of money and is trying to escape the filing of that part of it? Senator Avery, do you feel that this will help both situations; the large contributor, the large person that has accepted donations to his committee, it will

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benefit them just as much as it would the small contributors, correct? [LB434]

SENATOR AVERY: I do. What it does is it really simplifies the whole procedure for calculating the late fees, and it eliminates, I think, unnecessarily harsh punishment for people who might inadvertently file a report a day late, as did this one out-of-state contributor. They had been very punctual in all of their previous filings. They just missed it by one day, and the way the law was written...or, is written now, they got hit with a \$140,000 late filing fee. And that was considered by the commission to be a bit too harsh. And this makes it simpler for everybody. The whole thing here is that when you have clarity in laws, it makes enforcement easier, and I think that's what we're trying to do here. [LB434]

SENATOR STUTHMAN: Thank you, Senator Avery. Also, I would like to ask, Senator Avery, does this...is this set in stone, or does this fee...can it be dismissed by the Accountability and Disclosure? Have they got the authority to, in...like, if it was a two days late filing fee or something that had to do with the late filing, can they dismiss the charges or dismiss the fine? Do they have that authority to do that? [LB434]

SENATOR AVERY: That's a good question. It's my understanding that the commission does have some leeway, under current statute, to negotiate with parties that are late with their filings, and sometimes they reach agreements whereby the fine is reduced. [LB434]

SENATOR STUTHMAN: Okay, thank you. That, I think, is very important, because you know, there are different circumstances to lead to the fact that it was late. The possibility of, it was probably filed in time, but maybe they didn't receive it in time because of the possibility of the postal service. I really think this... [LB434]

PRESIDENT SHEEHY: One minute. [LB434]

SENATOR STUTHMAN: ...I think this is a very good bill. It really defines, you know, what direction we're trying to go, and I truly support this bill. Thank you. I return the balance of my time to the Chair. [LB434]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Further discussion on the floor on LB434? Seeing none, Senator Avery, you are recognized to close. Senator Avery waives closing. The question before the body is, shall LB434 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB434]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB434. [LB434]

PRESIDENT SHEEHY: LB434 does advance. (Visitors introduced.) Next item under

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General File. [LB434]

CLERK: Mr. President, LB527, a bill by Senator Aguilar. (Read title.) The bill was introduced on January 17, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. At this time I have no amendments pending to the bill. [LB527]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Aguilar, you are recognized to open on LB527. [LB527]

SENATOR AGUILAR: Thank you, Mr. President, members. The Government Committee held a hearing on LB527 on January 31. It was advanced from the committee on an 8-0 vote. There were no opponents to the bill. The only person to testify was Frank Daley, from the Accountability and Disclosure Commission, who testified in favor of the bill. LB527 addresses two issues in the Nebraska Political Accountability and Disclosure Act. The first issue requires committees to pay a registration fee of \$100 when filing a statement of organization with the Nebraska Accountability and Disclosure Commission. One of the purposes of requiring a committee to pay a registration fee is to allow the commission to have additional cash funds and rely less on General Fund dollars. Another purpose is to help the commission clear the books of inactive committees. The second issue in this bill allows the commission to waive the payment of accrued interest on late filing fees and civil penalties in the amount of \$25 or less. The commission is requesting this provision because interest is accrued on a daily basis, and sometimes the commission will receive a payment for late fees in which the interest is not computed correctly. This provision will allow the commission to waive the payment if it is under \$25. Frank Daley testified that this is an easier solution than attempting to collect a small amount of money. Thank you, Mr. President. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You've heard the opening on LB527. The floor is now open for discussion. Senator Lathrop. [LB527]

SENATOR LATHROP: Thank you, Mr. President. I'm wondering if Senator Aguilar will yield for a few questions on this bill. [LB527]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB527]

SENATOR AGUILAR: Yes, I will. [LB527]

SENATOR LATHROP: Senator, the committees that we're talking about in this bill, they would be the political committees that form to perform some function during the election? [LB527]

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SENATOR AGUILAR: Exactly. [LB527]

SENATOR LATHROP: And would an example of this be, for example, if the bankers wanted to get together with the realtors and send a piece of mail out on somebody, they'd have to form a group called Nebraskans for Truth, something like that? [LB527]

SENATOR AGUILAR: Yes. [LB527]

SENATOR LATHROP: And then that's the kind of committee that we're talking about? [LB527]

SENATOR AGUILAR: Yes, it is. [LB527]

SENATOR LATHROP: Before this bill, or as the law is presently, you file that statement of committee with Accountability and Disclosure. Is there no fee now? [LB527]

SENATOR AGUILAR: No, I don't believe there is. [LB527]

SENATOR LATHROP: So, is...all you have to do is make a filing and then you can send your mail out as you please? [LB527]

SENATOR AGUILAR: That's right. That's right. [LB527]

SENATOR LATHROP: Okay. We had a discussion the other day when we were talking about the initiative process. And when we talked about these committees forming, they're formed for the purpose of political speech. And I'm wondering, we're going from no fee to a \$100 fee, and I'm wondering if we aren't discouraging people from forming committees for the purpose of political speech by setting a \$100 fee. [LB527]

SENATOR AGUILAR: I don't think so. And the reason I say that, usually when you form a committee like that, there are several people involved, you know. And in many cases, it's not like one person is putting out that \$100. They could, you know, put their money together and pay the fee. The important part of it is the fact that it will be supporting our Accountability and Disclosure Commission, you know, which is General Fund money right now. I think we all need to look and see what we can do to reduce people nipping away at General Fund dollars. [LB527]

SENATOR LATHROP: I can appreciate your concern for the nipping away at General Fund dollars. I'm only concerned about whether or not we're discouraging people from forming the committees, or setting a hurdle that might impair political speech, because we've now set a \$100 hurdle. [LB527]

SENATOR AGUILAR: I understand your concern. As I stated before, I just don't believe

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that \$100 is going to discourage anybody. [LB527]

SENATOR LATHROP: Okay. Let me ask one more question, then, about that \$100. Does it compare...or, is it comparable to any other fees that they're assessing or that they have up in Accountability and Disclosure? Do you know? I mean, is that typical for a filing fee for a candidate or anybody else that wants to have...? [LB527]

SENATOR AGUILAR: I'm not sure of the answer to that, Senator Lathrop, and I'll be glad to research it and get back to you on it. [LB527]

SENATOR LATHROP: Okay. That's...I'll yield the balance of my time to the Chair. Thank you. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. We have Senator Dubas, followed by Senator White. Senator Dubas. [LB527]

SENATOR DUBAS: Thank you, Lieutenant Governor, members of the body. I would like to ask Senator Aguilar a question, if I may. [LB527]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB527]

SENATOR AGUILAR: I will. [LB527]

SENATOR DUBAS: Thank you, Senator Aguilar. These committees would also include candidate committees, people who are seeking to run for office? [LB527]

SENATOR AGUILAR: Yes, they would. [LB527]

SENATOR DUBAS: Okay. I guess I will kind of echo some of the same concerns that Senator Lathrop had. I mean, as a candidate, we know that we have to file an individual filing fee. And so now we're requesting that our committees submit a filing fee, and I guess I just question adding additional fees on top of trying to get people to run for office, encourage them to run for offices, especially offices that don't pay a lot of money. I just...I'm just very concerned about putting up another barrier. I understand, again, what we're trying to do to help General Funds. But did you discuss the...you know, I can understand maybe some of these other committees, but actual candidate committees, where they are already paying a filing fee to run for the office, did you see that as maybe a double charge? [LB527]

SENATOR AGUILAR: I guess you could consider it a double charge. You know, it's something that I've always felt strongly about, that, you know, if you do want to run, you should be able to step up and do that, and prove that...in a sense, that you can accept the responsibility and pay whatever fees are out there. I think that's an important part of

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the process. The other is that I've always been adamantly against use of any public funds for any kind of a candidate, committee, or anything like that. And basically, you know, that's what it is now. It's coming out of General Fund, which is public money. [LB527]

SENATOR DUBAS: Well, I definitely do understand that, and the challenge for candidates to raise money is definitely there, and if we're going to run for an office, we have to take that responsibility seriously. But I just...you know, on a day when we're really trying to encourage people to get involved in the process, I just have serious concerns about putting any other types of barriers in their way. I appreciate your answers. Thank you. [LB527]

SENATOR AGUILAR: Thank you. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator White, followed by Senator Stuthman. Senator White. [LB527]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. I would like to make a couple of points on this. First of all, my good friend Senator Preister ran for office in the Unicameral and expended, from start to finish, somewhat around, or slightly less than, \$4,000 total. So a \$100 fee is not an insubstantial amount. Second, I have heard debate for a long period of time over the problem of charging \$50 for people who want to go into business as a contractor, and that that's too burdensome. That is...you are doing that to go in to make a profit. It is normal to charge fees. And yet, when we have people who want to do public service, now we're going to charge them double what we propose to charge contractors, because they want to serve the public? And Mr. Lieutenant Governor, would Senator Aguilar please yield for a question? [LB527]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB527]

SENATOR WHITE: Senator, isn't this really just taxing free speech? And is it constitutional? [LB527]

SENATOR AGUILAR: I don't know if I would go to that extent. What I think it's important that I point out is, no one would have to pay that fee until they've raised \$5,000. [LB527]

SENATOR WHITE: But if they raise \$5,000, you know, and they want to spend it on a mailing, that fee does in fact impede their ability to get their message out. I mean, we are telling them, you have to pay the government if you want to raise enough money to talk to your fellow citizens. It's a precedent that is worrisome to me. Does that not cause you concern? [LB527]

SENATOR AGUILAR: No. As I stated earlier, no, I don't think it's that much of a whack.

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[LB527]

SENATOR WHITE: Thank you for your courtesy, and I yield the rest of my time. [LB527]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Stuthman. [LB527]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I have a little bit concern, and I would like to ask Senator Aguilar a question, if he'd respond. [LB527]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB527]

SENATOR AGUILAR: Yes, I will. [LB527]

SENATOR STUTHMAN: Senator Aguilar, can you explain what it means, a committee, as running for office, you know, Aguilar for state Legislature? That is a committee, right? [LB527]

SENATOR AGUILAR: Yes, it is. [LB527]

SENATOR STUTHMAN: Okay, what other groups would constitute a committee that would be under your scope of running for the Legislature? And what I'm trying... [LB527]

SENATOR AGUILAR: (Inaudible) [LB527]

SENATOR STUTHMAN: ...I'm trying to explain is, you know, you would have your committee running for the state Legislature. What other groups or what other committees would be formed under you running for the Legislature? [LB527]

SENATOR AGUILAR: I don't think there would be any. I mean, there's 49 legislators, so there's 49 committees. There's not more than that. [LB527]

SENATOR STUTHMAN: Yes, that's what I think, you know. And when I ran for the Legislature, you know, I had my committee. I was the treasurer of my committee, and I just filed with Accountability and Disclosure. But I just don't understand, what would constitute another committee that would have to file for this, in the picture of you running for the Legislature? [LB527]

SENATOR AGUILAR: Well, as I...in my...none. There would be none. But if somebody wanted to form a committee to do a ballot question, that would certainly be another option that's out there. [LB527]

SENATOR STUTHMAN: Okay, so it just...it realistically isn't...has to do with your

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committee as running for the Legislature; it would be a group of people that wanted to support an initiative? [LB527]

SENATOR AGUILAR: Now you've got it. [LB527]

SENATOR STUTHMAN: Okay, so that would be what this is realistically referring to, then. It's not a committee under your committee? [LB527]

SENATOR AGUILAR: No. [LB527]

SENATOR STUTHMAN: Okay. Thank you. And I'll return the balance of my time to the Chair. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Dubas, followed by Senator Lathrop. [LB527]

SENATOR DUBAS: Thank you, Lieutenant Governor. Could I ask Senator Aguilar another question? [LB527]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB527]

SENATOR AGUILAR: Yeah. [LB527]

SENATOR DUBAS: Thank you, Senator Aguilar. We talked about, this money would go to help defray...from the General Fund, would go to Accountability and Disclosure. And I see there are no figures on the fiscal note. What type of money do you think we're talking about here, as far as, you know, how much are we going to raise, how much is this really going to help Accountability and Disclosure and our General Fund budget? [LB527]

SENATOR AGUILAR: The fiscal note estimates it at \$33,000. [LB527]

SENATOR DUBAS: So that would go right to Accountability and Disclosure. Is that money targeted for anything specifically with Accountability and Disclosure? It would just be used to help defray their expenses? [LB527]

SENATOR AGUILAR: Operating expenses. [LB527]

SENATOR DUBAS: Okay, thank you very much. I yield the rest of my time. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Lathrop. [LB527]

SENATOR LATHROP: Thank you, Mr. President, members of the Legislature. I'd like to

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respond to the question that Senator Stuthman had. And the fact that he asked the question suggests that he didn't go through a race like mine. When these committees are formed, you have committees that are formed for the candidates themselves, you can have committees that are formed for the ballot initiatives or referendums, and then you can have committees that are formed for the purpose of getting a message out. In my race, there were a number of these. They can be where different groups want to get together to get a message out. So for example, if the bankers and the realtors want to get together, pool their money, and then send a mailer out in a particular legislative candidate's race, they have to file a committee, and now they'll have to file a \$100 fee, just, really, so that they can get together for the purpose of sending a mailer out. That's the concern that I have. Having a candidate pay \$100 so that Accountability and Disclosure can take a look at their filings, that's not as troublesome for me as the fact that now we're going to make these groups that want to get together for the purpose of communicating political ideas, now we're going to charge them a \$100 fee. And I think we're stepping across the line with that amount. That's more than just a filing fee. That's more than it costs to file something in the district court, where the judges are obliged to take action on a particular lawsuit. So I think the \$100 is too high, and I also think that we are impairing free speech, political speech, and for that reason I'd oppose the bill. And I'll yield the balance of my time. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Dubas. Senator Dubas, this is your third time. [LB527]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. I'm trying to refresh my memory about a newspaper article that I read, and I would appreciate it if Senator Flood would answer a question for me. [LB527]

PRESIDENT SHEEHY: Senator Flood, would you yield? [LB527]

SPEAKER FLOOD: Yes, Mr. President. [LB527]

SENATOR DUBAS: Thank you, Senator Flood. I remember...seem to remember reading something in the paper when we were talking about legislative pay, and the fact that you actually were losing money as you were down here because of health insurance...the type of health insurance you were maybe paying for through...? [LB527]

SPEAKER FLOOD: Last year, I did pay the state \$500, I think, at some point, for my...per month, for my health insurance. But this year, I'm proud to announce, I found other, cheaper insurance, so I am just simply enjoying my \$1,000 a month. [LB527]

SENATOR DUBAS: Well, good for you. I'm very glad for that. Insurance definitely is a big issue. But I guess the point I was trying to make with this is that those who maybe want to take advantage of the state's health insurance plan as state legislators, we're

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not going to make any money. In fact, we're going to pay more money out of our pockets. So I guess this will go back to the fact that if we're asking these political committees to come up with another \$100 to do public service, as Senator White said, I just have some serious reservations about that. Thank you for yielding, Senator Flood. I yield the rest of my time. Thank you. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Schimek. [LB527]

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. I rise because I think there is a little bit of confusion, and part of that might be the fiscal note that at least I had in my folder, which says that it requires a candidate committee to pay a registration fee. That's not what this bill is about. That is incorrect. It is about committees, as the discussion between Senator Stuthman and Senator Aguilar documented, this is about ballot committees. And you know, we're talking \$100 here. We're not talking big-time money. Almost everybody who goes through any kind of a political process has to pay filing fees. I mean, lobbyists have to pay filing fees, candidates have to pay filing fees at the time they file. I don't think this is an undue burden for any ballot initiative question. Generally, it...these groups are going to spend thousands and hundreds of thousands of dollars. We're just asking for \$100 to cover the cost of this filing. And the important thing about it is that the organization which has not filed may not then spend money over a hundred...let's see, it says they cannot make or receive contributions until...or expenditures, until such time as the filing of the statement of organization is perfected. I think you want to see that. You want to know what the group is. You want to know who's doing that ballot initiative. And \$100, trust me, is not a large amount of money to these groups. So I am going to support the advancement of LB527. It doesn't have to do with elected officials. We already pay filing fees. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Erdman. [LB527]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I am late in joining the discussion, and try not to rehash it. The information that Senator Schimek just shared with us I think is interesting. As I understand, the same language she read, that a committee that seeks to pursue a petition is not eligible to make or receive contributions or expenditures until the filing of their statement of organization. That is completely inconsistent with elected officers. You don't have to file that statement until you raise or spend \$5,000. And so I'd like to ask Senator Aguilar a question. [LB527]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB527]

SENATOR AGUILAR: I will. [LB527]

SENATOR ERDMAN: Senator Aguilar, can you give me the basis...and I just caught Senator Schimek's comments, and that kind of piqued my interest. This sets up, as I

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would understand, a different requirement for those that would seek to do a petition process than what other political organizations filed under the Accountability and Disclosure Act would have to file. And in specifics, they would not be able to receive or expend any money until they had filed this form. Is that your understanding, as well? [LB527]

SENATOR AGUILAR: And raised \$5,000, yes. [LB527]

SENATOR ERDMAN: So that is in addition to that. So they would have to raise the \$5,000. But is that inconsistent, then, with this language that talks about how they can't expend that until they file that fee? Are you saying that that happens then at that point, and that's the same process that we currently use? Or am I just missing the boat here? [LB527]

SENATOR AGUILAR: It's something you have to renew every year, legal counsel tells me. And if you don't renew, you can't make any expenditures. [LB527]

SENATOR ERDMAN: So if they're in existence now and they've met the \$5,000 threshold as an organization, when this bill goes into effect, every year thereafter that they're an organization they'd pay a \$100 fee that could come out of their campaign funds? [LB527]

SENATOR AGUILAR: That's correct. [LB527]

SENATOR ERDMAN: So how does that apply if they're a new organization? Does the same \$5,000 threshold still apply? And then if that's the case, is it a burden, then, that once they get to \$5,000 they can't spend more than \$5,000 until they file this? Is that the application of the law? [LB527]

SENATOR AGUILAR: When they reach \$5,000, they have to form a committee. [LB527]

SENATOR ERDMAN: Right. And then they would be prohibited from going above \$5,000, either in receipts or expenditures, until they had paid the \$100 filing fee? [LB527]

SENATOR AGUILAR: Correct. [LB527]

SENATOR ERDMAN: So my understanding is, is that this is not an up-front cost. It's consistent with other elected offices. It's just changing that provision as to when they can go above that \$5,000, what the requirements are? [LB527]

SENATOR AGUILAR: It's the same thing. And I'd like to point out, if I can have just a (inaudible),... [LB527]

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SENATOR ERDMAN: Sure, go ahead. I yield all the time you would need. [LB527]

SENATOR AGUILAR: ...there's, like, six or eight other states that do that, do the same thing. And it's also important to note, like, even Kansas charges, like...their fee is \$250, I think. [LB527]

SENATOR ERDMAN: But there are no other provisions in Nebraska law that provide this process? This would be the first? [LB527]

SENATOR AGUILAR: Well, for instance, like, lobbyists, they have to file and pay a fee. [LB527]

SENATOR ERDMAN: But...okay, agreed. Going back to a political organization, there are no other political organizations that have this barrier placed on them in regards to how their organization operates under the law at that \$100 registration fee? Example: My campaign committee, we can file that at any time we hit that \$5,000 mark, and we did that, obviously, the first time I ran. But there's no prohibition for me continuing to do that until that is filed and paid a fee. It's just, I have that obligation, and there are other penalties under the law that would deal with me if I don't file that in a timely manner. Is that accurate? [LB527]

SENATOR AGUILAR: I believe it is. [LB527]

PRESIDENT SHEEHY: One minute. [LB527]

SENATOR ERDMAN: So this is a different process regarding once you hit \$5,000 than any other political committee that we have in statute currently, because of the registration fee at that point? [LB527]

SENATOR AGUILAR: I think that's correct, Senator. [LB527]

SENATOR ERDMAN: Okay. I just...I wanted to make sure that I heard Senator Schimek's comments correctly. And I appreciate the clarification that you gave me. Thank you, Mr. President. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Further discussion on LB527? Seeing none, Senator Aguilar, you are recognized to close. [LB527]

SENATOR AGUILAR: Thank you. I guess I'd just like to point out that...first of all, thank everyone for their participation in the debate. There's been some really good questions asked here. But I would reiterate that, you know, I don't think \$100 is that much. And as we all know, you know, that \$100 is not coming directly out of anybody's pocket. It's all

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from raising campaign funds. That's what the system is all about. That's how it works. And I would be remiss if I didn't point out that without this in place, that that money to operate Accountability and Disclosure comes out of General Fund money, public money. I don't think that's the best way to go. I appreciate your green light on this vote. Thank you. [LB527]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You've heard the closing to LB527. The question before the body is, shall LB527 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Senator Aguilar. [LB527]

SENATOR AGUILAR: Yeah, I'd like a call of the house and a roll call vote. [LB527]

PRESIDENT SHEEHY: There's a request for the house to be placed under the call. All those in favor vote yea; opposed, nay, on call of the house. Have all voted who wish? Please record, Mr. Clerk. [LB527]

CLERK: 28 ayes, 6 nays to place the house under call, Mr. President. [LB527]

PRESIDENT SHEEHY: The house has been placed under call. All unexcused senators please report to the legislative Chamber. All unauthorized personnel please step to the side. Senators, the house is under call. Senator Wallman, Senator Chambers, the house is under call. (Visitors introduced.) Senator Aguilar, you wish to move with a roll...proceed with a roll call vote? The question before the body is, shall LB527 advance to E&R Initial? Mr. Clerk. [LB527]

CLERK: (Roll call vote taken, Legislative Journal page 489.) 25 ayes, 19 nays, Mr. President, on the advancement. [LB527]

PRESIDENT SHEEHY: LB527 does advance. The call is raised. (Visitors introduced.) Next item, Mr. Clerk. [LB527]

CLERK: Mr. President, LR8CA, offered by Senator Avery. It's a bill for an act relating...excuse me, it's a constitutional amendment proposed to Article III, Section 2 of the Nebraska Constitution. The resolution was referred to the Government, Military and Veterans Affairs Committee for public hearing, advanced to General File. At this time I have no amendments pending to the resolution, Mr. President. [LR8CA]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Avery, you are recognized to open on LR8CA. [LR8CA]

SENATOR AVERY: Thank you, Mr. Chair and colleagues. What I'm going to do today is violate some advice that my father gave me a long time ago: Never stand between a dog and a fire hydrant; something bad might happen to you. I suspect this proposal

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might kick up a little dust. LR8 proposes a constitutional amendment be placed before the voters to change signature requirements for initiative petitions. Specifically, LR8 would increase the required number of signatures to put a constitutional amendment on the ballot from 10 percent to 15 percent of registered voters. Additionally, it would lower the required number of signatures to enact a law from 7 percent to 4 percent of registered voters. Let me explain what I'm trying to fix. Last Thursday, we had a little bit of a mini-debate about this. Since at least 1990, Nebraska's Constitution has been under attack, under attack mostly by people and organizations located outside our state. These efforts have been funded overwhelmingly by wealthy outside interests. During this 16-year period, 18 initiatives have succeeded in getting onto the ballot, 16 of which sought to amend the constitution. So, obviously and clearly, it's the constitution they're after. A search of public records shows that nearly \$9 million was raised in these initiative campaigns. Over 96 percent of this money was contributed in the form of reportable contributions of more than \$250 each. So there is a public record. Here's the stinger: 70 percent of this \$9 million came from out-of-state sources. Now, let me talk about a recent example. Last year, a group called Stop OverSpending Nebraska Committee tried to amend our constitution by placing a fixed lid on state spending. That group's primary financial support came from a group called America at its Best, based in Montana, which in turn got most of its money from individuals and groups located elsewhere, primarily in the state of New York. Public records show that Stop OverSpending Nebraska received \$2.5 million from America at its Best, and less than \$5,000 from Nebraska citizens. That's a 500 to 1 ratio of outside money to Nebraska money. This clearly was not an issue that emerged from deeply held concerns by Nebraskans about our spending. This was an issue that people outside our state decided for themselves what was a problem for us, and then tried to tell us how to deal with it. And frankly I resent it. Don't misunderstand what I'm trying to do. I am not trying to undermine the petition process. I have deep respect for the right of citizens to petition their government by popular initiative, and I suspect that many of you do, as well. This right is especially important in the state of Nebraska, with our unique single-body Legislature, where the initiative frequently has been referred to as our second house, as my colleague Senator Friend frequently reminds me. The right to petition is one of the most revered principles of Nebraska governance. It can be called core speech, or you might even say it's the core of core speech. But I also have deep respect for our state's constitution, so much, in fact, that I think it deserves to be protected from the desires and the whims of outsiders who think they know how best we ought to run our own business. The Nebraska Constitution is not some trivial document written in pencil so that whoever has the deepest pockets can come into the state and change it willy-nilly to suit their own interests. It is persuasive to me that Nebraska is one of only 17 states that even permit its constitutions to be amended in this way. The vast majority of states do not allow their constitutions to be amended by the petition process. Iowa, Kansas, and Wyoming do not permit it. Minnesota and Wisconsin do not permit it, and these latter two states have strong populist traditions, much like we. And of course, the U.S. Constitution cannot be amended in this manner. I am not arguing that we need to do

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away with the procedure. I am merely arguing that we need to take back control of the process. The value of this legislation is that it raises the bar for constitutional amendments at the same time that it lowers the bar for the enactment of laws by way of petition. By doing this, we can make it a bit more difficult for forces outside our state to amend our constitution, forces that do so with casual disregard to what may be the best interests of the citizens of our state. At the same time, it makes it easier for statutes to be enacted by petition. I would argue that this is in the interests of citizen groups comprised primarily of ordinary Nebraskans who may wish to use the initiative process to enact laws. Now, I recognize that what I am proposing contains a risk. The risk is that outside interests might simply shift their focus from amending our constitution to enacting laws. Should they choose this path, I would remind everyone here that this body has the authority to revisit those laws, and we can overturn them with a two-thirds vote of this body. That is contained in Initiative 418; it would require 33 votes. If egregious errors are made, then we have the authority to correct them. Also I would remind you that if you are worried about the difficulty raising the bar at the constitutional amendment end for ordinary Nebraskans, please remember that anyone can still come to this Legislature to get support to place constitutional amendments on the ballot. If they find the 15 percent rule too restrictive, they can do that. The...I might be asked, how did we come up with these numbers? Why 15 percent? Why 4 percent? What I was trying to do was to reach a...by raising the bar to amend the constitution, I was trying to get an additional requirement of about 50,000 to 75,000 votes. And 15 percent, based upon the last...current numbers of registered voters, would give us just about 57,000 additional signatures required to amend the constitution. Make it a little bit more difficult? Yes. On the lower end, I was trying to get somewhere between 30,000 and 35,000 votes. Moving it from 7 down to 4 reduces the required number by just over 34,000. I think this is a problem that we need to address,... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR AVERY: ...and I would hope that you would give support to this LR8CA. And I do look forward to the debate. Thank you. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. (Visitors introduced.) You've heard the opening to LR8CA. The floor is now open for discussion. Senator Schimek. [LR8CA]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Senator Avery, I hope that you don't mind that I do this at this time, but I need to clarify the record, and this is as soon as I could do it. For those of you who are freshman senators, I think that one of the lessons that you learn early in this body is that if you say something inaccurate in the record without realizing it, or even with realizing it, you need to correct it as soon as you can. And so I want to take this opportunity to say, I was inaccurate on LB527. What I had done is I had looked at the fiscal note, which says that it requires candidate committees to pay a registration fee. I went over and asked committee

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counsel if this was correct, and she said, no. And so I made a presumption there--or maybe she said and I didn't hear--I made a presumption then that it was really ballot initiative committees. It's not. And I just talked to...I talked to Frank Daley earlier, I just talked to the Fiscal Analyst, who agrees that the note was not entirely correct, that it should have mentioned candidate committees, political party committees, independent committees, or ballot question committees. It referred...that word "committee" really referred to all those kinds of committees. And so I didn't deliberately try to mislead anybody. Please believe me on that. But I thought that you all might like to know, because I know that somebody told me they...based on my explanation, they voted for the bill. I'm not trying to discourage anybody from voting for the bill. I'm probably going to continue to do that. But I thought you ought to have that information as soon as you could. So, thank you very much. Senator Avery, I would yield the rest of my time to you, if you would like to have it. [LR8CA LB527]

PRESIDENT SHEEHY: Senator Avery, you have about 2 minutes, 45 seconds. [LR8CA]

SENATOR AVERY: Thank you. I will yield my time to the Chair. I'm looking forward to debate. I see that my colleague Senator Friend is on his feet, so brace yourselves. (Laugh) [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. We have Senator Friend, followed by Senator Kruse and Senator Erdman and others. Senator Friend. [LR8CA]

SENATOR FRIEND: Thank you, Mr. Lieutenant Governor and members of the Legislature. I just blew Senator Avery a kiss. I did. That's on the record and I don't need to correct it. (Laugh) I struggled...I thought about this a long time. I think if you looked at the committee statement, you could see that I voted no on this resolution. We had some good discussion in committee, and I struggled with this, mostly in recent days, dealing with what we wanted to give to the people to disseminate. And it reminds me, I brought this up on occasions in the past, I like to once in a while quote movie lines. One of my favorite movies was the 1970 film called Patton. And he's standing in a hallway, and he just got fired. Ike axed him for slapping a soldier or something. And he goes,...he looks out and he says, a whole world at war, and I'm not part of it? And he goes, God will not permit this to happen. I will be allowed to fulfill my destiny. Well, you know what? Senator Avery has allowed me the opportunity to talk about the subject matter. It's some of my favorite subject matter, and it's some of the most important subject matter--I've said this before--that this body could ever deal with. There is important subject matter. There are social issues, there are judiciary issues, there are revenue issues, appropriations issues. This is how our government operates. And I wanted to flat out thank Senator Avery for the opportunity here, because I wouldn't have brought something like this; I have different ideas. I think we could do a few things here. There are a lot of options. And that's what I struggled with. One of the options, I think, is we

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allow something like this to slide through, let it get to the voters. I...you know, I help, Senator Avery, and say, you know what, our voters are smart, they can deal with this subject matter, they know what the issues are, they know what the problems are. They are our second house; they can deal with this. I suppose another one is that I could just speak once, make my, you know, feelings known, and then sit down. I think you all know better than that by now. That option was dismissed summarily. Summarily dismissed, excuse me. Another one, I think, is to change this, to change LR8CA and make it better. And I have a feeling we're going to talk about some of those points. I think another option is to invoke a rule of 33. A lot of people call it the rule of 33. I call it the rule of 33 and 3. That wasn't Tommy Frazier's record when he was a quarterback in Nebraska; that's 33 votes, three times, to get this thing across the finish line, because it's that bad. I don't think that's a good option either, because I don't think it's that bad. I think the answer is discussion, communicating points of view where necessary on this subject matter, and then put myself in a position where I can convince all of you, or a good majority of you, that this is not a palatable idea. There's an art to getting people to see and believe a point of view. It's clearly an art. And I think with this subject matter, this body can do that. We can convince each other that one thing is better than the other. We bring an abortion issue out here, or, you know, things like that, that's difficult,... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR FRIEND: ...because you'll have 30 people stand up, they're not going to convince you of anything. You know how you feel about those type of things. This is fluid subject matter. It's an art. I think we can communicate through this. Senator Avery points out that our constitution is under attack. I submit to you, our constitution is never under attack by the people. Our constitution is not attacked by the people. It's their right. Our constitution is under scrutiny by all who have the right to do so, under the law. And you know what? Sometimes we as legislators, we don't like that. Well, you know what? I say, tough. We don't like it. We didn't like 423, did we? I voted no. I didn't like it either. But I had the opportunity to vote for it, and I felt like I had that right. I spoke two years ago on the casino issue. I thought the people should vote on that. [LR8CA]

PRESIDENT SHEEHY: Time, Senator Friend. Mr. Clerk, do you have an amendment on your desk? [LR8CA]

CLERK: I do, Mr. President. Senator Erdman would move to amend with FA13. (Legislative Journal page 490.) [LR8CA]

PRESIDENT SHEEHY: Senator Erdman, you are recognized to open on FA13. [LR8CA]

SENATOR ERDMAN: Mr. President, members of the Legislature, maybe I should be

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the fireman after Senator Friend and put out a few fires. But I think it helps to raise the temperature a bit and get you involved in the discussion, so Senator Friend, thank you. Senator Avery, thank you for your work here. The interesting process anytime you try to pursue this action is that you have to get the people to agree to it. So I'll ask you, what do you think the goal should be of LR8CA? Are the people going to agree to more tighter restrictions on their rights? Not likely. So if the attempt is to simply have discussion, I think that's healthy. We can do that. I would argue that Senator Avery probably wouldn't have brought the bill if he thought it was just a fun opportunity for him to exercise his political opportunities as an officeholder, and so I'm going to offer him an opportunity to provide some reality to his proposal. LR8CA does two things. It lowers the threshold that petitioners have to meet to change statute, from 7 percent of the elective voters, to 4 percent. It also raises the percent required to amend the constitution from 10 percent to 15 percent. My amendment would eliminate that second part and keep it at 10 percent. So simply, you would have a bill before you, if FA13 is adopted, that gives you the opportunity to say, yes, we think the people should have greater rights when it comes to amending state statute or creating state statute, but we're not going to create an over...we're not going to overburden them than what we already have in regards to amending the constitution. Now, Senator Avery has made some very eloquent comments about the alliances that are currently in process to pass legislation...or, to pass petitions, excuse me, in the state of Nebraska. And rightfully so. Whether you agree with the issue or not, those alliances are going to be a part of any political process. You see them in your campaigns. You see them here at the Legislature. You see out-of-state interests show up behind the glass that represent Nebraskans, as well, and they have a right to be here, because they may have information that may be valuable to our process. But ultimately, it is up to us, the 49 elected members of the Nebraska Legislature, to make that decision. If you are trying to figure out a way, as we tried to do in LB39 and now under LR8CA, to figure out how to keep out-of-state interests out of our process, I've got an option for you: Run to one of our federal representatives and ask him to amend the United States Constitution in the area of the First Amendment, because they have certain rights that are guaranteed to them. And the political process is one of the most fundamental rights that our founding fathers decided to protect, and political speech is first and foremost in a lot of their pennings. So Senator Avery's attempt is to try to protect our constitution from out-of-state interests. Noble goal. Probably unrealistic. But it also prevents Nebraskans from having the same right. You are making no distinction in this process, because you can't. You can't say to those bad out-of-state folks from Montana, hey, you can't amend our constitution unless you get to 15 percent on the petition, but you really nice Nebraskans, we like you, we're going to leave it at 10. Uh-uh. Same rules across the board. So whatever you think you are trying to craft to solve a problem from somebody who doesn't reside in our state, you are creating that same burden against those of us who do. And as we heard yesterday in a committee that I'm a member of, there are sometimes legitimate reasons to pursue that opportunity. Not saying that we don't always get it right here, but sometimes it takes the initiative process to put something on

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the ballot to do what the Legislature wouldn't do. That's the intent of our organizational structure in the state. That process should be preserved. The higher you place this bar, the greater...that was right, the higher you place that bar, the greater those out-of-state interests are going to be to pass constitutional amendments. Why is that? I don't have the resources as a Nebraskan to accomplish it. I'm going to try to find like-minded individuals to help me accomplish the goal of getting it on the ballot. If the barrier goes from 10 percent to 15 percent, they become even more important for those groups wishing to pass constitutional amendments in the state of Nebraska, because they're going to need additional assistance to accomplish the goal. So what's the unintended consequences? The goal, as I understand it, is to try to figure out a process that gets at those bad out-of-state interests, when in reality you are going to set a bar high enough that you are going to need those folks, if you seek to use the opportunity under the constitution to amend it, to achieve that. Senator Friend, I think probably outlined the reality better than we probably heard it this morning. We can tinker with the mechanisms and we can determine how the numbers are set to accomplish a goal, but if those folks are not Nebraskans, they don't carry the most important tool with them as they're passing around their petition, and that is the right to vote. Nebraskans stand at a ready to defend our constitutions from foreign and domestic threats. Foreign would be out-of-state interests; domestic would be those of us in Nebraska that may disagree with our fellow man and woman when it comes to issues that should be put either in constitution or in statute. It seems a little bit ironic. And I don't think this is the intent. As Senator Avery said, he has great respect for this process that is outlined in the constitution, as do I. But I have a great deal of respect for the voters, as well. They're not ignorant. Last year, the Legislature put something on the ballot to try to create a creative alternative to a current restriction that we have regarding our salaries. Common sense to them said, this is a right that we have now; we want to preserve that right. We could think that you guys need a pay raise, because \$12,000 is less than most elected officials in any office in the state, but we don't like the way you are doing it. I'm afraid if we go down the path that LR8CA outlines, and was advanced from the committee, they may say, hey, you know what, we can see that, but we're not going to sacrifice the rights that we currently have to accomplish that. So simply before you is an opportunity to maintain the status quo on the requirements to amend the Nebraska Constitution if you choose to seek the initiative process--10 percent. Is that the right number? Not sure. I have some real concerns about that, as well. But the reality is, just as we are the gatekeepers on legislation that becomes state statute, the people of the state of Nebraska are those same gatekeepers as what gets written...for what gets written into our Nebraska Constitution. So while it may be a nice opportunity for us to say, yeah, we'd like to try this, again, do you think the people of the state of Nebraska are really going to say, yeah, we'd like to give up a little more of our rights that we have under the initiative process? And while it's well-intentioned and well-meaning, I think we start off from a process that's flawed in the eyes of the electorate. So the floor amendment simply allows us to maintain the status quo. We can discuss it. I'm sure Senator Avery will have some opinions on that, as well. Mr. President, how much time is remaining?

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[LR8CA LB39]

PRESIDENT SHEEHY: Two, fifteen. [LR8CA]

SENATOR ERDMAN: I would yield the remaining time to Senator Avery. [LR8CA]

PRESIDENT SHEEHY: Senator Avery, you have about two minutes. [LR8CA]

SENATOR AVERY: Thank you, Senator Erdman. I don't pretend that this is the silver bullet that is going to resolve the problem, but I think that those in this body that just finished a campaign probably heard what I heard--an awful lot of complaints about outside interests coming into our state and trying to tell us how to do our business. These are people who don't have a stake in what we do. They don't even really care what we do. They have their own agenda, and that agenda may not have much to do with us. The percentage to change the constitution is now at 10 percent by petition. That apparently is low enough that it has made us vulnerable to outside money, outside interests. Why do you think that so many outside-funded initiatives are focused on the constitution? [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR AVERY: It's because the bar is low. Also, it is because they know that once they get it in the constitution, it is very difficult for us to get it out again. Nebraskans can still come to this body and ask us to put a ballot issue on, that would amend the constitution if they have a serious issue they'd like to see there. I would ask you to this amendment. Thank you, sir. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator. We have Senator Kruse, followed by Senator Erdman, Senator Fulton, and others. Senator Kruse. [LR8CA]

SENATOR KRUSE: Mr. President and colleagues, thank you. I rise in support of the amendment and of the basic constitutional amendment and opposed to the amendment that's before us. I welcome the conversation because I think this is something we need to talk about, and I hope that we can enable that. I favor the increase in the constitutional amendment because I think that would help level the playing field. One of the speakers indicated that this gives...takes away from Nebraskans a certain amount of power. I don't think so. These constitutional amendments have been passed with the power of out-of-state. I would agree with the previous speakers that we're not talking about in-state or out-of-state. It's always a combination. But I'd like to level the playing field. The constitution is, to me, almost a sacred document. I am deeply troubled that persons can, who...those persons who have a lot of money can flippantly change our constitution. It wasn't drawn up that way. It was a product of a tremendous amount of work and it wasn't something that somebody voted in automatically. Someone referred

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to this as the second house. I don't agree with that at all. There's no second house in the country that can amend a constitution. Where's the second house to it? How does the first house get involved with it? It's a complete bypass. It's just not the way to go about on a constitution. And look at what we've had in these constitutional amendments. They just come breezing through here with stuff that is statutes. It's statutory language and we clutter our constitution with it. So I think that task ought to be made more difficult--not impossible. There are times, like with the casino, that's the only way to bring forward the concern that you have. I also strongly favor reducing the other number so that our people can be the second house there. I think second house applies to that very well. That's where the people can say something and where we can have a dialogue with them. With a two-thirds vote we can tweak it if we need to in a few years or back and forth on it. I think that that's a healthy thing for us to do. I think that provides for the necessary dialogue. And certainly that keeps the out-of-state interests...some of those are in-state...keeps the big money out of it. I really have difficulty when somebody says, well, the out-of-state has the right to spend as much as they want. I don't have that right unless I've got the money. So we're allowing them to buy the results. But I was very frustrated with some of these constitutional initiatives; not with the legislative or the statutory, but with the constitutional initiatives, because I felt helpless in responding to them. I cannot get out to the public in the same way. And I can assure you that the public does not understand what we put before them unless we have a major initiative within the state, and that often is very hard to mount. I could note three different votes recently where the public simply did not understand it, a good share in terms of the... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR KRUSE: ...in terms of the salary issue. Many persons had not thought about that until they got into the booth, and then they saw two numbers and they wondered how we would make that kind of an adjustment in a year's time. They didn't understand what was going on. So we need more time. We need more possibilities for that and we need more statutory petitions. Thank you. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator Erdman. [LR8CA]

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. And, again, I think it's a good place to start. I think there's two provisions of this constitutional amendment that have to be thought through, and I think they should be thought through separately. Senator Kruse has made some valid points about the value of our constitution, and that's valid. I agree. But, again, you have to recognize that the barriers that you are going to try to place in accomplishing a goal that may be unrealistic is going to be placed on the voters of Nebraska, as well. So while we may agree in philosophy that we should preserve our constitution and, if you haven't followed the Legislature, it takes quite a bit of a Herculean effort not only to get something across the board here,

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but as we mentioned under LB39, we passed constitutional amendments the last two years that were noncontroversial, that had overwhelming support from organizations statewide, and they failed miserably at the ballot. And why is that? Because you go back to the same people that stand at a ready to defend her, and that is the voters. So from the process of what's before you, and I think there's going...I know--I'll change that--I know there's going to be opportunities for different approaches that are more logical than what's in the existing language. And I won't steal the other members' thunder who have different ideas. But, again, if we set this barrier too low, as Senator Avery has pointed out, it makes us a target. Well stated. If you set the barrier too high, it still makes us a target because now if you are a Nebraskan and you are attempting to amend the constitution for legitimate reasons, you are now subject to some type of political witch hunt to try to solve something that can't be done easily or realistically, and that is to try to figure out how only Nebraskans can control the petition process. Again, we may be a target, but only the voters have the bow and arrow to hit that target. Senator Kruse talks about all these proposals that have been put on the ballot for people to vote on. How many of them have passed? Did LB423 pass? No. Did casinos pass? No. Go down the line. The people of the state of Nebraska deserve more credit than some people are willing to give them when it comes to analyzing the issues before them. Out on the farm we have a commonsense test. If it doesn't make sense, you are not going to do it, and that's generally the light that they look at. They don't get bogged down in these parochial arguments. They look at it for what it is, and I think they need the credit for that. Again, the amendment that's before you simply allows us to maintain the process as it is on the constitutional amendment side. And recognize that whatever we do applies to everyone that would seek this opportunity. Thank you, Mr. President. [LR8CA LB39]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Fulton, followed by Senator Wallman, Senator Friend, and Senator Dubas. Senator Fulton. [LR8CA]

SENATOR FULTON: Thank you, Mr. President and members of the body. I think I...what I...I spoke with Senator Avery and I think what I'm going to do is I will elucidate the problems that I have with the bill, which also inherently speak to why I'd be in favor of this amendment. I'm going to throw it out there as succinctly as possible, and then I'd like to yield my time to Senator Avery, if he's ready. The principle here, as I'm thinking...I thought through this a little bit when Senator Avery, in his opening statement, said that we will make things...in his bill we could make things easier for Nebraskans to engage the initiative process to change statute. Immediately I thought, well, that also makes it easier for outstate interests to change statute also. What we'll possibly see is more lobbying effort from outstate here in the Capitol. So, the principle here that I would like to have an answer to, and I think is at the crux of this entire bill and amendment, that which makes the process more difficult for outstate interests also makes the process more difficult for instate interests. And so I would like...I will yield the remainder of my time, because I would like to hear the answer to this, to Senator Avery. Senator, the

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principle here, that which makes the process more difficult for outstate interests also makes the process more difficult for instate interests. How would you respond to that? [LR8CA]

PRESIDENT SHEEHY: Senator Avery, would you yield? [LR8CA]

SENATOR AVERY: Yes. Actually, you are absolutely right. Dead on. That's what I intended to do and that's what I hope you will agree to. Why is that? Actually, Senator Erdman said that what I am trying to do means that we can't amend the constitution easily. That's right. That's what I want to do. The constitution, as Senator Kruse said and I agree, is a sacred document that should not be so easily amended. It should not be such a target for outside interests. And I know that when we raised this to 15 percent, it's going to make it more difficult for Nebraska citizens. But that is a trade-off that I'm willing to make because I'm making it easier for them to get statutes passed by petition. That's a trade-off that I'm willing to make. And they still...and I remind you, they still have the option of coming to this body, and they can talk to me, they can talk to Senator Friend, they can talk to Senator Pankonin and Senator Wallman, and they can ask, would you take a bill to the body to amend the constitution or to get a ballot issued to amend the constitution? And my guess is that they'll probably find somebody in this body that would be willing to do that. Then we can debate that on this floor, and that is where I think the debate needs to take place. We need not to have our constitution so exposed and so vulnerable out there that it can be, as I used the words I used before, amended willy-nilly just to suit the whims of mostly outsiders. And I can tell you that from the research that we have done, most of the outside interests that want to affect what we do in this state, do it through the constitutional amendment process. That's what they have been doing. So, yes, it does, Senator Fulton; it does restrict the Nebraskans, as well, but they have an alternative. They can do statutory amendment, they can do statutory law much easier if we lowered that down to 4 percent, and they can come to us for constitutional amendments. Thank you. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. (Visitors introduced.) Senator Wallman, followed by Senator Friend, Senator Dubas, and others. Senator Wallman. [LR8CA]

SENATOR WALLMAN: Thank you, Lieutenant Governor and members of the body. I support Bill Avery's bill without the amendment. And we're talking about constitution, we're talking about voters. How many people vote? What's the percentage of our state that actually votes? And so we're depending on the voters, whether it be gambling or different issues. But the constitution should be held a little bit better accountability to the people than it is, because lots of people don't know what they're voting for. They voted for me. (Laugh) So I would hope that we would make this a little bit harder to amend the constitution, and they can still present petitions with the ballot issues, different laws they want addressed. But the constitution, you know, why tinker with that with the petitions

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and going around trying to change it for who? Who are they trying to change the constitution for? We have to ask that. Most people sign petitions. They don't ask what they're signing; they just sign it. And that's not our fault; it's their fault. But still they can change the constitution by doing a few...just signing a few names. And I think...I support Bill Avery's bill. I know he spent time on this and he's not just shot this off the top of his head. And so I would support Bill Avery's bill without the amendment. Thank you, Mr. Chair. I yield the rest of my time to Senator Avery. [LR8CA]

PRESIDENT SHEEHY: Senator Avery. [LR8CA]

SENATOR AVERY: Thank you, Senator Wallman. I am always pleased when people that I respect agree with me. And I respect everybody in this body and I hope everybody will agree with me on this bill, although I don't expect that will happen. This is not something that I brought to this body lightly. I perceived a growing discontent in this state and certainly in my district with what was happening with the petition process. And I've had a number of my constituents say to me, you know, if I want to get a law enacted, it's so hard for me to get a group together that can get 7 percent of the registered voters so that I can get my issue on the ballot. I think that you need not to just look at what I'm trying to do at the top end here with the 15 percent to amend the constitution, but look at what we're trying to do also for ordinary citizens in the state of Nebraska who don't have the deep pockets perhaps to raise the millions of dollars that would be necessary to amend the constitution. They can get laws enacted with something like 34,000 fewer signatures, or at least get it on the ballot. So I think that if you don't let the whole package go, that is if you approve this amendment, then it seems to me that we have completely lost the whole purpose of this proposal. So I would urge you to this amendment, and I will yield the rest of my time to whomever wishes to speak. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Friend. [LR8CA]

SENATOR FRIEND: Thank you, Mr. Lieutenant Governor and members of the Legislature. I left off with the idea that we don't like...and I think some of the debate here indicates that I was right to a degree. We don't like the fact that LB423 was out there. As I already said, I didn't vote for it in the booth. I wouldn't imagine that a whole lot of us did in this room, or, well frankly, around the state. The thing got thumped. Isn't that refreshing to know if you didn't like that, that the voters were wise enough, with help, obviously, but wise enough to understand that that puts certain types of restrictions that they didn't like. We don't have to like it, but I think at the very least we should respect it. This is serious business, folks. And you know what? This is a mistake. FA13, I will not vote for because, as I said from the outset, I do not believe we need to tinker with these numbers. That's not the point. What Senator Erdman did, sure, there's some validity to it. I just don't think we need it, just like I don't think we need the underlying resolution to go out to the citizens to make a decision on. This resolution doesn't do us any good. As

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we talked about last week, I believe it does more harm than good. Senator Erdman laid some of that out. Other folks out here have laid that out already. Fifteen percent will not deter the rich. I mentioned last week that the sugar daddy sitting in New York, that doesn't bother him. He'll just keep tossing more money at it and he'll get here and he'll get his stuff on our ballot. It's going to happen. Fifteen percent will deter the grassroots. We've all acknowledged that, virtually. But what we haven't acknowledged is how something like this resolution, if we kick this out and let the citizens vote on it, how it could erode the confidence in this body. How it could erode the credibility of this body--that I'm worried about. We kick trash out of here, and forgive me, Senator Avery, I've kicked trash out of here before myself. I'm not too happy about it, okay? It's gotten voted down by the people. And you know what? I'll probably kick trash out again. But if we can help it, if we can prevent it, and trash in the loveliest form, you guys, okay? Members of the body, I'm not criticizing Senator Avery. I like this debate and I'm glad he brought it. I will say that one more time. But if we kick this out, I believe it could erode some confidence. I believe it can erode our credibility and I don't want to be part of that. And FA13 doesn't help anything. I didn't talk to Senator Erdman about this, but we can summarily dismiss his amendment. It does us no good; neither does the resolution. I will not support it because I don't believe 7 to 4, Erdman's amendment FA13, I don't believe 7 to 4 or 10 to 15...those are irrelevant. The numbers we're bantering around are irrelevant. The rich guys are going to get on the ballot. The people that we've all pretty much acknowledged have more of a fundamental right... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR FRIEND: ...are already deterred, and they're going to be more deterred. Do we want that to happen? Make that decision. What I would submit to you is one more quick thing. I brought this up before. We're unique, and our constitution, that document is more fluid than the Commonwealth of Massachusetts; it's more fluid than New York's; it's more fluid than Minnesota's; it's more fluid than Iowa's; it's more fluid than anybody's. We don't have to like that, you guys. Members of the Legislature, we do not have to enjoy that. We don't have to adhere to it in our minds, but we have to respect that. It is more fluid because of what we don't have, because we don't have two bodies to disseminate some of the stuff that our citizens and other people of this country have the right to disseminate. I would leave you with this: We have to be very careful. [LR8CA]

PRESIDENT SHEEHY: Time, Senator Friend. [LR8CA]

SENATOR FRIEND: Thank you, Mr. President. [LR8CA]

PRESIDENT SHEEHY: Thank you. Senator Dubas, followed by Senator Wightman and Senator Hansen. Senator Dubas. [LR8CA]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor and members of the body. I

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very much appreciate this discussion that we're having this morning and I think it's very indicative of the same types of conversations that are going on across the state of Nebraska. There's a great deal of frustration on the part of citizens and this body, as is evident, as to how the petition process is being used. And it is a very part of our government's process and it's a process that the citizens take very seriously. And by and large, when they're voting on these initiatives and these constitutional amendments, I really do feel like they're doing their homework and they're trying to make the right decisions. But there's also an element of confusion that's going on with the citizens. And when they go to the ballot box and they see multiple constitutional amendments, initiative petitions on the ballot, and they're not exactly sure what direction any of those are going, I think we're starting to create a certain amount of apathy among the voters. It's like where you are just getting bombarded from every direction and not knowing what the real outcome these are going to be, and so when in doubt, just vote no. And we have had very good things that the body has put forward that have gotten lost in the shuffle. And so this is a very important dialogue that as a body we should be having. And we do need to take very seriously changing this process and consider the unintended consequences that while we might be trying to make something a little more difficult for some, we make it difficult for all. And we need to make sure that we're taking that into consideration as we make this decision. I know we have other bills that are coming forward trying to address these very same issues, but I think as a body we owe it to our constituents and the voters of this state to make sure that this process is kept with its true intent of allowing them to bring their ideas forward and get them placed into our governmental body. And I know that everybody in this room is taking that very seriously. At this point in time I still have some reservations about exactly what this bill will do, and so I am appreciating the conversation and will take everybody's views definitely into consideration. With that I yield the rest of my time. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Dubas. (Visitors introduced.) Senator Wightman. [LR8CA]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I wonder if Senator Avery would yield to two or three questions? [LR8CA]

PRESIDENT SHEEHY: Senator Avery, would you yield? [LR8CA]

SENATOR AVERY: I will. [LR8CA]

SENATOR WIGHTMAN: Senator Avery, in looking at LR8CA, I see that we talk about initiative, we talk about amending the constitution. I don't see the word referendum ever in there, and perhaps it's included in the initiative process, but it's somewhat doubtful that this constitutional amendment would...or that this amendment would touch that issue because we talk about laws being enacted but we don't talk about laws being repealed, although I do see over on line 6, on page 2, there is something that says

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either affirmatively or negatively. So can you tell me, is it your intention to omit referendum from this...from the purview of this particular resolution? [LR8CA]

SENATOR AVERY: Thank you, Senator Wightman. I have often referred to Senator Wightman as Nebraska's version of Sam Ervin. You may remember Sam Ervin was a key figure in the Watergate hearings back in the '70s. He's wily, he's wise, and he's just a country lawyer, but don't let him fool you. To answer your questions, yes, the referendum was left out. It was left out because I really didn't think that this was something that we have a problem with yet. If we do, maybe I'll come back, but at this point I don't think that needs to be changed. [LR8CA]

SENATOR WIGHTMAN: Could you tell me, currently, if the same percentages apply both to initiative and referendum? [LR8CA]

SENATOR AVERY: I'm trying to get that question answered right now. I'm going to give you a tentative answer. We think it's the same but there are people who are expert on this law that will tell us for sure in a few minutes, so I ask your patience. [LR8CA]

SENATOR WIGHTMAN: At any rate, if it is the same at the present time, and we'll wait on the answer to that, apparently you would decouple those two elements. And under your resolution, referendum would remain at 7 percent and the initiative will drop to 4 percent? [LR8CA]

SENATOR AVERY: Well, the law that we're trying to change is...I haven't had a chance to look to see if that is actually covered in there. But if it is, then it would not...it would be changed by...because we're only changing two numbers, two words, so whatever provisions (inaudible) the current statute that have covered by the current statute would be changed by this LR8. [LR8CA]

SENATOR WIGHTMAN: And while we're waiting for that I would thank you for the comparison to Sam Ervin...Irwin...Ervin, excuse me, although we were of different political persuasions I still appreciate the comparison. Thank you. [LR8CA]

PRESIDENT SHEEHY: Mr. Clerk, do you have messages and announcements at your desk?

CLERK: I do, Mr. President. Thank you. The Committee on Transportation, chaired by Senator Fischer, reports LB349, General File; LB466, indefinitely postponed. Those signed by Senator Fischer. Education, chaired by Senator Raikes, reports LB205 to General File; LB192, General File with amendments, both signed by Senator Raikes who is Chair. (Legislative Journal pages 490-493.) [LB349 LB466 LB192 LB205]

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series of hearing notices from the Judiciary Committee. It was signed by the respective Chairs. And a confirmation report from the Education Committee, Mr. President. That's all that I have. (Legislative Journal pages 493-495.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We have Senator Hansen, followed by Senator Friend and Senator Avery. Senator Hansen. [LR8CA]

SENATOR HANSEN: Thank you very much, Mr. Lieutenant Governor and members of the body. I rise strictly to speak to the amendment. I don't want to talk about the 8CA right now, but I think we need to talk to the amendment because that's what we're going to be voting on very shortly, hopefully. Ten percent is adequate. Ten percent of all the registered voters in the state is adequate. I think 10 percent of all the registered voters in the state is enough. I think 10 percent of the registered voters is plenty. I don't know whether there are any more adjectives I can use to say that this is enough. I respect Senator Erdman's amendment. I think it is important that we vote on the amendment. Senator Friend said he didn't care what those numbers are, but I think that that is the crux of the whole problem. I think we need to keep it at 10 percent instead of the 15. I urge the body to vote for Senator Erdman's amendment and I would echo the words of Senator Avery's father and tell him to...ask him that he stay away from the fire hydrant. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Friend. [LR8CA]

SENATOR FRIEND: Thank you, Mr. Lieutenant Governor, I apologize, and members of the Legislature. I said from the outset what I wanted to try to accomplish here, and I think we're getting pretty close. I was reading a book by Ron Chernow about Alexander Hamilton and it talked about the debates that Hamilton was involved in, the constitutional debates in Poughkeepsie. And, you know, they're wearing out, it's 12:00 at night, it's 1:00 in the morning, they're working by candlelight. The guys are falling over. People are hitting each other. Obviously, you know, things like this...no matter how much we would wish that it would get more passionate, at least I was hoping it would be a little more passionate I suppose, you know, you just can't always have that here with resolutions like this. It just doesn't drum up that much passion, let's face it. But I think there is one more interesting point, at least that I wanted to make, at least that's interesting to me. To a certain degree I think we've determined out here with some of the debate or some of the discussion that the people, the residents, the citizens of the state of Nebraska are our second house. Now, Senator Kruse, in his own way, eloquently described that he wasn't sure he saw it that way. I respect that. I think others do too. But I think we've determined, as a group, at least I hear speakers address this, that for the most part because of the uniqueness of the Unicameral system that the people are our second house. How many...around our nation and at the federal level how many chambers like a House chamber can dictate to a Senate the rules that it should operate under? How it should operate in general? What its membership should

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look like? How much...whether it should be...whether it should mirror that particular house? Totally different functions. Totally different things, and one not being able to dictate to the other its approach to business. Now, we and the people are forced into a situation where we have to lay out the rules and the guidelines for that other body. I would submit that or I would admit that. And I believe there are certain things that we have to do to make sure that that second house has the appropriate opportunity, under our law, to deal with our constitution. So I would sum it up with this: I believe LR8CA hinders that capability. We're taking that rule making or we're taking that transgression over to a second body or a second house, too far. I'll let you make your determination. I think it's too much. Now, I'm not big on predictions. I thought Notre Dame would win the Sugar Bowl. But here's a prediction: We send LR8CA out to the people; it gets resoundingly ed. Because...and I have firsthand experience with this, when you bring up a bicameral issue, for example,... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR FRIEND: ...people find it virtually offensive. I don't mean to be offensive with that idea. I think it's operational in nature. It's operational. As our government operates, it's appropriate to bring that discussion matter out here. But some people find it offensive. That's not the intent. I do predict though that there's a good percentage of people, and enough to vote it down, they're going to find this offensive, just like they would probably find the bicameral offensive. Both of those things would end up like the Titanic. You can't turn the boat that quick. There's an iceberg ahead. Ring all the bells you want; when you get that close, you are going to hit it. This one is going to hit an iceberg. I guess I hope I'm wrong, but I also hope that LR8CA, with all due respect to Senator Avery, I hope it fails. Thank you, Mr. President. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Avery, followed by Senator Adams. Senator Avery. [LR8CA]

SENATOR AVERY: Thank you, Mr. Chair. Senator Wightman, I now have an answer to your question. Current law requires 5 percent of the registered voters to repeal a law by referendum, and 10 percent to prevent a law from taking effect. And what I am proposing would not affect that. If I may take the time to respond briefly to Senator Friend. He believes the voters will find this offensive. I think they already do find it offensive. I think they find it offensive that our constitution is so vulnerable to people on the outside of our state who have no stake in what we're doing. And I know I'm repeating myself, but it is offensive. But I believe that what they're going to do, if they study the issue and they see that the bar has been raised for the constitutional amendment, and they can make the calculation, yes, that's going to make it harder for me to amend the constitution but it's also going to make it harder for people who have no stake in what we do in Nebraska to amend the constitution. And Senator Avery has provided me with a very attractive alternative to that, and that is an easier route to

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getting statutes passed. I think that's the carrot. We've got the stick on the one end and the carrot on the other. I can tell you that I've received a number of e-mails and some direct mail on this issue, and so far I have not had one single person say that they were offended by it nor have I had anyone communicate with me that they don't support this. Actually the public reaction has been very good to that, to what I am proposing. I would urge you not to approve the Erdman amendment because I believe that if you do, it guts the entire proposal that I have under LR8. If we don't raise the bar for the outside money, if we don't raise the bar to amend the constitution, then we're not doing anything to remedy what I am trying to remedy. Thank you. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. Further discussion on FA13. Senator Erdman, you are recognized to close. [LR8CA]

SENATOR ERDMAN: Mr. President and members of the Legislature, if I can redirect your attention back to the floor amendment, FA13 simply changes the percentage under LR8CA from the 15 percent back to the 10 percent that's in existing language. That's all the intent is to do is to retain that. There are two provisions to Senator Avery's constitutional amendment. One lowers the necessary signatures for statutory changes by petition. The other one is by constitution...or for constitutional issues. Mine only deals with the constitutional issues. I've appreciated the comments, and I joked and made a note that Senator Friend is opposed to my amendment, which puts me in a good company and probably bodes well for its future. But, again, I think we have to be careful as we go through this process. Others have pointed this out, I've just heard it recently from Senator Avery: You've got to be sensitive to where we set this bar. It has to be high enough that it's an effort to attain it, but if you set that too high it becomes a more attractive target for those out-of-state interests, as well, because those folks who seek to accomplish a goal will have to elicit their help to do it. So it seems like we're kind of in a quandary, but I'm not sure and I'm not convinced that Senator Avery's proposal actually solves the problem on the area of the constitutional amendments as he outlined in his opening. However, there is another amendment that will be offered. And in light of that, Mr. President, I would like to withdraw my amendment and asked that it be filed below Senator Nelson's amendment. [LR8CA]

PRESIDENT SHEEHY: The amendment is withdrawn. Mr. Clerk, do you have an amendment on your desk? [LR8CA]

ASSISTANT CLERK: Mr. President, I do. Senator Nelson would offer AM258. (Legislative Journal page 495.) [LR8CA]

PRESIDENT SHEEHY: Senator Nelson, you are recognized to open on AM258. [LR8CA]

SENATOR NELSON: Mr. Lieutenant Governor and members of the body, I am rising,

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with all due respect to Senator Avery, in opposition to LR8CA. I feel that the requirement that 15 percent of the registered voters would be required is too high for an amendment to the constitution, but I also feel that 4 percent of the registered voters for an enactment of a law is too low. And therefore I'm offering this amendment, AM258, to require 15 percent of the number of votes cast for Governor at the general election next proceeding the filing of the petition for an amendment to the constitution. That would be 15 percent of the votes last cast for Governor and 10 percent of the number of votes last cast for Governor at the general election for enactment of a law. In opening here, I would like to review some figures with the body. At last count, the most recent count, we have 1,138,422 registered voters in the state of Nebraska in a population of slightly over 1.7 million. That means that two-thirds of the registered voters...or the residents of our state are registered, and that one-third are not and do not vote. Fifteen percent of those registered voters is 170,763, and that equates to about one-tenth of our population, and taking into consideration that one-third of the population does not vote. At the last gubernatorial election, there were 610,500 votes cast. Fifteen percent of that number would be 91,575, and that would amount to about 8 percent of the registered voters. That seems to me much more reasonable rather than 170,000 to require about 91,000. We're cutting it almost in half. From a 2006 report of the National Conference of State Legislatures, which I have here, it reports that out of 18 states which have signature requirements for constitutional amendments, 12 or about two-thirds of those based their requirements on a percentage of the votes for Governor at the previous election. The other requirements ranged that there be 3 percent up to 15 percent, but the average is about 10 percent, and that's what we're proposing here with this amendment. On the other side of it, for an enactment of a law, 4 percent of the votes for Governor amounts to about 24,420, which I think is too low. Ten percent, which we're proposing, would be about 61,000. And Senator Avery's 4 percent of registered voters would be about 45,000. So we're raising the bar a little bit with this amendment, from 45,000 up to 61,000, and I don't think that's all that bad. I think that is still low enough so that people that are interested in changing our laws by initiative can still get that done, but it's not going to attract a lot of people and get a lot of frivolous initiatives on the ballot. And I think that that would set a reasonable standard, one that will, as I said, discourage a lot of the frivolous. So I would ask that the body support my amendment which is we base it on votes for Governor in the next last election. We keep that at 15 percent for constitutional amendments, and 10 percent for enactment of statutes. And with that opening, I will return the balance of my time to the Chair. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Nelson. You've heard the opening to AM258 to LR8CA. The floor is now open for discussion. We have Senator Chambers, followed by Senator Avery. Senator Chambers. [LR8CA]

SENATOR CHAMBERS Thank you. Mr. President and members of the Legislature, I'm not going to have enough time at this point to say all I intend to say on this issue, so I'm just going to take my time as I'm recognized. A lot of people do not have a firm grasp on

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what a constitution is. A constitution is not a statute; it is not like a statute. It is designed to be of more permanence. It is intentionally made difficult to amend. Statutes can be amended to reflect a whim, a passing fad or a fancy, and a statute can be just as easily repealed or modified. But the constitution, which is the bedrock of the law of the state, ought not easily be changed. And when I hear people on the floor talking about what the public wants, that is an abdication of our responsibility because the public doesn't know these issues or understand them in the way we're supposed to know and understand them. I've had to protect you all's constitution against crazy notions that the senators wanted to put into it because they existed in a constitution in some other state. And I've been able, by and large, to hold them off. Why do I say your constitution? Because white people put it together, of, by, and for white people, and it has...it doesn't have me in contemplation at all. But I know what the purpose and function of a constitution is, and it is not something that ought to be amendable on whim. During these trying times, every manner of nonsensical notion is floated, and that's fine and let people discuss it. But they shouldn't find their way into the constitution without a great deal of effort. Many people don't know the difference between the U.S. Constitution and a state constitution. The Constitution of the United States says, in its name, the states. The Constitution of the United States establishes a central government. That government is one of granted powers. That government has no power or authority other than what is specifically granted to it. A state constitution is the opposite. Since all power originates with the people and the states, a legislature has authority and power to act on any matter not foreclosed by the U.S. Constitution, laws, or treaties. So the federal government is limited by the federal constitution to those rights that are granted to the federal government. The state constitution does not grant powers to the Legislature. The Legislature has all power to act. The state constitution limits what the state Legislature can do. The state government is not one of granted authority; it is one of unlimited authority except where it's cut off by the state constitution. So when people get up here and talk about the constitution as though it were a statute or as though it ought to be easily amendable because the people have a whim, that should not be done. And I will resist any effort... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR CHAMBERS: ...to make it easier to amend this constitution. When I was fighting off one of those lamebrain notions last session, Senator Landis stood up and said if Senator Chambers' goal is to stop nonsensical things from getting into the constitution, he's late, because of all of the nonsense that's there. Well, that got there before I came. I said because it has been savaged and abused and disrespected in the past, is not a reason to allow that same thing to be done to it today, and I'll do all I can to stop it. So I'm going to oppose Senator...who offered this amendment? Oh, Senator Nelson's amendment. With all due respect to Senator Nelson. I'm stating what my philosophy is so that nobody will take personally my opposition to what they're doing. Anything that will make it more difficult to amend the constitution, I will look upon that

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with much more favor. Thank you, Mr. President. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Avery, followed by Senator Wightman and Senator Schimek and others. Senator Avery. [LR8CA]

SENATOR AVERY: Thank you, Mr. Chair. And thank you, Senator Chambers, for such an eloquent statement in defense of constitutional law. Senator Nelson's amendment takes us in exactly the wrong direction. In fact, it seeks to do precisely what I am trying not to do. I don't want to make it easier to amend the constitution. And if you go to a percentage...if your signature is based upon a percentage of people who voted in the last gubernatorial election, it's going to be easier. In fact, significantly easier. In fact, I think it makes it easier than now to amend the constitution. Boy, if you want to put a target on Nebraska, a big bull's eye on Nebraska for outside interests, then support this amendment. And it would, in fact, raise the bar at the level of statutory petitions, which is what I want not to do. I want to lower that, to make it possible, as I said over and over, make it possible for ordinary citizens to get laws on the ballot and see if the voters will approve them rather than making it more difficult. So I urge you to the Nelson amendment because it would make it easier to amend the constitution and it would make it much more difficult for ordinary citizens to get laws enacted by petition. Thank you. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Wightman. [LR8CA]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I'm not sure that I'm in favor of Senator Nelson's amendment because I haven't studied the numbers, but I do think that his method of counting it based upon the votes cast in the last gubernatorial election is a far more accurate method of determining how many votes are going to be required. And I can tell you that if you go out in outstate Nebraska, and I'm sure it's true in Omaha and Lincoln as well, that the number of elected voters is a pretty fluid figure. If you go look at the registration at your county clerk's office or here, probably in the larger cities, the election commissioner's office, you'll find that there are people who are deceased. You will find that there are people who have moved away. There is no reporting requirement required of an elector who moves out of the district. And so I think those are very inaccurate figures as far as how many registered voters there are in the state at any given time. So at least that part of the amendment by Senator Nelson I do support. As to whether his numbers are right, I think Senator Avery is correct, that probably we're lowering the number that is required for a constitutional amendment. Whether those are right, I'm not addressing at this point, but I think it is a far more accurate number and a far more ascertainable number if we compute that on the basis of the number of votes for Governor at the last previous election. With that, I yield the rest of my time to the Chair. [LR8CA]

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SENATOR LANGEMEIER PRESIDING [LR8CA]

SENATOR LANGEMEIER: Thank you, Senator Wightman. We have Schimek, Adams, Friend, and others. Senator Schimek, you are recognized. [LR8CA]

SENATOR SCHIMEK: Yes, Mr. President and members, I think I need a little more thought before I actually speak. I'm going to give my time to Senator Chambers if he would like it, and then I'll turn my light back on. [LR8CA]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Chambers, you have 4, 40. [LR8CA]

SENATOR CHAMBERS: Thank you, Mr. President; thank you, Senator Schimek. Members of the Legislature, this that Senator Nelson is bringing us, is based on whimsy. If there is a gubernatorial election where there is not much interest on the part of the public, you automatically lower the bar for amending the constitution. I think we ought to maintain a percentage of the registered voters. There are many people who have things right now they would like to get onto the ballot, but they know they cannot surmount that bar. Nebraska already is considered an easy state. So many nonsensical notions have been put on the ballot that anybody anywhere in the country who is interested in having some publicity because a nutty idea got on the ballot, they will try to get it on the ballot in Nebraska. In most instances, it would have a very good chance of passage. Unless there is a lot of organized opposition to a proposal on the ballot, it will pass in Nebraska. It will. The public does not read on the ballot the language of the question as posed. We heard the other day how many people are signing petitions without having any idea what is in those petitions. We now are talking about submitting to the public a proposal to amend the constitution to make it easier to damage the constitution. I'm not going to tell you all the answer but you can find it, and it would be good to do just a little bit of research. Find out what the vote in Congress must be in order to submit a proposal to amend the constitution to the states. Then look at the percentage or number of states necessary to ratify in order to add it to the constitution. During these conventions, when constitutions are being drafted, there might be some people with nutty ideas. As a matter of fact, when we were talking last session, I think it was, about trying to put the protection of fishing, trapping, and hunting into the constitution, of all things, I fought it off and I was able because somebody presented me with some information to show that when the U.S. Constitution was being considered, that same nutty notion was...there was an attempt to put it into the U.S. Constitution. But fortunately it was ridiculed and laughed to scorn by those delegates who understood what a constitution was for. You cannot say and be responsible, in my opinion, that in a small corner of the state people think that trapping is going to be prohibited by a Legislature in Nebraska, so protect trapping in the constitution. So somebody says, well, my constituents want it so we ought to give it to them. No. You are to substitute your judgment for their lack of information. Many politicians will argue learnedly; others will

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argue well. A rhetorician argues learnedly and well, understands what the issues are, presents them clearly, presents them persuasively. What Senator Nelson is bringing to us is not the kind of thing that ought to be adopted. [LR8CA]

SENATOR LANGEMEIER: One minute. [LR8CA]

SENATOR CHAMBERS: I would dare say that if we were talking about reducing the sales tax by a penny, there would be more attention paid to it than is paid to this because the minds of legislators can grasp pennies, but they cannot grasp the global or large issues that go to the very structure of the state's government. But those of us who are able to understand these things have to stand up, fight for them, and put on the record what it is we are opposed to, what it is we favor, so that the public can say, well, at least some of them were not stupid. Some of them had a respect and understanding for the constitution. People need to read and study what a constitution is before trying to make it easier to savage it. But the thing about being in the Legislature, you don't have to have any intelligence; you don't have to any education; you don't have to care about the constitution. Just swear to uphold it, whatever it happens to be. [LR8CA]

PRESIDENT SHEEHY PRESIDING [LR8CA]

PRESIDENT SHEEHY: Time, Senator. [LR8CA]

SENATOR CHAMBERS: Thank you, Mr. President. [LR8CA]

PRESIDENT SHEEHY: Senator Adams, followed by Senator Friend and Senator Chambers and others. Senator Adams. [LR8CA]

SENATOR ADAMS: Thank you, Mr. Lieutenant Governor. Frankly, after hearing what we've heard this morning, I don't know that there's anything more than I could add. But as I sat here and I listened to this argument, I resorted to the U.S. Constitution, Article V. And I looked up the numbers. I should have known them off the top of my head. But Article V of the U.S. Constitution sets out the standards for amending that document, and they're tough standards. Two-thirds of both houses of Congress have to agree, simply to move the amendment out to the states, and then all of a sudden the number goes from two-thirds to three-fourths. My point is very simple: The U.S. Constitution, and I would compare the constitution of the state of Nebraska to that, was never meant to be an inelastic, rigid document, but it is not the same as statute law. It's simply not the same. And the standards were set high by the founding fathers for amending the U.S. Constitution because they understood that. Only 27 times has the U.S. Constitution been amended in the history of this country. And this is the last group of people that I need to describe the difference between constitutional law and statute law. A great deal of difference. I don't support the Nelson amendment. I'm not sure exactly what the numbers ought to be. But Senator Avery's resolution, in principle I think he's right on the

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mark. Our constitution should not be that easy to change. Statutes? Well, what, 700 and some of them, just over the next 90 days. Thank you, Mr. President. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Adams. Senator Friend. [LR8CA]

SENATOR FRIEND: Thank you, Mr. President. Thank you, Mr. Lieutenant Governor, and again members of the Legislature, thank you. Senator Chambers has mentioned on various occasions that our document, our constitution, what Senator Adams clarified as probably a more sacred document than the statutes, the Revised Statutes of the state of Nebraska, that's been savaged. I don't know that I disagree. Never have, out here today, nor have I done that in the past. I don't think I like the idea that it's been savaged, if I agree with that assessment. We are a representative democracy, but here's the key, and it is key. We are closer to a pure democracy than any other state in this land. We know that. And a pure democracy...a pure democracy is not what the founding fathers that Senator Adams just brought up thought that we were going to try to accomplish our legislative form of government with. That wasn't in their mind. Our constitution followed a set of writings called the Federalist Papers. The Federalist Papers laid out a blueprint for us on the form of legislative government that is the most appropriate in a democratic republic. And it wasn't what we're doing here. Look, folks, I'll say it again: I don't mind that. I like the Unicameral. But toss all conventional wisdom out the window. Senator Chambers brings up some excellent points, but you know what? Senator Chambers lives in the only state where the constitution is fundamentally different than all other...than the 49. Different. Different in the way the citizens are able to approach it and should be able to approach it. Senator Chambers, I'm going to be real bold here. I'm going to say that I wanted this debate for a long time, and some of you who are new have not known me that long; this was coming. We have to talk about the significant difference between the way we approach our legislative business than anybody else. We have to talk about that. Senator Chambers may not acknowledge it. I've acknowledged that our constitution has been savaged; that I don't like it. But our citizens have different rights than the folks in the Commonwealth of Massachusetts; they have different rights than the folks in Minnesota. Our founding fathers did not anticipate what we're doing. Nowhere did they anticipate that. I don't have a problem with that but I do admit...and I don't take it lightly and I hope Senator Chambers and others don't believe that I'm taking the approach to changing the constitution lightly. I don't. I just think there's a huge difference and we have to address that. We can't close our eyes to it. Look, you know what? As long as I live we're probably never going to have a bicameral. All right, that's fine. Don't think that I'm on some crusade and a mission. My crusade and mission is for us to clearly look at the way we address these issues in comparison to the way the other states do. Because Senator Adams is right; he is right except for one particular instance, and that's the way we do business. [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

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SENATOR FRIEND: I would leave, I guess, with this final point. AM258, Senator Nelson's amendment, I don't know that I have a lot of conventional wisdom as to how to deal with this. What I said from the outset, and I believe this, is that we can toss 50 amendments up there and they're all going to do different things and they're going to accomplish different things. I don't think that's the answer because I think the foundation of LR8CA is a mistake; it's bad. I guess I would leave you with, I think it should go away. I think we should vote no and I guess unless folks would like to continue the discussion with me, and I'm getting the feeling that that's not the case, then I guess I would just stand down. I would ask that you vote no on, I guess, the amendment AM258... [LR8CA]

PRESIDENT SHEEHY: Time, Senator. [LR8CA]

SENATOR FRIEND: ...and more importantly LR8CA. Thank you. [LR8CA]

PRESIDENT SHEEHY: Senator Chambers. [LR8CA]

SENATOR CHAMBERS: Mr. President and members of the Legislature, and Senator Friend, I'm prepared to take however much time is necessary to safeguard the constitution. Although it and the U.S. Constitution have not been kind to my people, both offer the means by which better things can accrue. So I have to protect those things that offer the opportunity to make things better. There are people in Nebraska who would reinstate slavery but for the U.S. Constitution prohibition upon it. There are people who would have this state enact cruel, torturous, inhumane, so-called punishments if it were not for the Eighth Amendment to the U.S. Constitution. If you would read the history of the constitution, the U.S. Constitution, and the Bill of Rights, you would understand what those men were trying to protect you all and your children against at the hands of state legislatures. In those days they were clipping people's noses, Senator Fulton. They would clip a person's ears. They could administer lashings with cat o'nine tails. You could take a lash and put 13 strands on it, and sometimes they would attach bone and metal and bits of glass. Those torturous punishments were allowed at the time the constitution was being written. Some of the strongest arguments against the Eighth Amendment were based on the fact that there were people who wanted to retain those kind of vicious, barbaric, inhumane punishments. History is not well taught in this society. The term "civics" attaches to courses that are supposed to relate to government. Then I listen to people who are the administrators of the government with as little knowledge and understanding and appreciation of the nature of a constitution as a second-grade student. There always will be people such as myself, not as capable, not as aggressive, not as tenacious, who will fight to the last breath to keep idiotic things from being done to the constitution. What is being presented to us is not the result of deep thought or meditation except perhaps on the part of Senator Nelson. I will give him credit for having undertaken all of the study and research necessary. But it is exactly what people have been pushing for, down through the years, who had crack-brain

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notions that they wanted to get into the constitution, and they admitted that we cannot get enough signatures to get it on the ballot. But we know Nebraskans are so ignorant that if we once get it on the ballot, it's home free. Then people start saying, good god, how did we get where we are now? You helped us get where we are now. What is that old cliched statement? All that is needed for evil to triumph is that good people do nothing. When the constitution is being discussed on this floor, at some point I definitely will participate... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR CHAMBERS: ...in the discussion. But I wanted to give a lot of people the opportunity to shoot their wad in order that many things will be in the record. They can get a transcript and they can read what they said. And those transcripts sometimes are made available to students to show how little understanding and knowledge are possessed by the legislators who not only can enact statutes, but can present to the public proposals to amend the constitution. And some of the students are scandalized, because from the comments made by the legislators they don't even know what they're talking about. But I'm going to do all I can to make it as hard as possible, and will stay on this as long as I think is necessary or as long as the body is of a mind to do so. Thank you, Mr. President. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Nelson, followed by Senator Schimek, Senator Rogert, and others. Senator Nelson. [LR8CA]

SENATOR NELSON: Mr. Lieutenant Governor and members of the body, senior senator from Omaha, I want to thank you for recognizing the fact that I've done some research here--not myself particularly but my LA has done this. I am certainly not interested in lowering the bar for changing the constitution and changing the statutes. On the other hand, I am very much against raising the bar too high. And I don't think that Senator Avery is going to accomplish what he seeks to do, keeping outside interests and huge amounts of money from coming into the state of Nebraska. I just want to cite you some figures. In 1996, the amount of \$4 million was spent on constitutional amendments, proposed amendments. One involved a property tax limitation. In 1998, \$12.5 million, and that was on the Initiative 413 to limit spending, of which almost \$5 million was spent. The year 2000, \$2.695 million. Most recently in 2006, although the figures are not complete, \$6.9 million here in the state of Nebraska. Now, do we actually think by raising this to 15 percent of the registered voters, that we are going to discourage money people from outside the state of Nebraska and even in Nebraska from trying to get things on the ballot and amend the constitution? I don't think so. What's going to happen is that we're going to shut out a lot of our citizens here in Nebraska who don't have that kind of means or that kind of money. They aren't going to be able to afford to reach that 15 percent requirement. And that's why I'm proposing that we go with a lower amount, 10 percent of the votes that were actually cast for the

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Governor in the most previous election. I just want to point out--and I thank Senator Friend for his comments--Nebraska is one of the most difficult states right now to get an initiative on the ballot. On the other hand, I would point out to Senator Chambers that we are a state in which most of our initiatives fail. In the last 12 constitutional initiatives that we had here in the state of Nebraska, eight of them failed; eight out of the 12 failed. I think that speaks very well for the citizens and the voters of Nebraska. Once these get on the ballot, they certainly can read, they certainly can understand, and they have turned them down. I worry most about the fact that we're shutting our regular citizens, our voters, out by raising the bar too high. I think by keeping it at 10 percent for an initiative on changing a statute, that around 60,000 of the voters, I think that's reasonable too. And so I would ask for support of my amendment and I will return the balance of my time to the Chair. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Schimek. [LR8CA]

SENATOR SCHIMEK: Yes, thank you. Mr. President and members of the body, I too rise in opposition, Senator Nelson, to your amendment, and there are a number of reasons for that. One of the reasons I gave Senator Chambers my time was because I wanted to look at the transcript from the hearing that the committee held this summer regarding this whole issue of petition drives. And one of the people that came and testified was Dick Herman, who used to be the editor of the then-Lincoln Journal, and he also used to be a Statehouse reporter. What I want you to know about him is he served on the Constitutional Revision Committee that this Legislature established. And at the hearing he mentioned that he had the opportunity to look at the 1920 convention text. And he said that the questions that were being discussed at this hearing on petitions were actually what they had discussed in 1920. Now, remember, our initiative and referendum were instituted, I think it was back in 1912 or maybe even earlier than that, so this was some time after they had been established. And Dick Herman says that some of the people at that convention were pessimistic about the system that they had modified only eight years after it was adopted because they recognized that initiative and referendum in some ways was a repudiation of representative democracy, and they were concerned about the effects of that. One of the people at the hearing said that he thought--he was a professor actually--thought that the petition system was wildly popular, but he also said that it was a system which sometimes gives us bad results because the people who have signed petitions and then vote for them do not look at the depth of what will happen if this particular measure or these measures get adopted. And what Dick Herman said at that point then was this is what I would like to suggest to the committee, and basically he suggested a scheme that was very close to what Senator Avery has introduced in LR8A. And the idea was to make the system more accessible for the little guy, for the citizen who is out doing that on a volunteer, goodness-of-the-heart basis, and to make it more difficult to change the constitution. And I think that Senator Adams has really delineated very clearly why some of us think our constitution shouldn't be easily changed. The other thing I would like to address is

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this idea of a second house. The legislative article in our constitution talks about the powers of the Legislature and then it goes on to describe initiative and referendum. And it says the people reserve for themselves the power to propose laws... [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR SCHIMEK: ...and amendments to the constitution and to enact or the same at the polls independent of the Legislature which power shall be called the power of initiative. And it goes on to talk about referendum, as well. My question is, how is that different from what it is in any other state? Senator Friend, I don't see that you are still on the floor, but that's exactly what it is in any other state that has initiative and referendum. It gives the people the power to initiate laws or statutes. This two-house business is something that I can't find in the constitution. I don't know where it says that. But be that as it may, I don't think either the Legislature or the people should be able to lightly amend the constitution. And we actually go through a process... [LR8CA]

PRESIDENT SHEEHY: Time, Senator. [LR8CA]

SENATOR SCHIMEK: ...to make sure that the constitutional amendments are fully debated and vetted before they go on the ballot. I probably have more to say. [LR8CA]

PRESIDENT SHEEHY: Senator Rogert, followed by Senator Avery, Senator Chambers. Senator Rogert. [LR8CA]

SENATOR ROBERT: Thank you, Mr. President. Members of the body, if I could direct your attention, please, to the two pieces that I had distributed here just a little bit ago. And this is no way an attempt to ambush Senator Avery. I made some statements during committee and I voted for this to go out onto the floor, and I told him I was going to talk about this, and it's still a thought process that runs through my mind. And if you look, we've got an example of the committee statements of LR8CA and LB39 in front of us. LB39, which we've advanced on to Select File, went through our committee with an astounding amount of opposition. And if you look on the list of opponents, you know the names and the groups they represent. We've seen them; we've heard of them. A lot of them brought forth the petitions that we are arguing against and trying to protect our state against. And as we look over on LR8CA, we have no opponents. And the entire testimony bothered me the entire time, and I had to wonder why we don't have any opponents to LR8CA and we had so much opposition to LB39, which we passed and we moved on and we're looking to move further. And I guess the question that kept coming to my mind is, are we getting accomplished what we want to accomplish or what Senator Avery wants to accomplish with this resolution? And maybe the answer is, they weren't in opposition simply because we're lowering the requirement to change the statute from 7 to 4 percent. And if that is the case, well, then that makes more sense to me. But if it is specifically because we aren't doing enough to keep them out if they say

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15 percent, it's just going to cost us a little more money. That's not a problem; we can do that. And those things that we did on LB39, maybe those are the more effective ways to keep those interests out of our state rather than on LR8CA. I am not advocating a plus or a minus vote on the amendment. Well, I'm actually arguing against the amendment because I still think it makes it easier, but the resolution, as a whole, is a step in the right direction, but I don't know if we're accomplishing what we need to do there at this point. But I'll yield the rest of my time to Senator Avery or the Chair, either way. Thanks, Mr. President. [LR8CA LB39]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Avery, followed by Senator Chambers and Senator Schimek. Senator Avery. [LR8CA]

SENATOR AVERY: Thank you, Mr. Chair. I want to address a couple things. Senator Friend mentioned that the founding fathers did not anticipate this kind of debate that we're having here today because they did not include it in our constitution. I suspect they did know about it because the initiative and referendum procedure goes back to the eighteenth century and the House of Commons. It has a long tradition in democratic governance. In fact, here in our own country the initiative and referendum originated in the state of Oregon in 1902, and as Senator Schimek pointed out, here in this state in 1912. It is an important part of democracy. I'm reminded of something that the late Archibald Cox, constitutional scholar at Harvard University, used to say about America. He said, we are engaged in the great American experiment. And he was referring to American democracy. American democracy is unlike any democracy in the world. We...sure, we have a representative democracy that is similar to what others practice in many other states, but we're unique in a lot of ways, and this body, of course, is very unique in the state of Nebraska. But we're unique in one sense in that we are the only democracy in the world that cares enough about one person-one vote, that we're willing to go about the bitter process every ten years of reapportioning our legislative districts. And that's a painful thing to do. Blood is on the floor in state legislatures all over this country every time we do that. And the point I'm getting at here is that this sets an example for the rest of the world. The rest of the world admires us for doing this. You go to the Japanese Diet, their legislative body. Right now, they still have the same...the kind of representation in their representative legislature that they had after World War II when it was mostly an agricultural state. So you have agricultural interests still overrepresented in the body that is now largely urban country. They don't have the spine to stand up and do the kind of things we do to make our democracy work better. But what's the point here? The point is that I think we ought to preserve the democracy we have in Nebraska, and I think we need to protect it as much as we can. Preserve the initiative process. It is a distinguished tradition in Nebraska, and other places as well. Many people try to make the case that the initiative process is unregulated and gives us laws without government. In fact, the initiative process in this country is one of the most regulated in the world. The government sets all the rules. It tells you whether you can collect signatures and on specific issues and how many subjects and how many

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signatures you need--all kinds of regulation. It is appropriate for us to, from time to time, revisit these issues to make this a better democracy. Protecting the constitution is one way to do that. Again, if you let me address the amendment before us, this is the wrong way to go. It makes it easier for the constitution to be amended, not more difficult. What I'm trying to do is make it more difficult. Now, I'm not doing that because I'm trying to punish Nebraska's citizens. [LR8CA]

PRESIDENT SHEEHY: One minute. [LR8CA]

SENATOR AVERY: What I am trying to do is to make it possible for us to safeguard our constitution from the desires and the whims of people who don't have a stake in what we're doing. So I urge you to this amendment, because if you don't it just goes in the wrong direction. It makes it easier. Everything I'm trying to do with LR8CA is completely nullified by this amendment. Thank you. [LR8CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. Mr. Clerk, do you have messages, announcements, on your desk? [LR8CA]

CLERK: I do, Mr. President. Senator Johnson, an amendment to LB296 to be printed; Senator Hudkins, to LB299. Enrollment and Review reports LB549 to Select File, and LB211 to Select File, and LB549A to Select File, some of those having Enrollment and Review amendments attached. (Legislative Journal pages 496-497.) [LB296 LB299 LB549 LB211 LB549A]

The Natural Resources Committee, chaired by Senator Louden, reports LB295 to General File with committee amendments attached. I have a confirmation hearing report from the General Affairs Committee signed by Senator McDonald. Hearing notices from Natural Resources Committee and Retirement Systems Committee. A motion to recommit LB527 to be printed. Mr. President, announcement: The Revenue Committee will hold an Executive Session at 1:30 p.m. today in Room 1524; Revenue at 1:30 p.m., an Exec Session. Senator Langemeier would like to withdraw his name to LB173 as cointroducer. (Legislative Journal pages 497-498.) [LB295 LB527 LB173]

And I do have a priority motion, Mr. President. Senator Karpisek would move to adjourn until Thursday morning, February 8, at 9 a.m.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Karpisek makes a motion to adjourn until Thursday, February 8, 2007, at 9 a.m. All those in favor say aye. Opposed nay. We are adjourned.