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Floor Debate  
January 31, 2007

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning and welcome to the George W. Norris Legislative Chamber for the twentieth day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Wallman. Would you all please rise.

SENATOR WALLMAN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Wallman. I call to order the twentieth 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: Any corrections for the Journal?

CLERK: I have no corrections this morning, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports it examined and reviewed LB296 and recommended it be placed on Select File with the Enrollment and Review amendments attached. Your Committee on Banking, chaired by Senator Pahls, reports LB119 to General File; LB120 to General File with amendments; LB121, General File with amendments. Those reports signed by Senator Pahls. Mr. President, the amendment to be printed by Senator Dierks to LB25. And that's all that I have at this time. (Legislative Journal pages 425-426.) [LB296 LB119 LB120 LB121 LB25]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the first item under General File, appropriation bills.

CLERK: Mr. President, on LB80A. It's a bill by Senator Louden. (Read title.) [LB80A]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Louden, you are recognized to open on LB80A. [LB80A]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. LB80A would appropriate \$450,000 from the Drinking Water Administration Fund in fiscal year '07-08, and \$507,000 from the Drinking Water Administration Fund in fiscal

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year '08-09 to the Department of Environmental Quality. The appropriation would allow DEQ to expend the fund for the additional purposes authorized in LB80A. This bill does not include general funds and it is entirely cash funded. Because LB80 allowed additional uses of the Drinking Water Administration Fund, an increased cash fund expenditure is necessary. No staff would be hired as a result of the bill, and the majority of the funding would be used for state aid. Thank you, Mr. President. I ask that this bill be advanced. [LB80A LB80]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening to LB80A. The floor is now open for discussion. Senator Chambers. [LB80A]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I just have to ask Senator Louden a question because I was occupied. Senator Louden, I saw in the paper where there are some people who love prairie dogs and they want to make February 2, I think, Prairie Dog Day to compete with that Groundhog Day. And I know your feeling and you know mine. Does this A bill have anything to do with providing money to eradicate prairie dogs? [LB80A]

PRESIDENT SHEEHY: Senator Louden, would you yield? [LB80A]

SENATOR LOUDEN: Yes. Senator Chambers,... [LB80A]

SENATOR CHAMBERS: It does? [LB80A]

SENATOR LOUDEN: ...for the most part, prairie dogs don't drink water, and this is for drinking water for towns and villages, so I don't think you...you can rest assured there won't be any spent on prairie dogs. [LB80A]

SENATOR CHAMBERS: Splendid. I'm 100 percent in support of this bill. Senator Louden, I'm going to vote for it and you owe me. (Laughter) Thank you, Mr. President. [LB80A]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further discussion on LB80A. Seeing none, Senator Louden, you are recognized to close. [LB80A]

SENATOR LOUDEN: (Microphone malfunction)...closing. [LB80A]

PRESIDENT SHEEHY: Senator Louden waives closing. The question before the body is, shall LB80A advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB80A]

CLERK: 35 ayes, 0 nays, Mr. President, on the motion to advance to LB80A. [LB80A]

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PRESIDENT SHEEHY: LB80A does advance. Next item. [LB80A]

CLERK: LB283A by Senator Stuthman. (Read title.) [LB283A]

PRESIDENT SHEEHY: Senator Stuthman, you are recognized to open on LB283A. [LB283A]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. As I introduced LB283, and it was passed by the body several days ago, what LB283 does is it removes the medication aides, the nursing assistants, and dining assistants, from the Uniform Licensing Act. And it also changes the fact that medication aides previously were on a three-year renewal at \$8 for three years. Now it is biennially renewal at \$8 every two years. What this realistically does is that it generates more fees, and hopefully all the fees will take care of the credentialing cost of this change. It does involve \$138,000. It's cash funds, cash funds that will be generated because of the fact that they're going to a biennial renewal of the medication aides. And it will be revenue generated from the renewal of these medication aides, and it will...it's just a cash balance is what it does. But, in fact, there had to be a fiscal note with this, is how it is entered into the bookkeeping portion of it. So this is not any expense as far as the General Fund is concerned. It is a cash fund change and it only deals with the fees that are generated from the biennial renewing process compared to the triennial renewing process. Thank you. [LB283A LB283]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You've heard the opening to LB283A. The floor is now open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Stuthman, you are recognized to close on LB283A. Senator Stuthman waives closing. The question before the body is, shall LB283A advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB283A]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB283A. [LB283A]

PRESIDENT SHEEHY: LB283A does advance. I do have two announcements. (Doctor of the day and visitors introduced.) We'll move to the agenda items under motions to withdraw. Mr. Clerk. [LB283A]

CLERK: Mr. President, the first motion. Senator McDonald would move to withdraw LB146. [LB146]

PRESIDENT SHEEHY: Senator McDonald, you are recognized to open on the motion to withdraw LB146. [LB146]

SENATOR McDONALD: Mr. President and members of the body, I ask for your consent

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to withdraw LB146. This issue needs more study before it can be properly addressed by the Legislature, so please support the withdrawal of LB146. [LB146]

PRESIDENT SHEEHY: Thank you, Senator McDonald. You've heard the opening on LB146. The floor is now open for discussion. Senator McDonald, you are recognized to close on LB146. Senator McDonald waives closing. The question before the body is, shall LB146 be withdrawn? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB146]

CLERK: 39 ayes, 0 nays, Mr. President, on the motion to withdraw. [LB146]

PRESIDENT SHEEHY: LB146 is withdrawn. Next item. [LB146]

CLERK: Senator Louden would move to withdraw LB485. [LB485]

PRESIDENT SHEEHY: Senator Louden, you are recognized to open on the withdrawal of LB485. [LB485]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. LB485 is not necessary, and to save the time and the expense of a hearing of the bill and asking the committee to kill it, I simply would withdraw it at this time, so I ask for your support. Thank you. [LB485]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening on the motion to withdraw LB485. The floor is open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Louden, you are recognized to close LB485. Senator Louden waives closing. The question before the body is, shall LB485 be withdrawn? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB485]

CLERK: 42 ayes, 0 nays, Mr. President, on the motion to withdraw. [LB485]

PRESIDENT SHEEHY: LB485 is withdrawn. Next item. [LB485]

CLERK: Senator Chambers would move to withdraw LB468. [LB468]

PRESIDENT SHEEHY: Senator Chambers, you are recognized to open on the motion to withdraw LB468. [LB468]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, my motion to withdraw this bill, which would relate to divesting from certain designated countries dealing with Sudan, the government, and by their participation with that government contributing directly to the horrendous genocidal activity going on in Darfur.

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I'm in favor of and I respect greatly what the people who have this national effort underway to persuade states to enact such legislation. I talked to the students. I had meetings with the Investment Council director and their attorney. I put in considerable time and work on this matter. Those who have served with me in the Legislature are aware that I will not accept a model bill which somebody else has drafted and offer it as it's presented when there are parts of it that I think are inappropriate, unnecessary, ambiguous, unworkable. They do have a model bill that is being introduced around the country. Some states have enacted legislation and I don't know whether it is that model bill. But what I had done was to comb through it and eliminate material that I felt would not be suitable for legislation. You can put a lot of things into a resolution, but when legislation is put on the books it cannot be altered from day to day, as circumstances may change from day to day in a very unstable situation which is fluid. So among other things, their bill would have identified certain subdivisions based on geography in Sudan which, if people were operating there, it would be all right, but the point is this: You have no way of knowing that that particular piece of geography will always be under control of who are considered the good people, and will not fall into the hands of the bad people, in which case the statute has said you can continue with companies investing in that area of the country even though now it's helping the bad people. So those types of things, I believe, are not appropriate for any legislation. After I introduced the bill, I got a phone call and some written correspondence. The students knew what I had done with reference to divestment in the South Africa situation. That is something that I had dealt with for years. I had intimate knowledge and information about it and was very comfortable with what I was doing. This effort is not one that I originated. So I told the students and those who are supporting it that I am not going to do anything that will interfere with the momentum they have built up. And here's what they saw as the problem: that the way I had streamlined the bill had, in fact, weakened what it is they're trying to do. And if Nebraska were to pass that bill, and the students and others were confident I could persuade the Legislature to do so, it would encourage other states to take the weak position, as they called it, which Nebraska would be taking. Since they wanted this strong, uniform approach, they wanted to change what I had done. And I told them, no, you don't understand me; you don't understand how I legislate and nobody is going to tell me what is appropriate for a piece of legislation when I'm introducing it. But since this is not an effort that I originated, I do not want to do anything that will create a weak link in the chain that is being forged, so I intend to withdraw the bill that I had offered, and I did it with enough lead time so that the scheduled committee hearing can be canceled. I informed them that they could start with a clean slate next session and try to find a senator who will take the bill as they drafted it, offer it as they drafted it, and hope that it will survive the legislative process. So to summarize, I'm withdrawing this bill because I am not on the same page as far as process and procedure as those who are conducting this national effort. I am 100 percent in favor of what they are doing. I will do anything I can to help them except compromise my integrity as a lawmaker, compromise the process of this Legislature. And whether the law would have any significant or consequential effect on the amount of money that

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would be divested from these companies is irrelevant. Nebraska as a state wouldn't be of that much consequence, standing alone, anyway. If you happen to have any questions as to why I'm doing this, I'm prepared to answer them. But that is the reason I am doing this and I wanted the record to be as clear as I could make it. Thank you, Mr. President. [LB468]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the opening on the motion to withdraw LB468. The floor is now open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Chambers, you are recognized to close. Senator Chambers waives closing. The question before the body is, shall LB468 be withdrawn? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB468]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the motion to withdraw LB468. [LB468]

PRESIDENT SHEEHY: LB468 is withdrawn. We'll now move to General File. First item, Mr. Clerk. [LB468]

CLERK: LB213, introduced by Senator Ashford. (Read title.) The bill was introduced on January 9 of this year, referred to the Judiciary Committee for public hearing, advanced to General File. I have no amendments pending at this time, Mr. President. [LB213]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Ashford, you are recognized to open on LB213. [LB213]

SENATOR ASHFORD: Thank you, Mr. President and members. LB213 was introduced at the request of the Court Administrator's Office, and simply amends Section 24-514 and 25-2732 of the Nebraska Revised Statutes to identify the recording devices used in county courts as multitrack recorders instead of tape recorders. This really is a minor technical change to update these two statutes to reflect current recording practice and advances in technology. The public hearing, as was mentioned, was held. There was no opposition and I'd urge the body to advance the bill. Thank you. [LB213]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the opening to LB213. The floor is now open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Ashford, you are recognized to close. Senator Ashford waives closing. The question before the body is, shall LB213 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB213]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB213. [LB213]

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PRESIDENT SHEEHY: LB213 advances. Next item? [LB213]

CLERK: Mr. President, on LB237, introduced by Senator Pahls. (Read title.) The bill was introduced on January 10 of this year; at that time referred to the Judiciary Committee. The bill was advanced to General File. [LB237]

PRESIDENT SHEEHY: Senator Pahls, you are recognized to open on LB237. [LB237]

SENATOR PAHLS: Thank you, Mr. President and members of the body. I think if you've already noticed, we probably have talked about this bill a little bit before today. This bill has caused some confusion. Many people read homestead exemption, and they believe...they immediately think of homestead...of property tax. But this bill has very little to do with property tax. We have two homestead exemptions in our state. This bill deals with homeowners who may be unfortunate enough to face a judgment lien against their home. Under our current law, we protect a portion of the value of the homestead from judgment liens if the homeowner resides in that home. It has been public policy in this state to protect citizens from a forced sale to help with the judgment owed by unsecured creditors in the past. The big issue here is in changing the number from \$12,500 to \$60,000. I'm going to ask a couple of questions of myself and of you, not necessarily saying I have the answers. Why was \$2,000 the right number in 1879? Now I would like to have you think back to 1879. Was \$2,000 a big chunk of change? Tremendous. So what was the original intent? The original intent was to protect that homestead, so that was the intent. Well, that intent stayed there for many, many years until 1973, and then it jumped to \$4,000. And since then it has gone up until 1997, to \$12,500. So we probably need to take a look at that. So here is the question that has been posed to me by a number of people: Why is \$60,000 the right number? Well, if we would go with \$60,000, that would put us in about the middle of the states. And also the reason why \$60,000 came up is because we looked at all the counties, the average residents, the average valuation, and if you meld them all together, it's around \$60,000. Now, granted, if you live in Douglas County, the number would be like maybe \$130,000. If you live in another smaller rural county, it may be \$30,000 or \$20,000. So that's how that number came about. Nothing magical about it. Now, I see that there is an amendment for \$25,000. I'm asking you, is that the right number? Is that the magical number? I do think that we do need to protect those people who are going to loan money that's unsecured, we do need to find some level that is appropriate for them. I ask you the question, why is Wyoming's number less than Nebraska's? Is that the right number? Why is the unlimited protection the right number for Kansas, Iowa, and South Dakota? Is that the right number? Do I see financial institutions crumbling in those states? Why is \$45,000 the right number for Colorado? Why is \$80,000 the right number for North Dakota? I'm trying to find the right number and I don't know what it is. Another question I have is, why did the committee send this out to the floor with no "no" votes? Just some information now. The average credit card debt for Americans between 65 and 69 has risen to 217 percent between 1992 and 2001. Now, that's if you believe Newsweek.

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Now I want to look at the Congressional Budget Office. There is little empirical research on the effect that state exemption laws may have on access to credit. One study found that citizens in states with large homestead exemptions were less likely to be turned down for a mortgage loan and were offered slightly lower mortgage interest rates. That puts you in a quandary there. Another article from Regulation found that high homestead exemptions encouraged small business entrepreneurship because the exemption helped cushion business owners from the consequences of business failure. The counteract to that is high exemptions can also make it more difficult to obtain a small business loan. Another from the Quarterly Journal of Economics: Low-income residents in states with high or unlimited homestead exemptions can experience a reduction in the availability of credit. Is that all bad? Maybe we need to take a look at...here are some other facts. A fact: Home equity is a major component of net worth for almost all families in the state of Nebraska and the United States. Nebraskans 75 years of age and older are particularly vulnerable because their home represents between 47 and 60 percent of their entire worth. Fact: Between 1990 and 2000, the population of persons in Omaha age 74 years and older has doubled. Fact: 1,700 people living in a 25-mile radius of Omaha, right now are in jeopardy of losing their homes. Right now, 1,300 who live within a 25-mile radius of Lincoln are in jeopardy of losing their home. Now, I'll pick a smaller city such as Grand Island. Thirty-five people right now within that jurisdiction of Grand Island are in jeopardy of losing their home. So let's take a look at Norfolk, Kearney. So you can see there are people out there who are in jeopardy of losing their homes. Now, we know most creditors really try to work with homeowners. What I'm trying to say, if you look at the facts, let's see what is a fair number. Keep in mind the house...think of your own house, for those of you who lived in your house for 20 years, has it risen? Has the price gone...not the price but has the valuation of it gone up? I hear people in the inner part of Omaha are surprised when their houses are revalued. They cannot believe how much their houses have increased. So the value of the homes have gone up, have gone up; \$12,500 probably isn't sufficient. And you were talking about property tax or taxes. If we turn any of these people out, chances are they're going to go where? They're going to be looking for us for help. So for those of us who stand up and say we are concerned about taxes, well, this indirectly has an effect on taxes, not necessarily maybe a property tax, but it might. So if we turn people out, they have no place to go. And if they're older, their life, they are up against the wall. Keep in mind, many people in the state of Nebraska are looking more like me than they are some of the newer senators. I'm getting older, more vulnerable. And I'm not going to go into any of the stories that have happened, but you probably all have heard of some people who have been brought to task on this. I brought this for legal aid, but I did have some constituents in my area, the Millard area of Omaha, who had some concerns. So this is not just a poor man's problem. This is everywhere. But my concern right now is we need to, whatever that value is, whatever that number we settle on, that we at least think about the person who is getting up there in age, like this guy...I mean, I also include Senator Chambers...(laugh). We need to be on the...we need to sort of help them with a safety net. And we may also send a message to some of these credit card

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companies who just throw these credit cards to people, because that's one way that they're getting themselves in trouble. They have a responsibility to who they are going to give that card to. I am amazed that my daughter who graduated... [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR PAHLS: Sorry? [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR PAHLS: One minute; I'm sorry...who graduated last year, is a freshman, even how the credit cards are flowing toward her. It's not right. Well, the magical number, I'm going to leave it up for the discussion of this body. But please keep in mind that we do have some elderly people out there that we do need to be concerned about. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Pahls. You've heard the opening to LB237. Mr. Clerk, do you have an amendment on your desk? [LB237]

CLERK: Mr. President, Senator Mines would move to amend the bill with FA8. (Legislative Journal page 422.) [LB237]

PRESIDENT SHEEHY: Senator Mines, you are recognized to open on FA8. [LB237]

SENATOR MINES: Thank you, Mr. President. Senator Pahls did, I think, a real nice job of outlining the reason for his bill, and I think there, in fact, is good reason for homestead exemptions. Nebraska today is at \$12,500, and \$60,000 is now the number that Senator Pahls is discussing. My interest is, he asked the question several times: Why \$60,000? Why not \$200,000? Why not \$25,000? And that's why I've introduced the amendment, FA8, just to discuss \$25,000 because it's a doubling of the original exemption. How do you argue against increasing it? I don't think you do. I think it's time to increase the exemption amount, however \$60,000 perhaps is extraordinary. Keep in mind that this won't hurt bankers and it won't hurt creditors and it won't hurt lending institutions because they pass those costs on to you and I, the customer. And I know we can all feel good about maybe saving someone from being kicked out of their home. It sounds wonderful, but, in fact, all we're going to do is shift costs again from the homestead exemption as it is today to you and I when we do borrow money. Credit cards companies, frankly folks, they're going to pass that cost on along to you and I, credit card users. So I've introduced FA8 for discussion. It doubles it. And by the way, if you look at the map that Senator Pahls has passed out, there are four states that have unlimited exemption. And you'll note that others have less than we have...or that's being proposed. And I submit that it doesn't matter what other states are doing. It doesn't matter that \$60,000 is the average around the country. In my opinion, we are going to

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decide what's appropriate for Nebraska, barring what other states are doing. So I just...I hope you'll pay attention to debate. I think we're going to have some good input. And thank you, Mr. President. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Mines. You've heard the opening to FA8. The floor is now open for discussion. We have Senator Ashford, followed by Senator Chambers, Stuthman, and others. Senator Ashford. [LB237]

SENATOR ASHFORD: Thank you, Mr. President and members. And I would like to briefly touch on two issues. One is the committee hearing process. I think that the purpose of a hearing is to take in information on a proposal, the proponents, the opponents, the neutral testifiers, so that the committee can evaluate what should go to the floor, what should be debated, what is important enough to go to the floor. And in the case of this bill, Senator Pahls brought to us what I felt to be it was a very reasoned proposal. And obviously the bill was first enacted in 1879. The amount of the homestead exemption was \$2,000. If we extrapolate that number to current value, I'm sure the number exceeds \$60,000. So clearly the number is not excessive. But the committee hearing itself was a good one, and Senator Pahls gave persuasive arguments. There was really only one opponent to this proposal. There were no opponents from the credit card industry. There were no opponents from other kinds of transactional creditors. There was some testimony by the Bankers Association that the \$60,000 number was too high but were not sure what the number should be. The committee hearing needs to be more than that. There needs to be a legitimate information provided as to why a particular proposal shouldn't go forward. And the burden, quite frankly, is to some extent on the opponents on a proposal like this that seems so incredibly logical. We have a homestead exemption which was entirely, entirely too low, and, quite frankly,...and all of us know of cases where people have been forced out of their homes, so I'm not going to go into all of that. But the second point I would like to make is I passed around the statute on homesteads. And it's clear that financial institutions that enter into deeds of trust or second mortgages or mortgages with individual homeowners, for whatever reason, are in no risk whatsoever. Those mortgages are protected; those deeds of trust are protected; the vendors' liens are protected; the mechanic's liens are protected. There is no change. If this kind of measure is going to lead to excessive problems in the financial industry, we just were not made aware of what those problems would be. As I understand it, the reason for this legislation, and Senator Pahls said it well: There is a societal reason to keep people in their homes, not so much only because people should be able to stay in their homes so that they can take care of themselves in their homes, but there's a financial reason, as well. In my practice of law over 30 years, I can tell you that when people are in their homes and they have something to protect, they have something to work for, their desire to try to solve their creditor problems far exceeds a situation where someone is transient, someone isn't in a home, someone is going from apartment to apartment, and all of us who have practiced creditor's rights laws I'm sure would say the same thing.

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This is a very reasoned piece of legislation. It looks like a big jump because we started at a point of \$12,500 that should never have been \$12,500. And someone else...I think Senator Pahls made a very good point: the value of the homesteads have increased significantly, as well. Certainly in our city the values have increased exponentially. [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR ASHFORD: I commend Senator Pahls for bringing this legislation. I also feel so strongly about the committee process. And our committee evaluated this proposal, evaluated whatever evidence there was that would suggest that this is too high, and came up with, I think, a very reasoned conclusion in that there was no good reason, there was no industry reason that was significant enough for us not to accept Senator Pahls' proposal. It's a good, solid proposal. We don't just change it because somebody somewhere not in this body says it ought to be something else. And with due deference to Senator Mines, and I know his proposal is well thought out. But the \$60,000 proposal is an appropriate proposal. We need to advance this bill and get on with it. Thank you, Mr. President and members. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Ashford. (Visitors announced.) Senator Chambers. [LB237]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. Senator Ashford did a very good job in explaining the rationale behind the committee's action. I wanted to raise the amount higher but I said I would not disturb what it is that the committee has reached consensus on, and if I decided on the floor to try to do that, that's what I would do. But I certainly am not going to agree to lower it. All of us have heard the song "Home on the Range." That means a home on the range, not the range as your home because you are homeless. That's what would happen if we leave the law as it is now or accept what these bankers want us to do. This is an insult...Senator Mines is not insulting us; that's not the point I'm making. The amount is insulting because it is next to nothing. Paul, in the "Bible," Senator Fulton, was known as Paul the Apostle. This morning I don't mind being known as Senator Pahls' apostle. He is so correct in what he is doing. I have something that I am going to read from Charles Dickens because I tried to quote something the other day to characterize the bankers, but since Dickens was paid by the word when he wrote, I will read from the scripture according to Chas. Dickens. "Oh! but he was a tight-fisted hand at the grindstone. Scrooge! a squeezing, wrenching, grasping, scraping, clutching, covetous old sinner. Hard and sharp as flint from which no steel had ever struck out generous fire. Secret, and self-contained, and solitary as an oyster. The cold within him froze his old features, nipped his pointed nose, shrivelled his cheeks, stiffened his gait, made his eyes red, his thin lips blue, and spoke out shrewdly in his grating voice; a frosty rime was on his head, and on his eyebrows, and his wiry chin. He carried his own low temperature

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always about with him; he iced his office in the dog days; and didn't thaw it out one degree at Christmas." Speaking of Christmas, "What else can I be, returned Uncle Scrooge to his nephew, when I live in such a world of fools as this? Merry Christmas! Out upon merry Christmas! What's Christmas time to you but a time for paying bills without money; a time for finding yourself a year older, and not an hour richer; a time for balancing your books and having every item in 'em through a round dozen of months presented dead against you. If I could work my will, said Scrooge indignantly, every idiot who goes about with Merry Christmas on his lips should be boiled with his own pudding and buried with a stake of holly through his heart. He should!" And Scrooge was kinder than these bankers. Senator Mines has already pointed out that by our raising this amount to \$60,000 we're not going to hurt anybody in the financial industry. And the reason I've zeroed in on the bankers is for the reason that Senator Ashford gave: They are the only ones who came here and protested against the bill. No other lender, nobody except these grasping bankers... [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR CHAMBERS: ...they're overreaching. And I want to stop them from doing that. You all know how these credit card companies have prevailed on Congress to make it virtually impossible, in a practical sense, to file bankruptcy. So you get in debt to these credit card companies and they own you for the rest of your life. They solicit people to take these cards. They're the only industry I know of who can raise their interest rates whenever they want to regardless of what the opening interest rate that was agreed to. They can add fees as these fees occur to them. And these are not the people I'm worried about; it's those who will be put out of their homes. Making a foolish decision should not be punished by the loss of a person's home. And I want the song "Home on the Range" to mean that if you live on the range, you live there but you live in a home. Thank you, Mr. President. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Stuthman, Christensen, Senator McDonald, and others. Senator Stuthman. [LB237]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. First of all, I want to thank Senator Pahls for bringing this bill for discussion here on the floor this morning. I also want to thank him for explaining what is realistically about this homestead exemption part of it, you know, that it does not deal with any taxation or anything like that. And that's where some of the questions I had early on. But what I want to discuss a little bit this morning is the fact that we have to look at this as to who are the people that we should be, as legislators, be responsible for. And I think it's people of the state of Nebraska--property owners, property owners. This exemption, right now the way it presently is, is \$12,500. They can take the rest, unsecured creditors could possibly take the rest. What would you have left in your home that would be of value of \$12,500? Probably the porch or something like that. But realistically you would

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be out on the street. So I think that there is a need to increase this. I'm not sure as the dollar amount what's in the bill. I don't think the amendment that we are discussing, I don't think that is a doable one because I think we need to come back later on and change that also. The thing that really concerns me is that we do have a lot of people that are getting older, have a lot of medical expenses, and I'm really concerned about these people that get unexplainable and unavoidable health costs that cost them. They can't afford it. Someone would come, the collection agency would come and try to collect those bills. Those people that are in those circumstances, you know, having these large medical bills, and then they would lose their home also, you know, what is going to be the effect of that? These people will be out somewhere trying to rent an apartment and have extreme medical and health problems, and then they're going to be a real expense to the state. So I think we've got to be very cautious as to what we want to do. Do we want to put these people out on the street or do we want to try to give them the opportunity to save more equity in their property? And I think that's very important. I think that it is very important that we do this so that these people can still stay in their facilities, in their home, like Senator Chambers said, the home on the range, that we can keep those people there. I think there's a good possibility that maybe there needs to be some type of a transition or a phase-in, but realistically I'm not so much concerned about the unsecured creditors giving people credit where they don't have any security, I don't want them coming on to the person's personal home to take that property away from them. Yes, the individual probably got overextended in some areas, but some areas were probably unavoidable. And I think those are the situations that we've got to really consider in trying to help these individuals. So I think, in my opinion, I don't want to leave the situation as it is, at the \$12,500. When you look at the difference in costs of values of homes right now, a \$120,000 home is not a very big home anymore. So I think possibly the... [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR STUTHMAN: ...\$60,000 isn't enough. Also what concerns me is the other states around us. They don't have that. They can keep their home. So I think we need to keep that in mind. So with that I truly support the fact that we're trying to do something to help the homeowner in saving a little bit more of his own property. With that, I return the balance of my time to the Chair. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Christensen. [LB237]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. Would Senator Pahls yield to a question? [LB237]

PRESIDENT SHEEHY: Senator Pahls, will you yield? [LB237]

SENATOR PAHLS: Yes. [LB237]

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SENATOR CHRISTENSEN: Okay, I'm trying to figure out here, I have not made my decision which way to vote here. I guess I'm wanting to look...I have had several people I have held the loans on for people buying their first homes, and I guess I'm looking at it's going to put me at further risk if I do that, by raising this exemption. Am I looking at this wrong? [LB237]

SENATOR PAHLS: I'm assuming you have a secured loan. [LB237]

SENATOR CHRISTENSEN: I have...the house is secured. So we're strictly talking about the equity over it. [LB237]

SENATOR PAHLS: Yes. To me, I would not make a loan, in your case, unless it would be secured. That's how I see it. I mean, I'm not a loan person but if I'm going to be loaning money to something as large as a home, I would think I would...that would be my security. [LB237]

SENATOR CHRISTENSEN: Okay. So it doesn't affect me. I'm fine there then. Okay, we keep talking about keeping more equity for older people to keep them in their homes. Okay, if they're in...generally when you've got an elderly person that's losing their home and things this way, it's because they've got high medical bills and problems this way. Is that, by raising the exemption, they've got less equity that they could use up before anybody would give them a loan, that it's going to actually force some...so somebody...out of the home quicker? [LB237]

SENATOR PAHLS: Right. Let's say the number is \$60,000; that \$60,000 would be protected. If I lose my home I would get that \$60,000. [LB237]

SENATOR CHRISTENSEN: Right, so... [LB237]

SENATOR PAHLS: Now I would get \$12,500. [LB237]

SENATOR CHRISTENSEN: Anybody that has a loan is going to take that out before they loan it or am I just totally confused here? [LB237]

SENATOR PAHLS: Well, I would think when you would be looking at a person's ability to pay, you would look at all of the liabilities that person is carrying. Or I would...typically when I buy something large, they really want to analyze my background to see whether I can afford to make that payment or whatever. That's how I would foresee it. [LB237]

SENATOR CHRISTENSEN: Okay. [LB237]

SENATOR PAHLS: This is unsecured. [LB237]

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SENATOR CHRISTENSEN: So this is for unsecured. [LB237]

SENATOR PAHLS: Right. [LB237]

SENATOR CHRISTENSEN: So I guess I'm just trying to decide how to vote and look at this thing like do I want to raise this limit, leave it the same, go 25, 60, because I'm trying to decide if I'm really helping people. I realize if this deals with strictly the equity, so if somebody has got a loan against their home, they're totally...and they've used up, because of expenses, the home is just going to be gone; it has no difference if it's at 12 or at 60. [LB237]

SENATOR PAHLS: Well, if you lose your home, let's say that happens, right now \$12,500...and I'm not saying the creditors are going on chasing people out...I just used the number of 1,700 to show you those are the number of people that are at risk around the Omaha area. And I think that's sending a message, we do have people out there at risk. And I'm sure that many of the people who have loans with them are working with them. But just, like I say, around the city of Omaha, 1,700, that goes to show you this is an issue. I'm just saying is if I'm going to make loans, I'm not in the business but if I'm going to make a loan I think I would be pretty careful who that I would loan that money to is how I see it. [LB237]

SENATOR CHRISTENSEN: I think you are answering my question. I just wanted to make sure that I'm not putting myself in more at risk. And I guess the... [LB237]

SENATOR PAHLS: What I would suggest, you listen to more of the dialogue of the...because there will be other people talking and that will probably...maybe some of those people could give you a more in-depth answer than what I'm giving you. [LB237]

SENATOR CHRISTENSEN: Because I guess I'm just trying to figure out for sure why we want to give them a higher exemption... [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR CHRISTENSEN: ...what that benefits them. [LB237]

SENATOR PAHLS: The amount of money. In other words, if I'm an elderly person...I'm just using elderly because I'm closer to that end of the spectrum...I would have that \$60,000, otherwise I would have \$12,500 if I lost my house. [LB237]

SENATOR CHRISTENSEN: Okay. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Christensen. We have Senator McDonald,

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followed by Senator Dubas and Senator Louden and others. Senator McDonald.  
[LB237]

SENATOR McDONALD: Mr. President and members of the body, I also serve on Judiciary Committee and I heard the testimony of this bill and those that oppose it. And the only ones that opposed it, of course, were the bankers. Any time I've ever taken a loan out from the bank, they've always wanted some security. They took my car title. They have security on my home if I get a second mortgage. They are covered. What we're talking about is the unsecured creditors here: the credit card companies and the hospitals. The hospitals didn't come in and testify against it. They are unsecured. We're hearing now that our collection people are opposed to it. Well, let me tell you how they work. They represent the unsecured creditors and they are the ones that continually call on behalf of the unsecured creditor because they basically get half of what they collect. So we're eating into their business. But they weren't there that day. They have just been informed of what's going on. So we're dealing with...we're lining their pockets and taking away some of their business. As far as credit cards, many of the people, not all, but a lot of the elderly use credit cards to buy groceries, to buy medicines. Maybe their Medicare check hasn't come in. Maybe it's more than they have in their checking account and know that if they don't take their medications that they cannot continue living a lifestyle that even maybe works part-time. So those credit cards are a lifesaver to them. And unfortunately, credit cards charge between 18 and 24 percent interest rates. And if we change ours to \$63,000, it's not going to change the interest in credit cards because they don't have different rates for different states. Some states are unlimited, some states are \$43,000. But by changing our bill or law to \$63,000 is not going to change interest rates, because it's uniform. So that, to me, is not allowable opposition. We will pay eventually for these people. If you are homeless, let me tell you, the state pays. We pay for homeless people. We pay for people on Medicaid. It's protect them now so we don't have to pay for them later. I totally support the \$63,000 and I'm not so sure that we shouldn't go higher, but I'm comfortable for \$63,000. I will not support anything less. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator McDonald. Senator Dubas. [LB237]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor and members of the body. Why are we having this discussion today? Aside from the fact that we simply do need to update this number--it's been a long time since we've looked at it--we're having this discussion because we have people who have worked hard, who are working hard. They're supporting their families, they're paying their taxes, and then circumstances beyond their own control placed them in jeopardy. They've either lost their jobs, they've suffered serious illnesses beyond their ability to pay, and many of them have been forced to use credit cards just to hold body and soul together. Our homes are our castle, no matter what they're valued at, no matter how many rooms they have, no matter what their condition. They are the place that we have to go--the last place that we have to go

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for protection. My family and I have just suffered through an extended drought. Many people across the state of Nebraska have been in that position. And every night when I went to bed I thanked God that I had a roof over my head. And there were times that I was worried if I was going to be able to keep that roof over my head. But it was still there and I was glad for that simple fact. I wasn't worried about anything else but I wanted to make sure that my family and I had a place to rest our head at night and that it was a safe and warm and secure place. My ability to make a living was compromised by something that was totally out of my control, and that was the weather. And these are similar circumstances that other people are facing. I don't think \$60,000 is out of line. The last thing people should have to worry about in the midst of a crisis is the possibility of losing their home. I hope this discussion will generate heightened awareness of credit card usage. Do we need to examine credit card regulations? I think it's a sad commentary when people are forced to use credit cards just to provide their basic needs. I do not want to be personally responsible for adding to the homeless population. I stand in opposition to the \$25,000 amendment. The numbers are evident that there are problems. Again, \$60,000 is not out of line and probably could be raised higher, but if that's the starting point, that's the position I'm willing to support right now. Thank you for your time and I yield the rest of my time. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Dubas. We have Senator Louden, followed by Senator Lathrop, Senator Carlson, and others. Senator Louden. [LB237]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. As Senator Ashford talked about some of the history of it, I was involved with the state work clear back in 1959, which is some 48 years ago. And at that time, and that law stayed into effect until later years, but when you were foreclosed on, you were allowed, I think, \$2,000. You were also allowed a team of horses; you were allowed a wagon; you were allowed a plow; and also so many pounds of grain and that sort of thing. And, of course, the thinking back then was that if you were foreclosed on, at least you had enough wherewithal that you could at least move to someplace else or nowadays you could say, get out of town. So I think that you have to take that into consideration that you are going to foreclose on somebody; they need to have at least enough probably to get out of town. Most people, when they have loans on their homes, that's their last resort is the loan on the home. If they run into financial difficulties, usually everything else is gone before the home goes. And so they use this as a way to fund out. Now my observation is that if someone has purchased a home and it's valued at \$100,000 or so, and if they have \$25,000 or \$30,000 worth of equity in it and the lending agency forecloses on it, the lending agency can give them \$12,000 and pocket the rest in there. So that part needs to be considered too with the value of the homes that have went up over the years. The credit unions don't seem to have a problem with this so I don't see where the \$60,000 is out of line at this day and age. The \$12,000 was too cheap; I think the \$25,000 probably is irrelevant. And when you notice in the law they are still talking about it could include 160 acres of land. There's one question though that I would like to

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have answered by someone that's versed in this. And perhaps Senator Ashford would yield to a question, please? [LB237]

PRESIDENT SHEEHY: Senator Ashford, would you yield? [LB237]

SENATOR ASHFORD: Yes, Mr. President. [LB237]

SENATOR LOUDEN: Senator Ashford, a lot of these loans anymore on these, people have to give a deed of trust. Now how does that react with what we're trying to do here or there? If a bank takes a deed of trust on something, that doesn't go into the...they don't foreclose on it, the same process, do they? [LB237]

SENATOR ASHFORD: It's not the same process. It's a more expedited process but it's the same impact. I mean, the deed of trust would...the creditor would be able to recover that amount under the deed of trust. This bill does not change the creditor's rights to that property under a deed of trust. [LB237]

SENATOR LOUDEN: Okay. They would still be entitled...as the bill was originally written, they would still be entitled to the \$12,000? Or the way it's written now, they would still be entitled to the \$60,000 if they've given a... [LB237]

SENATOR ASHFORD: If they've loaned more than that, yes. [LB237]

SENATOR LOUDEN : Yes. But if they've signed a deed of trust on their loan? [LB237]

SENATOR ASHFORD: Yes. Yes. [LB237]

SENATOR LOUDEN: Okay. That was what I would like to clear up. Myself, I would support the way Senator Pahls has brought it out from committee and I will not support Senator Mines' amendment. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Lathrop. [LB237]

SENATOR LATHROP: Thank you, Mr. President and members of the body. I too want to thank Senator Pahls for bringing this bill. I think it's a move in the right direction for the people of the state of Nebraska. Today we are taking up an issue as old as credit itself. Since the time that lenders and borrowers began, the question has always been there, how far shall those who loan money be allowed to go in the collection of their debts? We've gone from the time of debtors' prisons in medieval times to the place where we have an exemption on our homestead. Some of the questions that we've heard today suggest that there's not a clear understanding of what this bill is about, and so I'd like to take a few minutes and explain what the homestead exemption is and what it isn't and how it affects the ability of lenders to loan money. The homestead exemption

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is not at all related to property taxes. It is the amount of money that we can keep from creditors who are trying to collect an unsecured debt. And that's an important distinction because we have two kinds of debt. One is secured and that would be your home mortgage, the loan on your car, those kinds of things. This does not affect that at all. So if you fail to pay your mortgage and you have only \$5,000 worth of equity, the mortgage company can take your home and give you your \$5,000 in equity. This will not protect you. It will not let you keep any of the equity in your home as against a mortgage company coming to take back the house that you secured for a loan. Similarly, there is nothing about that \$60,000 which would prevent a mortgage company from loaning you money on that equity. So you'll see a lot of people, a lot of advertisements on TV now about borrowing money against the...getting second mortgages against the equity in your home. You are still free to do that. If you don't pay that debt, then you have to give up your home if the folks that have the secured debt come to take it from you. The homestead exemption protects people in one situation. That situation is where they've had a judgment taken against them, typically in the county court. And a typical example would be someone who has had an illness. They might have a \$2,000 deductible on their health plan and they've been sick, ill. Health insurance has paid the hospital, you name it, \$50,000, \$80,000, but they still owe the hospital \$2,000 on the deductible. So after calling the home for several months, they turn that over to a collection company. The collection company takes it down to the county court and they get a judgment against our homeowner. What can happen, if we leave this number at \$12,500 or even at \$25,000, is the collection company can sell the house right out from under our sick person, the person with the debt, if the amount of the equity in the home is less than \$12,500. If we move it to \$25,000, they can be taken from their home if the equity in their home is greater than \$25,000. And so what we're doing today is setting a policy and we're trying to figure out at what point shall we allow the credit card companies and the collection agencies to throw Nebraskans out of their home. How much equity shall we allow them to have? Shall we let them have \$25,000, because if \$25,000 is the number... [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR LATHROP: ...the guy with \$30,000 is going to have to leave his home when he gets a judgment taken against him in the county court. I believe the right number is \$60,000. I believe the right numbers, we should join our neighbors and have an unlimited homestead exemption so that we are not removing Nebraskans from their home. It is also important for people to understand in considering this bill that the homestead exemption does not forgive that debt nor does it make it go away. So the hospital and the collection company in my example still is free to collect that money by other means. They just don't get to sell the house and throw somebody out of it. For that reason I oppose the amendment offered by Senator Mines. I appreciate the bill and will support the bill of Senator Pahls. Thank you. [LB237]

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PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Carlson, followed by Senator Fulton, Senator Howard, and others. Senator Carlson. [LB237]

SENATOR CARLSON: Thank you, Mr. President and members of the legislative body. I appreciate the work that Senator Pahls has put into this bill and the debate this morning and the serious question about what is the right amount for an exemption. It's interesting to get information from other states and look at this map and see what they are doing around us, but we're Nebraskans and we'll decide for ourselves and the people we represent what is right. I like to think that, as a legislative body, when we know something is right and what to do is right and don't do it, it's evil. And so we are about working for the public good and we need to continue to do that. I have a math background; I like numbers and talking about what is the right amount. If we use the rule of 72 and take \$2,000 in 1879, what does that mean today? If the increase in value is on average of 2 percent, it's worth \$25,000 today. If it's 3 percent, it's worth \$128,000. If it's 4 percent, it's worth \$256,000; and if it's 5 percent, it's worth \$512,000. So I like to look at these kind of numbers and help come to some kind of conclusion as to what is an appropriate amount. Thank you for this. I yield the remainder of my time. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Fulton. [LB237]

SENATOR FULTON: Thank you, Mr. President. The arguments that's given that we need to keep, particularly the elderly is something that I'm sensitive to, and I understand that argument. And I have seen...I have had clients who have given me their medical bills to show me what a hip replacement or whatnot costs, and it's staggering. And there's a problem there, and so the arguments that we're able to help people to remain in their homes, even when they are in desperate situations, that's persuasive. What I'm not understanding here, and I don't know for certain how I'm going to vote on this and so I'm thinking out loud and maybe I'll be prompting some questions within some of my colleagues here. Senator Ashford said that there were no opponents from the credit card industry, and that is conspicuous to me. It seems that those that hold unsecured debt or have some leverage through what is owed to them unsecured, those are the ones that should be most interested in this and yet they were not here to testify. I wonder if there's a reason behind that, and I throw this out, I guess, this may not...this is something deeper that's been brought up that I'm thinking through. The proliferation of credit cards...you know, when I was a kid, credit cards, we didn't know what they were. Now when I get to be 20, 25 years old, I'm popular. I'm getting mail from the credit card companies. And the reason that there are problems, I guess part of the problem isn't just with the credit card companies. Part of the problem is with us as a culture. We have a pop culture that tells us to get as much as you can when you can, and if you have a piece of plastic and you have to give them that, that's all you need to do to get a PlayStation or what have you. The level of responsibility has deteriorated since the time, the short time admittedly, when I was a kid until now. And I wonder if one of the reasons why the credit card companies didn't come to testify is because they see this as a

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statement that since...as a way to engender more irresponsibility in generations to come. And maybe this theory is wrong-minded, but it just seems conspicuous to me that they are not...there's a reason why they're not here. If in lifting the exemption amount to \$60,000, perhaps there are those out there who will read this and think, well, I can go and spend and just declare bankruptcy and it won't matter. That's probably not the elder generation but maybe it's the people from my generation. Perhaps that's the reason why the credit card companies didn't come in. Maybe they see this as a net winner. Maybe they see this as lifting the level of irresponsibility in society as such that people are desperate such that they would take a piece of plastic. Again, maybe that theory is wrong-minded, but it's something that we should consider. I don't know that we're getting at the credit cards with this bill. I do think we probably are getting at the elderly and those who may be in desperate situations, and that argument resonates with me. I do not want people to lose their homes because they are in desperate situations but we should consider, and maybe this is another bill in another day, the level of responsibility that we communicate to the culture. It's something at least that I have considered and maybe I'll get a better answer to it, but I bring that out for your consideration maybe on bills that come to us in the future. Thank you. I yield the rest of my time. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Howard, followed by Senator Chambers, Senator Dierks, and others. Senator Howard. [LB237]

SENATOR HOWARD: Thank you, Mr. Lieutenant Governor. I stand in support of Senator Pahl's LB237. We have an obligation in this state to support people in retaining their homes, not moving into nursing home situations, not moving onto Medicaid. We took a good first step last session when we removed the home repair sales tax and I'm very proud to have had a hand in that removal. I think by raising this amount to \$60,000, we send a message of support to those people who are trying to remain in their homes, those people who are our parents, our neighbors, individuals that we know that really have gotten involved with a credit card arrangement either through the best of intentions or through just plain old need. But when that house of cards folds, we don't want them to lose the house they live in. Having said that, I would like to offer the balance of my time to Senator Chambers who always knows how to say it best. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Chambers. [LB237]

SENATOR CHAMBERS: Thank you, Mr. President; thank you, Senator Howard. Members of the Legislature, as Senator Dubas pointed out, why are we having this discussion? And I'm going to take a different tack than she took. I agree with her 100 percent. My seatmate, Senator McDonald, did, as beautifully as she looks all the time, but then as an inhabitant of the culture corner, what do you really expect other than that? Here's what I want to say about Senator Mines' amendment but not criticizing Senator Mines, because people can offer anything they want to, and sometimes they'll offer a proposition to generate discussion, and his amendment certainly has done that.

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However, with this amendment that he has offered I can only give an analogy. A person unjustifiably has a 10-inch knife blade stuck in his or her back. Senator Mines says, I think it's terrible; that blade should never have been stuck in your back at all so I'm going to pull it out 5 inches and leave 5 inches in your back. This amendment that Senator Mines is offering doesn't really do anything. It does not really touch the problems that are generated by somebody who would be affected by that \$12,500 existing exemption. It will not do anything to allay the concerns I have who want more than the \$60,000 exemption. When you have an unsecured creditor,...I don't know why Senator Fulton is worried about them...the unsecured creditor is like somebody in Las Vegas at the crap table. You rolled the dice. But many times the interest that they charge can be so high that by the time a person defaults, they've gotten back the amount that they lent that person, plus some money. These high interest rates are really usury. So I wonder how my colleagues can come in here every morning and pray. I've even heard senators pray in the name of Jesus, then they'll throw in the Father and the Son and the Holy Ghost. I already told you about that song, "The Day the Music Died": The three men I admired the most, the Father, Son, and Holy Ghost, caught the last train for the coast, the day the music died. Well, you know that "Bibble" that talks about Jesus... [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR CHAMBERS: ...condemned usury as a sin--condemned usury as a sin. So you all pick and choose what you want to take out of that "Bibble." Your principles are not consistent. If your principles were converted to a garment, that garment would be tattered and torn and ripped to shreds. There would be more space than there would be substance because you take what is convenient because those convenient things work to your benefit. A principle is designed to cut both ways and it is to give a guide for conduct. And even if you don't reach that standard all the time, you are striving for it. And you don't strive for it by saying, I want to find as many ways around it as I can. This that Senator Pahls has offered us is good. It's not the best, but sometimes I have to settle for the good. [LB237]

PRESIDENT SHEEHY: Your time... [LB237]

SENATOR CHAMBERS: Thank you, Mr. President. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Chambers, you are in the queue to speak next. [LB237]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I should make it clear that not every banker is wicked. Now, I haven't met any personally who would not be considered wicked other than my colleague in the Legislature, and if he wants to identify himself, he can. But the bankers, as has been pointed out, are secured. So why would

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they send somebody in here other than to show that they're going to oppose anything that would help the people who have problems? This is not going to affect them. If you want to go to a bank, which is probably the most conservative institution in a society, and say, Mr. Banker, I want to borrow a dime. He says, Ernie, have you got 11 cents collateral? I've got to put up 11 cents to borrow a dime? And you think these bankers are really going to be hurting if we rescue the relatively few people we would rescue by doing what Senator Pahls is presenting to us today? There are some critters which are so small that some predators won't even be bothered with them. Now, if a coyote is extremely hungry he'll eat a grasshopper if he can catch one, but while he's eating the grasshopper and crunching away, he's looking for a bunny rabbit or something else. Now, I don't know if mountain lions eat grasshoppers ever. But we know that the big predators select prey which is going to make it worthwhile for them to expend the effort to run it down if they have to chase it; to expend whatever energy and skill is necessary to kill it if they have to kill it. Why are we puzzling so much over trying to help the most vulnerable people with this legislation? You are going to take people's homes? I get sick and tired of hearing this talk about the strong Nebraska values, because I'm in this Legislature and I see the cruelty and the lack of compassion. And if what the bankers are presenting to us represents their Christianity and the Christianity that is trumpeted every morning before you all start your business, I say, as a minion of Satan, Christian charity is a beautiful thing, and Satan and I will get more of you than that preacher and these others because you come the way I'm supposed to be going. If I were Satan, I would recognize you: Oh, I know you very well. Do you know why I talk like this? You all bring those prayers in here. You all talk about the religion. You all talk about the Father, Son, and Holy Ghost. I know what the Bible says. I don't accept it but I probably come closer to living according to its principles than you all do because I'm not being bribed by going to heaven and I'm not being terrified by the threat of hell. I do what I do because I think it's right. It's difficult for me to watch somebody suffering and not do something to alleviate their suffering if I can. In the neighborhood I lived in when I was growing up, people whipped their children. Other kids would go stand around the house where a child is getting a whipping, and laugh and enjoy it. I couldn't stand to listen to it. I couldn't stand to hear a child hit, and cry. And maybe that stamped me from a child up till now because I cannot tolerate somebody being tortured or made to suffer. [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR CHAMBERS: I didn't stick pins in little bugs' eyes. And maybe that's something all children are supposed to do. Looking at me, according to the standards of your Christian "Bible," I'm probably the most wicked person you will ever encounter in your life because I don't believe any of those things in the "Bible" as being literally true. And for you all, that's the worst thing of all. Had I professed to believe it at one time and then gotten wise and turned against it, there was a church that would burn me at the stake. And by the way, the Catholic Church wasn't the only church that was burning people, but all the churches that did burn people were Christians--Christian churches.

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Christians burn philosophers; philosophers never burn Christians. This is a bill that in a way does test our moral principles. We're not hurting anybody by what we're doing, but we're helping people. And we've got to stand here and argue and badger, and people are going to speculate... [LB237]

PRESIDENT SHEEHY: Time, Senator Chambers. [LB237]

SENATOR CHAMBERS: Thank you, Mr. President. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Dierks, followed by Senator Wightman, Senator Pankonin. Senator Dierks. [LB237]

SENATOR DIERKS: Thank you, Mr. President. I'm intrigued by the issue today. I have to beg ignorance on a lot of the homestead exemption information because I just...I appreciated so much what Senator Lathrop told us. I have to, at this point, before I go any further, I just want to compliment the conversation today, the debate, and the people who have taken part in it. And I don't know if you've noticed it or not, but most of these people have been the first-year senators. I think they've done an outstanding job of making their presence known here and telling us good information. Now I would like to talk...I would like to ask Senator Chambers a question, please. Senator Chambers? [LB237]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB237]

SENATOR CHAMBERS: Yes. [LB237]

SENATOR DIERKS: I'm intrigued by the states around us that are unlimited. Can you tell what the pros and cons are of having an unlimited...a homestead exemption thing? Can you give me a short lesson in that? [LB237]

SENATOR CHAMBERS: Senator, I had not done any research on that, but my preference was unlimited because I didn't think, when it came to these unsecured creditors, a person's home should ever be in jeopardy. So I was for unlimited, and the reason would be that a lot of times they're enticed by the creditor into taking...entering this debt, and my feeling is that the creditor does that at his or her own risk. But in any case, bad decisions should not lead to the loss of a home. But because the members of the committee thought that \$60,000 was probably the figure that could fly, I said I will not try to get an unlimited exemption and I decided not to try to do that on the floor either. I don't know of any good arguments against an unlimited exemption. [LB237]

SENATOR DIERKS: Thank you. I have another question and it involves the word "usury." A number of years ago we had a usury law in Nebraska, and maybe we still do but I think maybe it's been changed. Where does usury come into effect in Nebraska as

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far as how much money you can extract from a person for interest? [LB237]

SENATOR CHAMBERS: The only limit that I can think of now, if the statute sets an amount of interest then you cannot charge more than that legally. [LB237]

SENATOR DIERKS: Yes. [LB237]

SENATOR CHAMBERS: The state itself will charge, I think, 14 percent on any delinquent property tax, but I'm not aware of any standard of interest that would not constitute usury. So I think usury is the standard in this and every other state and throughout the finance industry. [LB237]

SENATOR DIERKS: But you don't put a number on that. [LB237]

SENATOR CHAMBERS: No. I think usury exists whenever you lend somebody something and you are going to make them pay you something for the use of what you give them if it's not a very reasonable amount, because your lending it to that person inconveniences you. [LB237]

SENATOR DIERKS: Well, the reasonable amount, I guess, is the question I have, and I just wondered, how do you get to that point? [LB237]

SENATOR CHAMBERS: Okay, the reasonable amount would be .00001. That would be reasonable. All those zeros and a one follow the decimal point. You can...and I'm flexible; you can have five zeros before you put the one, or you can have six zeros before you put the one. [LB237]

SENATOR DIERKS: You'd put the lending agencies out of business, wouldn't you, Senator? (Laugh) [LB237]

SENATOR CHAMBERS: And I don't know whether that would be a bad thing. [LB237]

SENATOR DIERKS: Well, probably not. [LB237]

SENATOR CHAMBERS: And I'm being somewhat facetious at this point. [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR DIERKS: I realize that. Thank you very much. Thank you, Mr. President. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Wightman. [LB237]

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SENATOR WIGHTMAN: Mr. President and members of the body, I would ask Senator Pahls if he would yield to a question. [LB237]

PRESIDENT SHEEHY: Senator Pahls, would you yield? [LB237]

SENATOR PAHLS: Yes. [LB237]

SENATOR WIGHTMAN: Senator Pahls, I think you've done a great job of putting the bill together. The exemption amount obviously is something that is subject to debate. It is my understanding that there are three or four states, and I don't know which they are, I understood that Massachusetts was one, that has somewhat of an indefinite amount with regard to their exemption. They have one exemption amount and that may be able to be increased, in some instances doubled, in the event that someone is 65 years of age or older or perhaps have dependent children living at home. Are you aware of any such states that would have some situation where the exemption amount could be increased? [LB237]

SENATOR PAHLS: I do not know the exact states, but I have been told there are states, the example, the one that you are giving to me right now, that you mean at a certain age the exemption is higher? Is that what you are saying? [LB237]

SENATOR WIGHTMAN: Yes, or maybe if dependent children are living in the home. [LB237]

SENATOR PAHLS: And I cannot tell you which states, but I've been told that is out there, and then again that may be another direction to go. So you would say different layers? For example, let's say, just for a speaking point, that if 62 was the age, that it would be maybe \$90,000 or \$60,000, is that what you are saying, then a lower one at another age? [LB237]

SENATOR WIGHTMAN: That's what I'm wondering, if any consideration was given to that or if it was even discussed in the committee hearings that there might be multiple levels of exemption amounts. [LB237]

SENATOR PAHLS: I don't think any discussion, a lengthy discussion was...that was a topic. But I did say that I was concerned about the elderly, so that would fit into the type of situation that you are bringing up. [LB237]

SENATOR WIGHTMAN: That's correct. [LB237]

SENATOR PAHLS: My major concern would be that age group. [LB237]

SENATOR WIGHTMAN: One of the concerns I have, Senator Pahls, is that we want to

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paint everybody with the same broad brush, and I think both creditors and debtors fit into this situation, that, you know, when we talk about creditors, everybody wants to talk about bankers, they want to talk about credit card companies. They may not want to talk about the next-door neighbor who happened to loan someone money and is, likewise, being discharged...his debt is being discharged in bankruptcy. And I think different situations arise, and whether they're entitled to different considerations under the exemption bill, I don't know. I think that's a matter yet to be discussed. Likewise, not only the creditors are in the situation to where they may fall into different classes, but, likewise, debtors may fall into different classes. Debtors obviously get in financial problems for different reasons. I think most of us sitting here would have very little sympathy with credit card companies because they are rather aggressive in pursuing people to take their credit, but maybe we have less...or more sympathy, perhaps, for the next-door neighbor who happens to make a loan and is now...his debt is being discharged. So I guess I'm interested in hearing whether any other people might have similar concerns, both from the standpoint of the debtor or the creditor or the fact that we are painting with a broad brush that maybe just covers everybody, maybe a scorched earth policy. So I'd be interested in hearing any debate as to whether that is a consideration here. And at that point, I would yield... [LB237]

PRESIDENT SHEEHY: One minute. [LB237]

SENATOR WIGHTMAN: ...the rest of my time to the Chair, which isn't much. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Pankonin, followed by Senator Synowiecki, Senator White, Senator Lathrop. Senator Pankonin. [LB237]

SENATOR PANKONIN: Lieutenant Governor and members of the body, I think Senator Pahls did a fine job this morning in presenting this bill and presenting a balanced view, and also bringing up some of the questions that might be important. And as Senator Wightman has just pointed out, there is a wide array of lenders and lending activity that might be affected by this bill. I need to first start out by offering a disclosure. Since 1975, as a farm equipment dealer, I've extended accounts receivable financing to customers that probably consists of millions of dollars over the years with very, very small losses, but I've been a lender in accounts receivable like a lot of other main street businesses. Also, since 1977, I've been on the board of directors of a relatively small financial institution, a community bank in Louisville, Nebraska, that doesn't offer credit cards, and so I just want to make that clear before I make my comments. And I think there's been a couple of tests over those 30-plus years in my local community that hopefully I've passed. The first one is a market test of these businesses have continued to go and customers have supported them, and I think if, obviously, you would have mishandled credit, that might not have happened. And I've passed a test, a political test, of running for election in my local area and having been successful in seven different elections. I agree with Senator Chambers on credit cards. It gets a lot of people in trouble.

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Solicitation is way too aggressive and has caused a lot of problems for our citizens and our economy, and that's an issue that I might pursue or will probably pursue down the road about how easy it is to get some forms of credit. But I think, even though there's a lot of support for this bill today, and I think the public policy issue we need to look at is...and make sure we don't have unintended consequences, we want to protect folks from unsecured credit problems that may cause them financial distress and loss of their home, but also we have to make sure that we don't restrict credit or cause restriction of credit that hurts our economy. Let me give you an example. A lender may look at a person's overall financial picture and their home may be in a paid-for status, but it shows up on their balance sheet and gives them additional equity. If we get this exemption too high, people, lenders, may say, I want that first position on that home, where they wouldn't have taken it otherwise because they know they will be secure. So in the overall credit picture, this may have some implications. I think as this thing moves along I'm sure we will hear from those folks about some of these unintended consequences, but I just want to make it clear that it can affect other things. And for example, in our state we just found out yesterday in the Banking Committee there are 241 licensed sales finance companies, and even though they didn't come and testify on this bill, you know it would be interesting whether that's the Nebraska Furniture Mart, GE Capital, people that finance things, and some of it is on an unsecured basis or there isn't anything they can have for security, how that might impact credit for Nebraskans. So I think we need to take a careful look at this as we move forward, no matter how you feel about the amendment or the bill, and try to get some input about how this might affect Nebraska, Nebraskans, and if there's any unintended consequences. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Synowiecki. Senator Synowiecki has made the motion to call the question. Do I see a show of five hands in support as a second? I do see five hands. The question before the body is, shall the debate now cease and close? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB237]

CLERK: 28 ayes, 10 nays, Mr. President, to cease debate. [LB237]

PRESIDENT SHEEHY: Senator Mines, you are recognized to close on FA8. [LB237]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator "Sickie," for calling the question. (Laughter) Our debate over the last hour has been about...not about the principle of increasing the exemption; it's about how much to increase that exemption. A great debate, and, in particular, for those of you that were paying attention, Senator Lathrop outlined what exactly is involved in bankruptcy and how this bill would affect that. For those of you that were interested in saving people's homes, if they...if those folks default on their mortgage it's not going to save their homes. They're not going to be exempt from any debt that they've incurred. But again, that goes back to the principle

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of our debate. What we're talking about with this amendment is saying, is \$25,000 the correct amount, or is \$60,000 the correct amount? I don't know. You'll push the button the way you see fit. The second one that I picked up on, Senator Wightman alluded to it, and Senator Pankonin brought it up, there are unintended consequences by raising our exemption to whatever amount we raise it to. An argument can be made that first-time homeowners could be affected. First-time homeowners seldom have much equity. First-time homeowners are a larger risk than those that are not first-time homebuyers. And by raising the standard to \$60,000, as an example, lenders will look a lot closer and may not lend to first-time homebuyers. So there are issues on either side. I would urge you to vote for FA8. Thank you, Mr. President. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Mines. You've heard the closing on FA8. The question is, shall FA8 be adopted to LB237? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB237]

CLERK: 14 ayes, 25 nays, Mr. President, on the adoption of the amendment. [LB237]

PRESIDENT SHEEHY: FA8 is not adopted. We will now move back to floor discussion on LB237. Senator White. [LB237]

SENATOR WHITE: I rise, Mr. President, just to point out for those who have questions, I, at the start of my career, did foreclosures for Commercial Federal Savings and Loan, and probably did 500 of them. I would tell you I support raising this to \$60,000. People who are in this situation are not getting a free ride. They lose their cars. They lose their bank accounts. Their checks are garnished. Often their personal property is seized and sold. And what it does allow, what this will allow under certain circumstances, many of them for people in my district, is that when someone has had an adverse series of circumstances--a business has failed, they've had a really serious illness--it lets them have a roof over they and their children's heads so they can regroup. If we're seriously interested in families, I think this is very profamily, and therefore I support it. I return the rest of my time to the Chair. Thank you. [LB237]

SPEAKER FLOOD PRESIDING [LB237]

SPEAKER FLOOD: Thank you, Senator White. The Chair recognizes Senator Lathrop. [LB237]

SENATOR LATHROP: Thank you, Mr. President, members of the body. Today we are setting the policy. The bill before us is for \$60,000. Our neighbors in Iowa, Kansas, South Dakota, have theirs set at an unlimited homestead exemption. The \$60,000 that's before us in the bill today is modest by comparison. It will benefit Nebraskans. It will benefit the middle class, the working people in your district. And I think it's important to remember today that we will make the policy and then the banks and the credit card

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companies will adjust their procedures. And we probably will have a consequence to this action, and I would suspect that the consequence will be that we will be less of a target in Nebraska for credit card companies who had a better chance of collecting money out of someone's home equity before this bill passes. So from a public policy point of view, I think we're doing the right thing with the passage of this bill, and I think the consequence will be that we will see less...that we will be targeted less by the credit card companies for this unsecured debt that causes the problem. I would recognize that there may be unintended consequences with any bill, but I don't see this bill causing the unintended consequence of making credit more difficult. By having a homestead exemption, we do not change the fact that someone can borrow money up to the very end of their equity in the home, and that's not going to change. We don't set a requirement now that you have to have \$60,000 worth of equity and you can encumber that when you deal with a mortgage company. So I respectfully disagree with the contention that we are going to make credit more difficult to obtain or home loans more difficult to secure with this bill. And with that, I would yield the balance of my time to the Chair. [LB237]

SPEAKER FLOOD: Thank you, Senator Lathrop. The Chair recognizes the senior senator from the 11th District, Senator Chambers. [LB237]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I've kind of lacerated the bankers yesterday and today, and it's difficult for me, as I said, to watch anybody being pummeled and punished. So since I quoted from the scriptures according to Charles Dickens to criticize them, let me quote from the "Holly Bible" part of a verse to give them credit for what they're doing when they want to make people homeless. They want to simply fulfill a prophesy, a quasi-prophesy of Jesus. He was talking to a person who thought he wanted to go along with Jesus, and Jesus said, the foxes have their holes, the birds of the air have their nests, the Son of man hath no place to lay his head. And the bankers want to fulfill that scripture and put as many people in that position that Jesus described as possible, so they have no place to lay their head, and you do that by making them homeless. And the bankers are simply trying to fulfill the scriptures. But in this case I disagree with their interpretation and I'm glad that they're going to be frustrated. Senator Mines can feel blessed this morning too. What did he want with his amendment? Twenty-five. How many red votes went up there? Twenty-five. You've given him what he wanted; now let's give us what justice requires, which is the meager, paltry amount, by comparison and all things considered, of \$60,000. Do you all think that a credit card company or any lender is operated by a guy or a woman who just gets up and takes a piece of paper and writes some figures and say, if the Legislature does this then I'm going to lose this, I'm going to lose that, and I'm going to have to jack this price up? In the same way that Warren Buffett does not make all those investment decisions on his own, he can hire people all over the world. He has armies of people evaluating, calculating, studying and keeping track. He doesn't do that alone. So you don't have to feel that these companies who solicit people

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to go into debt are going to be in any way harmed by what we do. They don't even care. They didn't come here. They're smarter than the bankers. They pick their battles. They know what my view is. Some of you all, who are new, don't know. If the bankers were smart, they would have said, this is not where we want to spill any blood because it's not going to affect us anyway; we're going to get security for the loans that we make; it's not our issue; and even if we want to take a position, based on principles as gougers who won't lend...won't give one nanocentimeter, or nanometer, so we have to take a certain position. But this is not where they should have waged a battle. This is not something that the Legislature even needed to pore over, worry over in the way that we have done. The bankers caused it. Hallstrom should not have been sent to testify against it. But if I were to speculate, and we sometimes do that on the floor, he may not have been sent here. The bankers don't know anything about legislation. He may have told them, I think I should testify on that bill. He needs a job. He has got to show that he is earning his money. But I don't think the bankers were given good advice by whoever gave them advice and told them to oppose this bill. [LB237]

SPEAKER FLOOD: One minute. [LB237]

SENATOR CHAMBERS: They look just like the way I characterized them. I do owe an apology. You could say it's posthumous, not on my part, obviously, because I'm still here, but I'll explain to some people how I died, in fact, 22 years ago, but why I'm still walking around. But I owe an apology to Ebenezer Scrooge. I ought not to have used him to criticize the bankers. Scrooge is not that bad. But any time these kind of bills come before us, we should consider how our conduct reflects on all those protestations we make about family values, Nebraska values, whatever they're supposed to be. This is reasonable in the minds of most people. The only unreasonable thing I see in it is that the exemption ought to be unlimited. I'm going to support the bill as Senator Pahls brought it though. Thank you, Mr. President. [LB237]

SPEAKER FLOOD: Thank you, Senator Chambers. The Chair recognizes Senator Karpisek. [LB237]

SENATOR KARPISEK: Thank you, Mr. President and the body. As I've listened to this debate wage on, I think the number one thing for me that comes up is the unsecured debt, as Senator Chambers has put it. Every time I've gone to the bank I've had to have secured debt--something for them to come back to take away if I don't make the payments. I also agree that \$60,000 is maybe an arbitrary number because a \$60,000 house in my district is much different than in Senator Chambers' district or in Senator Hansen's district. But since we are such a diverse state, we do have to draw a number somewhere. I would have to disagree with the unlimited, just because I think it would get more people into more trouble. But I think that the unsecured is the bottom line here. And I didn't understand all of Senator Chambers' comments yesterday, but as he told me, it has come not crystal-clear to me but much more clear that if you are out there

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trying to cut a fat hog you have to be careful with your knife. It may come back and cut you. I do appreciate the words of Senator White and Senator Lathrop. I think they've put this much more into perspective for me. Sometimes I think we need to talk to each other as we are ten-year-olds and get our bottom line across, and I do appreciate that from them. So I will support the \$60,000. It may be too high; it may be too low. But I do think that we deserve to do this for our people, for our constituents to not get thrown out on the street. I can't see too many people that \$60,000 is going to throw them out on the street, I hope. I'll yield the rest of my time to the Chair. Thank you, Mr. President. [LB237]

SPEAKER FLOOD: Thank you, Senator Karpisek. The Chair recognizes Senator Fulton. [LB237]

SENATOR FULTON: Thank you, Mr. President and members of the body. I've learned a lot today. I've learned that we have some nicknames here from senators in Omaha, and I've learned that Senator Chambers has declared himself an apostle. I heard that today. I'm still confused about this...I guess there are two...this bill, generally. There are two operating parameters here, I guess, behind the bill that I see. One, the bill is being passed based on principle. We want to allow people...we're saying that one who declares bankruptcy should be able to retain his home, thus it is the homestead exemption. So, number one, we're operating on principle. Number two, the other possibility I see is a matter of prudential pragmatism, I guess, to alliterate on the letter P, and so we come up with a number that allows one to be exempt to a certain number. Most of the arguments that I have heard this morning have been based on principle, that we want to keep someone in his or her home, and that makes more sense to me. I still am uncomfortable with maybe with what the consequences might be, the unintended consequences. I don't have my brain around that. But what's the operating parameter behind which we are passing this bill, it doesn't seem to me that it's strictly principle if we're choosing the number \$60,000. And if I may, if Senator Pahls would yield to a question? [LB237]

SPEAKER FLOOD: Senator Pahls, will you yield to a question from Senator Fulton? [LB237]

SENATOR PAHLS: Yes. [LB237]

SENATOR FULTON: Could you help me understand why you didn't present this with an unlimited exemption? I guess that would be my question. I think I understand why \$60,000 was chosen, but I'm not understanding why this bill wasn't extended with an unlimited exemption. Could you help me through that? [LB237]

SENATOR PAHLS: Yes. When we sat down and we analyzed and you try to see what's going to work on the floor, and then that's when we took a look at the average of

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all...throughout the state of Nebraska, 60...it was like 59,600-some dollars was the average value, and so we said that would be a logical way to approach it. We could have done it county by county, but then it gets so complicated then everybody...you get lost in the detail. Unlimited? Yes, that sounds good, but I think by listening to the body today, that would be difficult to get passed. [LB237]

SENATOR FULTON: Okay. Thank you. Therein lies my difficulty, and I'm still not decided on how I'm going to vote on this bill, but if it would have been introduced with unlimited then there would have been some hesitancy, more hesitancy within the body than what would exist if it were introduced at \$60,000. Whatever that hesitancy is, I submit that it's because we aren't certain of the unintended consequences. If the bill could pass based on principle at \$60,000, should it not then pass on principle with an unlimited amount? That there was some prudential judgment employed to say that that would not happen, that we couldn't get it through with an unlimited amount of exemption, says that there is some level of hesitancy, and that is what I'm experiencing. I'm having a hard time quantifying it. Senator Chambers tells me it's because I'm an engineer and I need numbers. Maybe that's true. I'm having a hard time quantifying what the unintended consequences are, but I submit to you that there will be unintended consequences which prohibit us from passing this at an unlimited exemption. So maybe I haven't answered my question, but I have at least got to the bottom of why this wasn't presented... [LB237]

SPEAKER FLOOD: One minute. [LB237]

SENATOR FULTON: ...with an unlimited exemption, because there could be the possibility that there are unintended consequences that we aren't comfortable with. So I yield the remainder of my time. [LB237]

SPEAKER FLOOD: Thank you, Senator Fulton. The Chair recognizes Senator Christensen. [LB237]

SENATOR CHRISTENSEN: Thank you, President. I'd like to ask Senator White a question if he would yield. [LB237]

SPEAKER FLOOD: Senator White, will you yield to a question from Senator Christensen? [LB237]

SENATOR WHITE: I will. [LB237]

SENATOR CHRISTENSEN: I'd like to know how you will keep people in their homes longer if the home is a secured debt. [LB237]

SENATOR WHITE: Let's...in order to do that we have to do some math, and if people

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are interested, if they write some numbers down it might help them to follow. I want you to assume that the home is worth \$100,000 on the open market right now, and I want you to assume that the mortgage, the mortgage that the bank got to buy the home, is \$60,000. And realize that when you sign that mortgage, you waive this, so that bank at any time, if you are in breach of the terms of the mortgage, can foreclose and take the house away. This isn't going to affect their rights. But if you've kept that, let's assume, and you can assume this, the last bill that goes unpaid with people under deep financial pressure is the house payment. They will make...they will do anything they can to make that payment. So let's assume the mortgage has been paid. So now we have \$40,000 in equity, the difference between the fair market value of the house and the mortgage. In a situation where we have...and this is a common example of how people get in trouble and get in this situation. You have, in my district would be common, a man who wants to start his own carpentry business. He goes into business. He starts a project. He runs short of the money to finish it, so he can't get paid. He needs credit. He's not really that creditworthy, but he's got to get it done or he can't get his money out. He takes credit cards. He goes down to the Home Depot, he goes to one of the lumberyards, he uses credit cards. He buys product with the credit cards, he puts them into the project that he's doing, and he then finishes a project and he finds out he lost money. It cost him more than he thought. Now he's in deep trouble. He still has that credit card debt. That credit card never asked him to waive his homestead exemption, so they are now, for our purposes, an unsecured debtor. What that means is, let's say the credit card debt is \$30,000, and under existing laws \$12,500 is the homestead exemption. The attorney for the credit card company or the bill collector looks at the house and he says, this house is worth \$100,000. There's \$60,000 on the mortgage. We've got a \$30,000 credit card debt, and he can only take \$12,500 in homestead exemption. So you take the \$60,000 that the bank gets. You get the \$12,500 that the family would get, and that leaves \$27,500 out there that they can grab if they force the sale of the home. Now even though they didn't sign a mortgage, the credit card company can force the sale of the home, even if you've made every payment to the bank. What happens is the home is sold and then the money is distributed. The bank gets its \$60,000, the family gets their \$12,500, and the credit card company gets what's left. So they do that. They force people out of their homes and they sell them. Same situation now, but we have \$60,000 as a homestead exemption. The credit card company attorney looks at it and he says, well, the house is worth \$100,000, the mortgage is worth \$60,000, and we've got a \$60,000 exemption; let's just keep garnishing his paycheck, let's just keep grabbing his car, let's just keep seizing his personal property, we'll make him pay that way, but we're not going to get anything out of the house. As a result, the man, his family, his kids, though they may have lost every kind of thing that's a comfort, still have a shelter to try to regroup and put their lives back together. Does that answer your question, Senator? [LB237]

SENATOR CHRISTENSEN: Yes, thank you. Okay, one other comment: I think with raising this could be hard... [LB237]

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SPEAKER FLOOD: One minute. [LB237]

SENATOR CHRISTENSEN: ...on small business owners that offer unsecured loans. Say you are in a small rural community that you have farmers come in and they do business with their local people. They charge a little more than a Wal-Mart or Home Depot or somebody would, but they do business there because they can do it for a month at a time and then pay the bill, you know, and that's what has developed their business and kept it going, was the ability to have that small unsecured business loan. And raising that I can see being hard on them. You could say, well, I can use credit cards, but it's like talking to Senator Pankonin here. He don't like to offer that because if he does a million dollars' worth of business at that direction, 3-4 percent of that cuts into his profit big time. So I think you got to look at that side of it, too. Least from my end of it on the small rural communities, I think small business owners can be hurt here because now they have more risk in not being secured. [LB237]

SPEAKER FLOOD: Time. [LB237]

SENATOR CHRISTENSEN: Thank you. [LB237]

SPEAKER FLOOD: Thank you, Senator Christensen. There are no other lights on. Senator Pahls, you are recognized to close on LB237. [LB237]

SENATOR PAHLS: Thank you. Earlier today when I started out with the question why, I was afraid somebody was just going to stand up and say because. Our philosophers, I do notice that we have several people who have a degree in philosophy, I think we have one right in front of us...of me, I should say. I do think we've heard an awful lot of discussion today. I appreciate that a lot of different voices were heard, a lot of different concerns, and the one thing I'd just like to just point out again, currently, a 25-mile radius of Omaha, 1,700 families are in jeopardy; Lincoln, 1,300 families are in jeopardy; around Grand Island, 35 families; it goes on. I think our choice is now to answer the question why. We have two choices, basically. We could say why is \$60,000 the right number? Or why is \$12,500 the right number? It depends on how you vote. Thank you. [LB237]

SPEAKER FLOOD: Thank you, Senator Pahls. You've heard the closing on LB237. The question before the body is, should LB237 advance to E&R Initial? Record your vote. Senator Pahls waives his request for a call of the house. Have all voted that intend to vote? Mr. Clerk, please record. [LB237]

CLERK: 27 ayes, 9 nays, Mr. President, on the advancement of LB237. [LB237]

SPEAKER FLOOD: LB237 advances to E&R Initial. Mr. Clerk, items for the record?

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[LB237]

CLERK: Thank you, Mr. President. Your Committee on Agriculture, chaired by Senator Erdman, reports LB422 to General File with amendments attached. The Business and Labor Committee, chaired by Senator Cornett, reports LB204 to General File with committee amendments attached, and LB472 to General File. The Urban Affairs Committee, chaired by Senator Friend, reports LB347 to General File; and Transportation and Telecommunications, chaired by Senator Fischer, reports LB307 to General File with amendments attached. And the Agriculture Committee, chaired by Senator Erdman, reports LB108 to General File with amendments attached. Enrollment and Review reports LB80A to Select File. I have hearing notices from the Government, Military and Veterans Affairs Committee and from the Judiciary Committee. A communication from the Governor, Mr. President. (Read re LB1, LB2, LB21, LB24, LB26.) That's all that I had, Mr. President. Thank you. (Legislative Journal pages 427-432.) [LB422 LB204 LB472 LB347 LB307 LB108 LB80A LB1 LB2 LB21 LB24 LB26]

SPEAKER FLOOD: Thank you, Mr. Clerk. Next bill please, Mr. Clerk.

CLERK: LB263 by Senator Hudkins. (Read title.) The bill was introduced on January 10, referred to the Natural Resources Committee. The bill was advanced to General File. I do have Natural Resources Committee amendments, Mr. President. (AM100, Legislative Journal page 396.) [LB263]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Hudkins, you are recognized to open on LB263. [LB263]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. LB263 would allow the Department of Environmental Quality to make minor modifications to permit applications that have already been approved. LB...let's see, yes, thank you. I'm juggling my notes here. Currently, any modification that is made requires a notice and a public hearing. Even the most mundane change, such as an address change for mailing a notice, requires publication of a notice and a public hearing. What the bill does, and actually AM100 is now the bill, it makes it clear that modifications which make changes that do not relate to the health and welfare of the public, or that actually increase the protection of the health and welfare of the public, and the modification is reviewed and approved by DEQ and is found to meet the definition of a minor modification, would no longer require a publication of notice or a public hearing. Now what am I talking about? For example, if you want to follow along on page 3 of AM100, if you have a change of an address, a name, or a telephone number, you would no longer have to have a public hearing allowing you to make those appropriate changes. If you have a change to provide for more frequent monitoring, reporting, or sampling, or maintenance, you would no longer have to have a notice and a public hearing because more frequent monitoring

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means that you are in fact safeguarding the public health. If you have a request for a date extension, depending upon the circumstances, you would no longer have to have a public notice and a prior...and a public hearing. What would this include? Let's say that you are going to drill a new well and there is a date by which this will be done. You have bad weather, it's raining or whatever the reason, and you can't get it done by that date. Then you would be able to, without a public hearing, finish that at a later date because of the inclement weather. So those are some of the changes. Here's another one: changes to a contingency plan. Let's say that you have a disaster and your usual closing hours at a landfill are 8:00 to 5:00, but you have a disaster and there are lots of rubble, tree branches, roofs, whatever, have to come into the landfill. If you want to extend the hours of that landfill, currently you would have to have a public hearing and a notice prior to that. So what we're saying is if they are minor modifications that do not have a negative impact, then the DEQ may elect to not have a public hearing. Of course, if they are major modifications there would still be that requirement. The total list of minor modifications are found in AM100, but hopefully I have explained this well enough that you will understand the reasons for the bill. Thank you, Mr. President. [LB263]

SPEAKER FLOOD: Thank you, Senator Hudkins. Senator Louden is recognized to open on the committee amendments. [LB263]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. The committee amendment becomes the bill and does not change the purpose for which Senator Hudkins introduced the bill, but does add clarification and eliminates two subsections that the Department of Environmental Quality questioned during their neutral testimony. The committee amendment states that the director has discretion in determining what are minor modifications, with the directive that the modifications cannot endanger the public health and welfare. The clarification occurs in subsection (g), which allows adjustments to the cost estimates or the financial assurance instrument for inflation. And the committee eliminated subsections (o) and (p). Section (o) dealt with the changes in the design or depth of a monitoring well. Section (p) dealt with changes in the statistical method used to analyze the groundwater quality data. The committee amendment was adopted unanimously by the committee. There were no opponents to the bill and, in addition to landfill operators, the League of Municipalities also supported the bill and encouraged its advancement. The fiscal note indicates a small savings to the Department of Environmental Quality in the amount of \$3,000 in cash funds. I would ask that the amendment be adopted to Senator Hudkins' LB263. [LB263]

SPEAKER FLOOD: Thank you, Senator Louden. Mr. Clerk. [LB263]

CLERK: Mr. President, an announcement, thank you. The Executive Board will meet now in Room 2022 for a Reference discussion; Exec Board, 2022. Thank you. [LB263]

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SPEAKER FLOOD: Thank you. Are any members wishing to speak on the committee amendments? Seeing no lights on, Senator Louden, you are recognized to close on the committee amendments to LB263. [LB263]

SENATOR LOUDEN: I would waive closing. [LB263]

SPEAKER FLOOD: Senator Louden waives closing. The question before the body is, should the committee amendments to LB263 be adopted? Please record your vote. Have all those voted who wish to do so? Mr. Clerk, please record. [LB263]

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB263]

SPEAKER FLOOD: The committee amendments to LB263 have been adopted. There are no other lights on. Senator Hudkins, you are recognized to close on LB263. Senator Hudkins waives closing. The question before the body is, should LB263 advance to E&R Initial? Please record your vote. Have all those voted who wish to do so? Mr. Clerk, please record. [LB263]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB263. [LB263]

SPEAKER FLOOD: LB263 advances to E&R Initial. Next bill, Mr. President...Mr. Clerk. [LB263]

CLERK: Mr. President, LB291, a bill by Senator Hansen. (Read title.) The bill was introduced on January 10 of this year; at that time referred to Natural Resources. The bill was advanced to General File. I do have committee amendments pending by the Natural Resources Committee. (AM123, Legislative Journal page 398.) [LB291]

SPEAKER FLOOD: Thank you, Mr. Clerk. The Chair recognizes the gentleman from North Platte to open on LB291. [LB291]

SENATOR HANSEN: Thank you, Mr. Speaker, members of the Legislature. LB291 changes the geographic area from which the citizen members are elected to the Environmental Trust Board, and they are appointed by the Governor, of course. Currently, the Environmental Trust is made up of nine citizen members representing the three congressional districts, and five members of the executive branch, which includes the director of Environmental Quality, the director of Regulation and Licensure, the director of Natural Resources, the director of Agriculture, and the secretary of Game and Parks. LB291 changes how the membership is determined, with eight citizens being appointed by the Governor. One citizen will be selected for each of the eight newly created districts. The new districts are modeled after the Game and Parks Commission

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that was created in 2002, the new districts in 2002. It is my intent and the intent of LB291 that the current citizen trust board will be transitioned into representing the newly organized geographic structure of the board. The Governor will designate which current board members will represent each of the new districts. LB291 does not alter the executive branch membership. I believe there are amendments. [LB291]

SPEAKER FLOOD: Thank you, Senator Hansen. There are committee amendments to LB291. Senator Louden, you are recognized to open on the committee amendment. [LB291]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. The committee amendment strikes obsolete language which is no longer applicable. This language concerned the initial appointment of the Environmental Trust Board. That is all this amendment does, and I would ask for the adoption of the committee amendment. [LB291]

SPEAKER FLOOD: Thank you, Senator Louden. You've heard the opening on the committee amendments. Mr. Clerk, do we have any other amendments? [LB291]

CLERK: Mr. President, Senators Hudkins and Hansen would move to amend the committee amendments with AM156. (Legislative Journal page 422.) [LB291]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Hudkins, you are recognized to open on your amendment to the committee amendments. [LB291]

SENATOR HUDKINS: Thank you, Mr. President and members. My amendment has been called the right problem, the wrong solution, so after discussing this a little bit I'm going to ask that it be refiled on Select File. Why am I doing that? I want it to be before us. I was contacted by others who were not opposed to this change. What I wanted to do was remove the director of Environmental Quality, the director of Regulation and Licensure, the director of Natural Resources, the director of Agriculture, and the secretary of the Game and Parks Commission. I wanted them to be removed as voting members. They would still remain as ex officio members in that their expertise and their experience would be able to be called upon during meetings of the commission. One of those above named has said, did not want to be on this commission. They did not want to be on the Environmental Trust Board. It has also been suggested that since these are agency directors--and I am not suggesting it, I have not said it, I have not heard it, and I am not hinting at it--that there could be seen a problem with the agency directors answering to the Governor, and yet they're still supposed to be members of the Environmental Trust. When an issue comes up that would benefit something perhaps that a future Governor is interested in, there's going to be a balancing act here: Which do I follow? Am I a member of the Environmental Trust Board or am I a member of the executive branch? That has not been a problem, but the public could very easily

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perceive it to be a problem. I just wanted this up here in case anyone wanted to talk about it, and if there are lights, we'll listen to those people, and if not, then we'll go to the next step. Thank you, Mr. President. [LB291]

SPEAKER FLOOD: Thank you, Senator Hudkins. You've heard the opening on AM156 to the committee amendments. Senator Fulton, you are recognized. [LB291]

SENATOR FULTON: Thank you, Mr. President. My question is generally about the bill and I think I will wait until we're through the amendments and then I can pose a question to Senator Hansen. [LB291]

SPEAKER FLOOD: Thank you, Senator Fulton. There are no other lights on. Senator Hudkins, you are recognized to close, but it's my understanding you wanted to withdraw this bill...or this amendment. [LB291]

SENATOR HUDKINS: And file it on Select File. [LB291]

SPEAKER FLOOD: The amendment, AM156, is withdrawn. [LB291]

CLERK: I have nothing further pending to the committee amendments, Mr. President. [LB291]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Louden, you are recognized to close on the committee amendment to LB291. [LB291]

SENATOR LOUDEN: Thank you, Mr. Speaker. I just want to reiterate that the committee amendment just strikes obsolete language which is no longer applicable and that mostly concerned the initial appointment of the Environmental Trust Board, and I would ask that this amendment be attached to Senator Hansen's LB291. Thank you. [LB291]

SPEAKER FLOOD: Thank you, Senator Louden. You've heard the closing on the committee amendments to LB291. The question before the body is, should the committee amendments be adopted? Please record your vote. Have all those voted who wish to do so? Mr. Clerk, please record. [LB291]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB291]

SPEAKER FLOOD: Thank you, Mr. Clerk. The committee amendments to LB291 have been adopted. Senator Fulton, you are recognized. [LB291]

SENATOR FULTON: Thank you, Mr. President. Would Senator Hansen yield to a

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question? [LB291]

SPEAKER FLOOD: Senator Hansen, will you yield to a question from Senator Fulton?  
[LB291]

SENATOR FULTON: One of the board members was from Regulation and Licensure,  
from Health and Human Services. Is this correct? [LB291]

SENATOR HANSEN: Yes. [LB291]

SENATOR FULTON: What happens...more out of curiosity, what happens to that board  
position if Regulation and Licensure were to move away in another bill that's  
reorganizing Health and Human Services? I guess if Health and Human Services is  
reorganized such that there isn't a head specifically for Regulation and Licensure, will  
there be another position filled or another board position created? Or what happens if  
there is no head of Regulation and Licensure? [LB291]

SENATOR HANSEN: Someone will have to assume that position, and I'm sure the  
Governor will find that person and appoint that one to replace the present one now, if  
that's the case, Senator Fulton. I'm not sure it is, but it...the...those five agencies will be  
represented, I'm sure. [LB291]

SENATOR FULTON: Okay. So it's conceivable that if Regulation and Licensure isn't the  
agency represented on this board, perhaps there would be the head of some other  
agency in Health and Human Services. If it's given...say Regulation and Licensure is  
given another name, I assume then that that head could also serve on this board?  
[LB291]

SENATOR HANSEN: I would agree, yes. [LB291]

SENATOR FULTON: Okay. That's...any confusion I have just introduced please  
"de-introduce." (Laugh) That answers my question. Thank you. [LB291]

SPEAKER FLOOD: Thank you, Senator Fulton. There are no other lights on. Seeing no  
other lights, Senator Hansen, you are recognized to close on LB291. Senator Hansen  
waives closing. The question before the body is, should LB291 advance to E&R Initial?  
Please record your vote. Have all those voted who wish to do so? Mr. Clerk, please  
record. [LB291]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB291. [LB291]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB291 advances to E&R Initial. The next bill,  
Mr. Clerk. [LB291]

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CLERK: Mr. President, LB313 is a bill introduced by the Natural Resources Committee and signed by its membership. (Read title.) The bill was introduced on January 11 of this year; referred to Natural Resources Committee. The bill was advanced to General File. There are committee amendments pending. (AM101, Legislative Journal page 398.) [LB313]

SPEAKER FLOOD: Thank you, Mr. Clerk. The Chair recognizes Senator Louden to open on LB313. [LB313]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. The purpose of this bill is to return the requirements under the Livestock Waste Management Act with regard to the engineering requirement for small and medium facilities to the way it existed prior to 2006. This was recommended by the Department of Environmental Quality. During the amendments to the Livestock Waste Management Act in 2006, the reference to permits in existing statutes was clarified to indicate whether the reference applied to the construction and operating permit or the national pollutant discharge elimination system permit. The one reference to "permit" in the act that was inadvertently missed involved the requirement for a professional engineer. The existing statute required the professional engineer only when a national pollutant discharge elimination permit was required. Under the current language, both applications for the construction and operating permit, and the national pollutant discharge elimination system permit require certification by a professional engineer. This would require even small and medium operations that submit an application for a construction and operating permit to hire a professional engineer to complete an application for a permit. Any operation of 100,000 head of feeder cattle or more is considered a large operation under the federal rules. A facility is classified as medium if it has between 300 and 999 head, and a small facility is less than 300 head. There is no fiscal impact under the bill. There were no opponents to the bill and it was advanced unanimously by the committee, and there are committee amendments. [LB313]

SPEAKER FLOOD: Thank you, Senator Louden. Mr. Clerk, any amendments? [LB313]

CLERK: Mr. President, the Natural Resources Committee, chaired by Senator Louden, offers AM101. [LB313]

SPEAKER FLOOD: Senator Louden, you are recognized to open on the committee amendments. [LB313]

SENATOR LOUDEN: Thank you, Mr. Speaker. The committee amendment inserts additional clarifying language that was inadvertently omitted in the green copy of the bill. This language refers to a small or medium animal feeding operation as defined by federal law as it existed on January 1, 2004, which is the same reference language in

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the previous subsection dealing with large concentrated animal feeding operations. I ask for your adoption of the committee amendment and ask for the advancement of the bill. [LB313]

SPEAKER FLOOD: Thank you, Senator Louden. You've heard the opening on the committee amendments to LB313. There are no other lights on at this time. Senator Louden waives closing. The question before the body is, should the committee amendments to LB313 be adopted? Record your vote. Have all those voted who wish to do so? Mr. Clerk, please record. [LB313]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB313]

SPEAKER FLOOD: The committee amendments to LB313 have been adopted. [LB313]

CLERK: I have nothing further on the bill, Mr. President. [LB313]

SPEAKER FLOOD: There are no other lights on. Senator Louden, you are recognized to close on LB313. Senator Louden waives closing. The question before the body is, should LB313 advance to E&R Initial? Record your vote. Mr. Clerk, please record. [LB313]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB313. [LB313]

SPEAKER FLOOD: LB313 advances to E&R Initial. Mr. Clerk, next bill. [LB313]

CLERK: Mr. President, LB248, offered by Senator Nantkes. (Read title.) The bill was introduced on January 10 of this year; at that time 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. [LB248]

SPEAKER FLOOD: Senator Nantkes, you are recognized to open on LB248. [LB248]

SENATOR NANTKES: Thank you, Mr. Speaker, colleagues. LB248 was brought to me by the Lancaster County Election Commissioner as a measure to increase government efficiency and streamline the election process for road improvement districts. Current law provides that each time a road improvement district is created it must be done by conducting a special election using a polling place, an election board that consists of at least three members. It also requires that an initial board of trustees for the road improvement district is elected at the same time. LB248 would simply allow the elections to be conducted by mail and would allow subsequent election of the board of trustees to be conducted by mail in odd-numbered years. The bill would further allow the dissolution of the district if 50 percent of the property owners signed a petition. The

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petition would then be presented to the county board for action. I urge your consideration of this bill. With that I yield the balance of my time. [LB248]

SPEAKER FLOOD: Thank you, Senator Nantkes. You've heard the opening on LB248. Senator Stuthman, you are recognized. [LB248]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I would like to engage in a little conversation with Senator Nantkes, if I may, please. [LB248]

SPEAKER FLOOD: Senator Nantkes, will you yield to questions from Senator Stuthman? [LB248]

SENATOR NANTKES: I will. [LB248]

SENATOR STUTHMAN: Senator Nantkes, do you feel that this voting by mail, there could be any possibility of the chances of a correct ballot being mailed, or how are you going to be able to police the fact that this election is going to be taking place by mail? Is there any method of the polling place? There's not going to be anything done with the polling place? There's not going to be any legal part of it? It's just going to be done by mailing out to the district a ballot and you are going to be sending those ballots back in by class A mail. Is this the correct policy that you are intending on passing with this bill? [LB248]

SENATOR NANTKES: Senator Stuthman, thank you for that important question. I think this bill is reflective of how election year laws have changed and evolved over the years. For example, in recent times we've seen the Vote Nebraska Initiative encourage people to vote by mail and lessened the requirements that previously existed in statute so that people could participate more fully and more flexibly in our democratic system. This bill followed the similar vote-by-mail kind of parameters and safeguards that exist in current law. [LB248]

SENATOR STUTHMAN: So you feel there would be no method or no reason why anybody would try to abuse this method of election by just doing it by class A mail? [LB248]

SENATOR NANTKES: I do not believe there would be any potential for abuse, and, if there was potential for abuse, current election law would provide penalties for people who tried to tamper with the ballots or otherwise. [LB248]

SENATOR STUTHMAN: Okay. Thank you, Senator Nantkes, and I'll return the balance of my time to the Chair. [LB248]

SPEAKER FLOOD: Thank you, Senator Stuthman. There are no other lights on at this

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time. Senator Pahls, you are recognized. [LB248]

SENATOR PAHLS: Thought I'd beat you there. Thank you, Mr. Speaker. I just want to clear this up a little bit, Senator Stuthman. As a member of a SID board, all our elections were through the mail. This has been going on for years, so this is nothing that's unbelievably unique. As a member of a SID, we did our voting through the mail. Thank you. [LB248]

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Fulton. [LB248]

SENATOR FULTON: Would Senator Nantkes yield to a question? [LB248]

SPEAKER FLOOD: Senator Nantkes, will you yield to a question from Senator Fulton? [LB248]

SENATOR NANTKES: Yes. [LB248]

SENATOR FULTON: Road improvement districts, are those under the jurisdiction...was it the Lancaster County commissioner who asked you to introduce? I guess, first of all, was it the Lancaster County Election Commissioner that asked you to introduce the bill? [LB248]

SENATOR NANTKES: Yes, this issue was brought to me by representatives from Lancaster County and the Lancaster County Election Commissioner, David Shively, helped us to present the bill in Government Committee and brought the issue to our attention. [LB248]

SENATOR FULTON: Okay. Are road...I'm not familiar with road improvement districts, so is that...does that fall under the category of...as a senator from Lincoln, should I be questioning more what a road improvement district is, I guess is my question. [LB248]

SENATOR NANTKES: Well, basically what a road improvement district is, is it just provides for a legal structure for property owners to get together and decide about improving roads that abut their properties, and then whether or not they want to take that on collectively, that financial obligation to maybe go from a dirt road to a gravel road, is when it's most likely used. They could do assessments for other type of improvements, but my understanding is that's the normal course of action. [LB248]

SENATOR FULTON: Okay. And this falls under...right now the Lancaster County Election Commissioner is responsible for administering these elections. Is that correct? [LB248]

SENATOR NANTKES: That's correct. [LB248]

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SENATOR FULTON: Okay. Are there other elections that the commissioner executes that he allows mail to...that votes to be cast, to be mail? [LB248]

SENATOR NANTKES: There is many instances where voting occurs by mail, particularly present day. [LB248]

SENATOR FULTON: I guess beyond absentee...beyond absentee ballots. I mean I understand absentee ballots, but are there other...are there other elections that are conducted by mail, in Lancaster County anyway, or that you are aware of? [LB248]

SENATOR NANTKES: It's my understanding that they do have authority currently to conduct purely mail elections if it's an issue-based question on the ballot. If there are candidates for elective office, they believe they have to retain the mail-in and absentee structure and the traditional polling place structure. [LB248]

SENATOR FULTON: Okay. No further questions. I'll yield the remainder of my time. [LB248]

SPEAKER FLOOD: Thank you, Senator Fulton. Senator Avery, you are recognized. [LB248]

SENATOR AVERY: Thank you, Mr. Chair and members of the body. As Senator Pahls pointed out, we already have mail ballots in a variety of elections in the state. In fact, we used them in the general election just past. I served on the Vote Nebraska Initiative task force and we found a significant amount of support on that task force for mail balloting. In fact, we had significant support for increasing the opportunities for using the mail ballot. It's not as expensive as ballot boxes or ballot places where people have to go physically to vote. I think this is easy legislation to approve. I may be bringing before this body at some future time, over the next four years, additional proposals that would allow us to increase mail balloting. The task force that I served on had a number of recommendations that did not get out of committee last year. I will probably take another pass at that. Thank you very much. I yield the remainder of my time. [LB248]

SPEAKER FLOOD: Thank you, Senator Avery. There are no other lights on. Senator Nantkes, you are recognized to close on LB248. [LB248]

SENATOR NANTKES: Thank you, Mr. Speaker and colleagues. I urge you to advance LB248. A vote in favor of advancing LB248 is a vote to increase government efficiency and a vote to increase participation in our democratic system. Thank you for your time. [LB248]

SPEAKER FLOOD: Thank you, Senator Nantkes. You've heard the closing on LB248.

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The question before the body is, should LB248 advance to E&R Initial? Record your vote. Have all those voted who desire to do so? Mr. Clerk, please record. [LB248]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB248. [LB248]

SPEAKER FLOOD: LB248 advances to E&R Initial. Next bill, Mr. Clerk. [LB248]

CLERK: Mr. President, LB311, offered by Senator Aguilar. (Read title.) The bill was introduced on January 11; referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB311]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Aguilar, you are recognized to open on LB311. [LB311]

SENATOR AGUILAR: Thank you, Mr. Speaker and members. LB311 changes provisions relating to petition signature verification to conform to the requirements set forth in the Nebraska Supreme Court case Stenberg v. Moore. In Stenberg v. Moore, the Nebraska Supreme Court declared Nebraska Statute Section 32-1409 to be unconstitutional on its face because it required an exact match of information on petitions and the information on voter registration records. Although the Secretary of State applied the statute in a way which did not require the exact match, the court still held the statute was unconstitutional. Since the court case, the Secretary of State has been using standards developed by the Attorney General to verify petition signatures. This bill is an attempt to reestablish the statute and to provide guidelines on signature verification which meet the criteria set forth in the case. With LB311, the election commissioner or county clerk will compare the petition signer's signature and other information on the voter registration records to determine whether the signer was a registered voter. This determination may be rebutted by any credible evidence which the election commissioner or county clerk finds sufficient. Signatures are presumed to be valid. The bill was advanced from committee on a 7-0 vote, with 1 member being absent. There were no opponents to this bill at the hearing. I encourage you to advance LB311. Thank you. [LB311]

SPEAKER FLOOD: Thank you, Senator Aguilar. You've heard the opening on LB311. There are no lights on. Senator Aguilar waives closing. The question before the body is, should LB311 advance to E&R Initial? Record your vote. Mr. Clerk, please record. [LB311]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB311. [LB311]

SPEAKER FLOOD: LB311 advances to E&R Initial. Next bill, Mr. Clerk. [LB311]

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CLERK: Mr. President, LB39, offered by Senator Schimek. (Read title.) The bill was introduced on January 4 of this year; at that time referred to Government, Military and Veterans Affairs Committee for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM116, Legislative Journal page 400.) [LB39]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Schimek, you are recognized to open on LB39. [LB39]

SENATOR SCHIMEK: Thank you, Mr. President and members. I'm going to open on LB39 by explaining the green copy of the bill and the process that we went through to get to the green copy of the bill. First of all, I think that some of you remember from the Platte River meeting that we had, the retreat that we had in November, that I gave some background information on the petition process and the hearing that was held this summer, I think it was, or early fall--I think it was in September, actually--on the petition process. And I indicated to you that one of the reasons that we had that hearing was there seemed to be a great deal of confusion among the public about what we could do and what we couldn't do, or at least what we knew we couldn't do. So we did have that hearing and there was...there was a lot of testimony, good suggestions, suggestions that weren't practicable or doable. But after the hearing, the Secretary of State's Office and my office, which was in the Government, Military and Veterans Affairs Committee office, got together, sat down and looked at the various ideas that had come from that committee. And, incidentally, the Secretary of State did attend that hearing and did testify. I want to just elaborate for you the three suggestions that we put in LB39. There was a fourth suggestion that was in LB40, which I won't go into. In fact, the committee killed the bill, which may or may not have been all right. I think it was probably okay. But LB39, first of all, required petition circulators to be qualified electors, and that took care of several issues that we heard at the committee hearing that was of concern to people about the process: namely, to be a qualified elector in Nebraska you have to be eligible to vote in Nebraska, and you have to be 18 years of age by the time of the general election, and you have to be a resident of Nebraska. Requiring residency is different from requiring circulators to be registered voters, which the U.S. Supreme Court declared to be unconstitutional. And in addition, we knew that the Eighth Circuit Court of Appeals upheld North Dakota's law requiring petition circulators to be residents of the state, but we also thought residency might be a tricky issue to define. The other part of that first part was that circulators would be required to have some grasp of the English language, because naturally they'd have to be citizens to be able to register to vote. Also, circulators could not be on probation or parole for a felony and be circulating. We did hear about the case of at least one felon who was circulating in Nebraska. But, however, I have to remind you that if you have been convicted of a felony and you have been released from your sentence, within two years in Nebraska you can become a registered voter again. The second thing that we dealt with had to do with the issue of paid circulators, and the Secretary of State stated that the number one complaint his

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office received was petition circulators not reading the petition object statement, which is, incidentally, required by law. Testimony at the hearing included stories of petitions left unattended or circulators telling potential signers they didn't have time to explain the petition since there were a lot of people who would sign without lengthy explanation. One possible way we decided to avoid this was to prohibit payment per signature and require an hourly wage instead. The Eighth Circuit Court of Appeals, of which Nebraska is a part, upheld the prohibition on commission payments for circulators in North Dakota and, in other words, allowed them to pay on a per signature basis. And I'm not sure about this, but somewhere in the back of my memory exists the thought that they may have that in their constitution in North Dakota, so, you know, maybe we're not comparing apples to apples here, but we think it's okay. The third provision of LB39 regards campaign reporting, and it stipulates that the total amount paid to individual circulators during a reporting period must be reported but it shall not be reported by the circulator's name, the address, or telephone number. And again, that's in response to some court action saying that circulators have the ability to remain anonymous on these reporting periods. With that, Mr. President, I think I've explained the provisions that are in the green copy, and I know you will be hearing from the committee Chair regarding the fact that the committee added a small provision which was suggested by Political Accountability, and they also removed one of the three portions of the bill which I just explained. Thank you. [LB39 LB40]

SPEAKER FLOOD: Thank you, Senator Schimek. Mr. Clerk. [LB39]

CLERK: Mr. President, your Committee on General Affairs, chaired by Senator McDonald, reports LB549 to General File. Judiciary, chaired by Senator Ashford, reports LB19, LB102, and LB154 indefinitely postponed. Senator McDonald would like to remove her name from LB153 as cointroducer. The Revenue Committee will hold an Executive Session today at 1:00 in Room 1524; that's Revenue at 1:00. (Legislative Journal page 433.) [LB549 LB19 LB102 LB154 LB153]

Mr. President, I have a priority motion. Senator Johnson would move to adjourn until Thursday morning, February 1, at 9:00 a.m.

SPEAKER FLOOD: The question before the body is, should the Legislature adjourn until Thursday, February 1, 2007, at 9:00 a.m.? All those in favor say yea. All those opposed say nay. The yeas have it. We stand adjourned.