

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 20, 2007

[LB30 LB49 LB67 LB99 LB108 LB117 LB185 LB191 LB211 LB213 LB237 LB263 LB283
LB283A LB290 LB291 LB298 LB307 LB311 LB313 LB333 LB402 LB422 LB434 LB472
LB496 LB517 LB527 LB535 LB549 LB549A LB607 LR2CA LR5CA LR6CA LR13]

SENATOR CORNETT PRESIDING

SENATOR CORNETT: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-first day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Lowen Kruse. Please rise. []

SENATOR KRUSE: (Prayer offered.)

SENATOR CORNETT: Thank you. I call to order the thirty-first day of the One Hundredth Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

CLERK: I have a quorum present, Madam President.

SENATOR CORNETT: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Madam President.

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

CLERK: Madam President, your Committee on Enrollment and Review reports LB99, LB191, LB213, LB237, LB263, LB298, LB311, LB313, and LB333, all reported correctly engrossed. Urban Affairs Committee, chaired by Senator Friend, reports LR13 back to the Legislature for further consideration, LR6CA to General File, LR2CA to General File with amendments, and LB517 and LB607 indefinitely postponed, those reports signed by Senator Friend. Bills read last Friday on Final Reading were presented to the Governor at 12:12 p.m. on Thursday, February 15. (In re: LB283 and LB283A.) Hearing notices from the Transportation Committee and the Retirement Systems Committee, signed by the respective Chairs. And that's all that I had, Madam President. (Legislative Journal pages 601-602.) [LB99 LB191 LB213 LB237 LB263 LB283 LB283A LB298 LB311 LB313 LB333 LB517 LB607 LR2CA LR6CA LR13]

SENATOR CORNETT: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda. Mr. Clerk. [LB307]

CLERK: Madam President, LB307 is a bill by Senator Stuthman. (Read title.) The bill was introduced on January 11, referred to Transportation, advanced to General File. The bill has been discussed. Oh, we are on Select File, excuse me. Madam President,

Floor Debate
February 20, 2007

the bill is on Select File, excuse me. E&R amendments have been considered. Senator Stuthman had an amendment that was considered and adopted, and when we left the issue, Senator White had pending AM267. (Legislative Journal page 594.) [LB307]

SENATOR CORNETT: Senator Stuthman, you are recognized. Could you please refresh our memory on this bill? [LB307]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. LB307 is an all-terrain vehicle bill. What this...my original bill is, the intent of it is that all-terrain vehicles at the present time are exempt for ag purposes, going from farm to farm. What I'm trying to do with this bill is to give municipalities, cities, villages, or unincorporated villages--which would be counties would have the...that they would have the jurisdiction over the use of all-terrain vehicles. Like I had stated, the unincorporated villages, the county would have the jurisdiction over the ability and the use of all-terrain vehicles in those unincorporated villages. That is what my bill originally is intended to do, is to allow the jurisdiction of those communities to have the ruling and the jurisdiction over the use of all-terrain vehicles. Like I had stated earlier, the all-terrain vehicles, you know, are to be used in ag purposes and from farm to farm. That is what we presently have. So what I'm trying to accomplish is that the communities would have jurisdiction over the use of these all-terrain vehicles. Thank you. [LB307]

SENATOR CORNETT: Thank you, Senator Stuthman. Senator White, you are recognized to speak to your amendment. [LB307]

SENATOR WHITE: Thank you, Madam President. It is my understanding that Senator Christensen has a proposed compromise amendment, which I have looked at, and I think addresses my concerns and greatly improves the bill. May I ask Senator Stuthman a question? [LB307]

SENATOR CORNETT: Senator Stuthman, will you yield to a question? [LB307]

SENATOR STUTHMAN: Yes. [LB307]

SENATOR WHITE: Senator Stuthman, is it your position that Senator Christensen's amendment is acceptable to your bill? [LB307]

SENATOR STUTHMAN: Yes, we have agreed upon the fact that, you know, we...realistically, we want the all-terrain vehicles to have insurance, and I can agree with the amendment; that is, to Senator White's amendment. [LB307]

SENATOR WHITE: Madam President, I would then, with the Chair's permission, yield the rest of my time to Senator Christensen and will represent to the body that I have reviewed and accept his amendment in solving the issues that I was concerned with.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 20, 2007

[LB307]

SENATOR CORNETT: Senator White, are you withdrawing your amendment? [LB307]

SENATOR WHITE: In favor of Mr. Christensen's, yes, if that works procedurally.
[LB307]

SENATOR CORNETT: Yes. We're going to stand at ease for a moment while we file Senator Christensen's amendment. Senator Christensen? (FA26, Legislative Journal pages 602-603.) [LB307]

SENATOR CHRISTENSEN: Thank you. What this amendment does is amend Senator White's amendment, that strikes the "carry proof of" and inserts "have"; in line 4, and after the comma insert "; and then on line 19 after the period, The person operating the all-terrain vehicle shall have proof of insurance coverage to any...show proof of such insurance coverage to any peace officer requesting such proof, within five days after such a request. What this is doing is providing that we don't have to have insurance card with us on the ATV vehicle--that would be hard to keep in readable shape, so we don't have people that are trying to be law-abiding citizens, and because, being a vehicle gets wet all the time, would be destroyed. So it's just an amendment to say we have to show proof within five days once we're stopped. Thank you. [LB307]

SENATOR CORNETT: We're open for debate on the Christensen amendment. Senator White, you are recognized to speak. [LB307]

SENATOR WHITE: Thank you, Madam President. I don't know procedurally what's the correct position, if my amendment still exists or it's been supplanted by Senator Christensen's, but I would make whatever statement is necessary. [LB307]

SENATOR CORNETT: Senator White, the Christensen amendment is being offered to your amendment. [LB307]

SENATOR WHITE: Then I would offer my amendment to Senator Stuthman's bill at this time, and I accept Senator Christensen's amendment, if that needs to be voted on.
[LB307]

SENATOR CORNETT: Procedurally, we will have to vote on Senator Christensen's amendment to your amendment. [LB307]

SENATOR WHITE: Then I would at this time urge all members of the body who shared my concern to vote for this amendment and accept Senator Christensen's improvement to it, to the motion. [LB307]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 20, 2007

SENATOR CORNETT: Thank you, Senator White. Senator Stuthman, you are recognized to speak. [LB307]

SENATOR STUTHMAN: Thank you, Madam President, members of the body. We have worked this out in the last hour or so, hopefully, so that we can move this bill on, and I think what we have right now, with Senator White's amendment, amended by Senator Christensen, I think it's a doable situation because realistically, you know, probably the majority of the four-wheelers, you know, do carry insurance presently. I think by allowing the jurisdiction to be from these smaller communities and cities, they will also have insurance coverage on those all-terrain vehicles. But this will give them the opportunity to utilize, you know, those all-terrain vehicles in their communities for the mowing of the weeds and pushing some snow and sweeping the sidewalks, and things like that. So I think what we're coming up with is a very workable situation, and I'll return the balance of my time to the Chair. [LB307]

SENATOR CORNETT: Thank you, Senator Stuthman. Seeing no lights on, Senator Christensen, you are recognized to close on your amendment. Senator Christensen waives closing. You have heard...the question shall be the amendment to...the Christensen amendment to the White amendment, AM267, to be adopted. All those in favor vote yea; all those opposed vote nay. Have all voted who care to vote? Record, Mr. Clerk. [LB307]

CLERK: 33 ayes, 1 nay, on adoption of the amendment to the amendment. [LB307]

SENATOR CORNETT: The amendment is adopted. Senator White, you are recognized to open on your amendment. [LB307]

SENATOR WHITE: Thank you, Madam President. I won't belabor the body any further. I think this amendment improves the bill. I thank Senator Stuthman and Senator Christensen for their help in finding a workable solution, and I hope the membership will vote for it. I appreciate the courtesy and return the rest of my time to the Chair. [LB307]

SENATOR CORNETT: Thank you, Senator White. Seeing no lights on, you are recognized to close. The question is, shall the amendment to LB307 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB307]

CLERK: 31 ayes, 2 nays, on adoption of Senator White's amendment. [LB307]

SENATOR CORNETT: The amendment is adopted. [LB307]

CLERK: Senator McGill, I have nothing further on the bill. [LB307]

SENATOR CORNETT: Senator McGill? [LB307]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 20, 2007

SENATOR MCGILL: Madam President, I move LB307 to E&R for engrossing. [LB307]

SENATOR CORNETT: Is there any discussion? Seeing no discussion, the question is, shall we advance the bill? All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, the next bill, please. [LB307]

CLERK: Madam President, the next bill, LB291. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8015, Legislative Journal page 445.) [LB291]

SENATOR CORNETT: Senator McGill? [LB291]

SENATOR MCGILL: Madam President, I move the E&R amendments. [LB291]

SENATOR CORNETT: Any discussion? Seeing none, a voice vote. All in favor say aye. All opposed say nay. The amendments are adopted. [LB291]

CLERK: The first amendment to the bill, Senator Hudkins, I have AM156. I have a note you want to withdraw, Senator? Next amendment, Madam President, Senator Preister would move to amend, AM398. (Legislative Journal page 596.) [LB291]

SENATOR CORNETT: Senator Preister, you are recognized to open. [LB291]

SENATOR PREISTER: Thank you, Honorable President, friends all. This amendment--I want to get your attention--would essentially gut or kill Senator Hansen's bill, so please be advised of what it does, up front. I don't put such an amendment on a bill very often; in fact, this may be the first time I've done that. I do it because I think it's important that we look at the fact that we're totally turning around democratic process by the bill before us, LB291. Essentially, we're taking geographic representation rather than human representation and giving it far more weight. I feel like the spirit of Senator Beutler is on my shoulder, because this is a battle that he waged for years and years, and in fact, had some limited success. Essentially, LB291 takes the Game and Parks Commission's current geographic commissioner districts and applies that to the Nebraska Environmental Trust. The current Environmental Trust Board makeup provides for three representatives from each of the three congressional districts. So for any of you who live in District 1 or District 2, your representation by this bill is now reduced. Your constituents will no longer have proportional representation. Your one-person, one-vote representation will be nullified, and we will be going by geographic area, and the geographic area will then have the representation. I think that goes against democratic principles. I think it goes against the spirit of what we enacted when the voters approved the lottery and the Environmental Trust makeup, and on top of that, it doesn't change very much in terms of how the process will work. And I did visit with Senator Hansen, and I thank Senator Hansen for being very gracious, for being accommodating, and I

Floor Debate
February 20, 2007

think we each understood a little more about where the other person was coming from in that discussion. On many things regarding the trust we have agreement, but on this philosophical approach we have very differing views, and that's the heart of what the bill is. The makeup that currently is in place has worked, and Senator Hansen has acknowledged to me that there is no problem that he knows of, that the geographic representation is being done through this congressional district representation, the money is being allocated--and I gave the pages some handouts to distribute to you. On the colorful one you can see the proportional dollars being distributed around the state, and except for Lincoln, they're somewhat in balance, and I would point out that the first geographic area has more money, partly because it's Lincoln and the capital, and some things are charged back to this area. This body raided this trust and took \$5 million out of it when we had some financial difficulties. I believe that was 2004 when we did that, so you've got \$5 million that we took out and put in the General Fund that would likely have been attributed to Lincoln. We have also had some funds that we essentially caused the trust board to appropriate to the Mead site for some cleanup there. So both the administration and the Legislature have taken money and required it be appropriated in different fashion. So it would stand to reason that Lincoln, and where we as the administrative and the legislative bodies serve, would have a greater amount of dollars that have been expended. But other than that, geographically the monies have been distributed widely; it is not--I will underscore not--indicative of where the money was raised. On another handout it shows that approximately \$35,000 plus another approximately \$8,000 came from the First Congressional District, so we're raising roughly \$43,000 from the First Congressional District, and yet only about \$9,500--I think that's nine--\$9,500 are going back to the First Congressional District. So proportionately, we're not even receiving the amount of money back that we're putting...or our constituents are putting into the fund. However, I'm not making that an issue. I'm simply pointing it out that what we are ending up doing is taking representation away from the people who are providing the most funding and not giving them an equal voice, in terms of their representation on the Environmental Trust Board. Philosophically, I have a problem with that. Senator Hansen believes that we should give more weight to territory and to geography. I think we should give more weight to the voters and to the people who enacted the trust, who enacted the lottery system in the first place, and on a system that is not broken, has worked and worked well, we should not at this point lightly take to change that, and in fact, we should not change it. My amendment will keep the trust as it currently exists, without changing that structure. We would be going from three representatives, under LB291, for each of the three congressional districts, to one representative for each of the Game and Parks districts, and there are eight of those geographic areas for Game and Parks. And this is probably a good time to point out to the members also that even in Game and Parks, which is represented geographically--and they have the resource that they manage, so they operate very differently--but even on that issue, this body just a few years ago, within the last five years, added an eighth district, which is the Lancaster district, to Game and Parks, because again, the effort was to move more to proportional representation,

Floor Debate
February 20, 2007

rather than geographic. So we have taken the steps as a body to provide for more proportional representation by the people and less by geography, and having done that with Game and Parks, now we're looking at, with LB291, going backwards and having the geographic representation. I think that's going in the wrong direction when we've started going the other way, which I think, philosophically and democratically in our process, is the better approach. So we have a system that isn't broken, we have a process that has been working, we have a system set up that also takes into account the geography, because right in statute, 81-15,175, it clearly lists the guidelines that need to be followed as the trust makes the allocation. And one of those guidelines is geographic mix of projects over time--geographic mix of projects over time. And in the one handout that I gave you that starts "2007 Rating Scale," it shows the current rating scale. [LB291]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: We have a system set up, and that geographic rating scale includes an additional 20 points for District 5, and an additional 15 points, as you can see on the very bottom of that handout, for District 6. So those two areas that have received a little less money than the other areas, would be given additional weight, additional preference in this 2007 funding cycle. That would help to equalize the amount of money that goes to each of these areas. It has been fair, it continues to be fair, and I see no need to change that. Thank you very much. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister. (Visitors and doctor of the day introduced.) You have heard the opening on the AM398 offered by Senator Preister to LB291. The floor is now open for discussion. Senator Louden, you are recognized to speak to the amendment, AM398. [LB291]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As we listened to Senator Preister outline what his amendment does and how the Environmental Trust Board has worked over the period of years, I'm sure it's...they've done quite well, and it isn't that they haven't done quite well. I think the deal is that probably the appointments should be made or should have more on the geographical area that the Environmental Trust does business with. It's been mostly that they...there's bound to be more work done out in some of the rural areas in the farther western two-thirds of Nebraska than there would be in the Omaha area, and it stands to reason that those areas where the population is will probably take in more money, because it comes out of your gambling and your lottery and those kind, is where it's funded from. So I have no problem with changing the makeup of it somewhat. It doesn't cut out Douglas or Lancaster Counties. They would still have their representative. Douglas County would have a representative, and I think Lancaster County has one themselves,

Floor Debate
February 20, 2007

also. It makes them so that we don't necessarily go by the Third Congressional District appointments or area. So I would certainly be against Senator Preister's amendment. I don't think this does anything. I agree that it probably isn't something that is broken at the present time, but I think by increasing or changing the way the makeup is of the committees, we could probably improve the situation to the representation, so that we know what's going on in some of the rural areas, and they're not exactly tied down to some of the minor investigations that have went on, on how they spent their money. I've been involved in some of the things that the Environmental Trust has done. Some of it has been somewhat skeptical on where they've spent their money and what they spent it for, and I know there was times when they wished we would have probably had their...the money back that they envisioned that they were doing some good with. So I think it doesn't hurt to send...to break up the areas, or not exactly break them up, but to put them out into other parts of the state, where there are...where they do have the Environmental Trust, where they are going to try to work towards the environment to help fund some of the things they do, such as cleaning up some of the dump sites in some of these smaller towns and places like that. So I myself can't support Senator Preister's amendment, and I would like to see it, LB291, advanced on through Select File without this amendment on there. Thank you, Mr. President. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Loudon. Senator Hansen, you are recognized. [LB291]

SENATOR HANSEN: Thank you, Mr. President. Good morning, everybody. Senator Preister did come to my office for a few minutes, and we did talk about some things on my bill, on LB291, and he offered this amendment. And I want to stand and make very clear that it does...and Senator Preister already did say that it would kill the bill, so I would appreciate a no vote on this amendment. We do agree on several of the things that we were talking about. We agree that there shouldn't be any raids on the Environmental Trust, no end runs. We don't...you know, it has a grant process. The grant process works. Let's use that. We agree that it's a statewide program. We agree that it's a long ways from Omaha to Scottsbluff, and it's even further to Chadron, but it's all in the same state, and it has a lot of land treatment that is necessary. We believe...we agree that the land and water treatment programs that the Environmental Trust has funded up to now are...have been good programs. It works because it's a grant process. We both agree that it's a system that's not broken, but can we make it better? And I think we could make it better by making it geographic representation. This is going to be a classic battle between east versus west, between Omaha and the rest of the state. And I've made reference in several committee hearings, when people start talking about the...other than...use other than the western Nebraska comments, so this is going to be representation either from the east or from the west, and we all know that the population is based in the east. But this is a statewide...the lottery system is statewide. Senator Preister handed out a piece that's alphabetical, and I have the same thing, the Nebraska Lottery 2006 sales by county, and Douglas County, for sure, has

Floor Debate
February 20, 2007

the most population--by golly, they sold the most lottery tickets. They sold about 28 million; Lancaster is second with 17 million; Sarpy was third with 6 million--almost 7 million. And then it jumps out to Hall County, Lincoln County, Scotts Bluff, and those are in the 4 million, 3.5 million, somewhere in there. So we're getting a lot of money out in the western part of the state, too. Game and Parks districts are not equalized on population. They're not equal because they treat the land, they treat the water, they treat the things that are important to Game and Parks by areas rather than by the population centers. I have a son that lives in the Valley area, and when we drive from Omaha to Valley, it looks like some of the land treatments that they use in Douglas County seems to be covering up things with concrete. That's the solution to land treatment in Douglas County. But I really think that geographic representation to get some people in the...further west in the state to represent their area, to fight for those funds...if you look at Senator Preister's colorful handout you can see, by golly, where do we spend the most money? Um, District 1--that's in the Lincoln area. That's where the five state agencies that sit on the Environmental Trust Board are headquartered out of, and it looks like maybe those areas are hit a little harder as you get close to home. And granted that out in the west they've spent a lot of money, too. There's a lot of money in this Environmental Trust. There's a lot of good projects out there, they're worthwhile projects, and we need to be cognizant of that fact. We agree...Senator Preister and I agree on more than we disagree on, for sure, but I really ask that you vote against this amendment and consider geographic representation in this case, similar to what Game and Parks has in their district--land treatment, water treatment. There's a myriad of... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR HANSEN: ...projects that we can do in the state with these environmental funds, and I think that we need representation throughout the state for those people who want to argue those facts. Thank you, Mr. President. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Preister, you're recognized. [LB291]

SENATOR PREISTER: Thank you, Honorable President, friends all. I didn't quite catch some of the things that were said, but if I could ask Senator Louden a question, please? [LB291]

SENATOR LANGEMEIER: Senator Louden, would you yield to a question? Senator Louden? Senator Louden, would you yield to a question? [LB291]

SENATOR LOUDEN: Yes, go ahead. [LB291]

SENATOR PREISTER: Thank you, Senator Louden. I was listening, but I had other

Floor Debate
February 20, 2007

people asking me questions. I believe you said that the current system is working and that there were no problems, but I don't want to put words in you. Have any problems been brought forward regarding the trust, other than the Legislature keeping their hands in it and taking money out? [LB291]

SENATOR LOUDEN: What do you mean by "problems" now? You mean that there's been some times when they probably spent money at something that they probably wish they hadn't of? Is that what you call a problem? [LB291]

SENATOR PREISTER: Problems that would bring this bill forward, where somebody was disproportionately getting left out of funding, didn't...had a good application and because they were in a certain geographic area didn't get... [LB291]

SENATOR LOUDEN: No, I don't know as I would say that they was...probably somebody was disproportionately left out. There was grant funding and all that, but there has been instances when the Environmental Trust have probably invested in some things that they probably wish they hadn't of, and I think if you would have had board members that were more scattered around geographically, that something like this may not have been as apt to happen. This is where my concern is with the Environmental Trust Board. There's been times in the district that I represent that it's been questionable. [LB291]

SENATOR PREISTER: Okay, Senator, it's my time. I don't mean to cut you off, but any other problems that you've seen, other than the board may have had some things that they didn't put money into, in your words, appropriately? [LB291]

SENATOR LOUDEN: Well, I think if you would go...if you would split this up sort of like this LB291 mentions for your people out in the different geographical areas, I feel you would probably have a little bit more oversight, and that's where I think Senator Hansen said we could make it better. So I think that's what we're all about, is trying to make it better, you know. [LB291]

SENATOR PREISTER: Okay, so there were no problems. You're looking from a philosophical point of view of having geographic representation? [LB291]

SENATOR LOUDEN: Right. Okay, but when...yes, there have been problems, and that's what I said. If you would have had more geographical representation, I don't think these problems would have happened, not that they were that great of a deal, because they always have money for the next year. It didn't...it wasn't like it bankrupted the system or anything like that, but the... [LB291]

SENATOR PREISTER: If there were problems, Senator, could you identify those problems at some time, either on your time or off the mike, and give me the specific

Floor Debate
February 20, 2007

examples that you're referring to, so I can cite those? [LB291]

SENATOR LOUDEN: Yeah, I can do that. [LB291]

SENATOR PREISTER: Okay. Thank you, Senator. Thank you, Senator Louden. The area of geographic territory representation is currently in statute. I read that earlier, and currently, the trust board has to take into account geographic representation. They have to consider allocating these funds proportionately across the geography and they have done that, and it shows on the map that we handed out. In the western part of the state, which is the area that would get added representation, they've gotten \$12,722,000 since the lottery funds were being distributed. They have received more in that geographical area than the eastern part of the state or any other geographic area, with the exclusion or exception of Lincoln. And that area has gotten more because of the reasons I pointed out, because we have taken... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: ...\$5 million away from the fund and put it in the General Fund; we've used that money for other purposes. So the western part of the state and the Panhandle is certainly well represented on the current makeup of the board. If it wasn't, then why would they have gotten more money than any of the other geographic areas? It is factored in, it is weighted, and this board has the responsibility to make sure that geography is one of the major considerations in allocating these funds. So it's part of their charge, it's in statute, they have to do it, and this board isn't serving over resources, like Game and Parks is. This board is a funding mechanism through the trust, and it allocates money--very different from working on resources. That's the distinction; that's why this is already being addressed in statute,... [LB291]

SENATOR LANGEMEIER: Time. [LB291]

SENATOR PREISTER: ...and doesn't need to be done here. Thank you. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister. Senator White, you are recognized. [LB291]

SENATOR WHITE: Thank you, Mr. President. I have a concern any time that this body moves to move representation from the basis of one person, one vote, where governmental funds are involved, not only on a personal level, that we should be committed to one person, one vote, but also on a constitutional level, whether this statute, in fact, would meet scrutiny from the court systems. While I recognize that it is a big state and that often funds for the good of all of us should be spent out in rural areas, out where there is more land, that is a different proposition than how we spend this money, since it does come, ultimately, through a state-sponsored activity, and I would

Floor Debate
February 20, 2007

consider it public funds. Given those concerns, I will be voting for the amendment, and at this time, Mr. President, I would yield the rest of my time to Senator Preister. [LB291]

SENATOR LANGEMEIER: Senator Preister, 4 minutes. [LB291]

SENATOR PREISTER: Thank you, Honorable President, friends all. Thank you, Senator White. I do appreciate the time. I think you hit at the heart of the issue. We are essentially doing something that may not even be constitutional in its face. We're taking away the vote essentially of those voters who voted for the lottery and who established this whole process back in 1994, 1993. We're saying that geography has more weight, even though we've already factored that in, even though in statute we have directed the Environmental Trust to weigh in as one of its major considerations, that geography is considered and that we proportionately distribute these funds across that geography. And from the handout that I gave you on the colored map, it shows that it has been done that way. In fact, the most western district--it's listed as District 7 on the geographic distribution of awards map that I handed out--it shows that the Panhandle of Nebraska, an area that Senator Hansen is concerned about having representation, has actually received more money than all of the other districts except one. So the current representation has factored in geography. They have taken that into account, as they are charged to do so in statute. They have done it, they have...and on individual kinds of awards, anybody can second-guess, as Senator Loudon was saying--a particular award and say, well, maybe that one shouldn't have been done. Board members may certainly have done that themselves. I don't know that they have, I'm not aware of it, but in any case, this geography was factored in. It was taken into account, or we wouldn't have a pretty evenly divided distribution of those lottery funds. And let me remind you: These funds are not supposed to be used for remediation. These funds are supposed to be enhancement funds. These monies are supposed to go to projects and programs like establishing recycling programs, like prevention programs. They're supposed to fund things that are not cleanup or remediation from what should be done by responsible parties. These are enhancement funds, and those enhancement funds have geographically been distributed, and in fact, you could argue the opposite of what Senator Hansen said. They're being done disproportionately to the benefit of western Nebraska, and disproportionately in favor of geography, because... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: ...far more money has been collected from the Second Congressional District, Omaha...essentially Douglas and Sarpy counties, and has been taken from that area and has been given to the western part of the state and other parts of the state in greater amounts than have been collected in those areas. So we're giving more to those areas already. If the representation needed to be changed, I don't see why, when they're already factoring in geography. The current board members are already proportionately giving more to western Nebraska and the Third Congressional

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 20, 2007

District, and there really isn't a need or a problem that we're attempting to address. It's simply a philosophical change from one-person, one-vote, proportional representational democracy, to geography. [LB291]

SENATOR LANGEMEIER: Time. [LB291]

SENATOR PREISTER: Thank you. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister. Senator Hansen, you're recognized. [LB291]

SENATOR HANSEN: Thank you, Mr. President. Got a couple questions for Senator White, if he would yield. [LB291]

SENATOR LANGEMEIER: Senator White, would you yield to a question? [LB291]

SENATOR WHITE: I'd be delighted. [LB291]

SENATOR HANSEN: Thank you, Senator White. You mentioned the constitutionality of making this change from equal population to a geographic representation. [LB291]

SENATOR WHITE: Right. [LB291]

SENATOR HANSEN: Do...how does Game and Parks work in a constitutional manner, or in a constitutional way, if they take fees and General Fund money and do their projects, and yet have eight representative board members from around the state... [LB291]

SENATOR WHITE: Because their funding... [LB291]

SENATOR HANSEN: ...that's geographic, rather than based on population solely? [LB291]

SENATOR WHITE: Right. And what I would tell you is that primarily because we still fund their overall budget, and the money comes through us. And we are not elected geographically, we're elected by a proportionality vote of the people. It's true they get other funds, but we have oversight on them, on how they spend. Now what I would tell you is the constitutionality is multiple fold. One, I have a question any time we get away from a popular vote on any kind of governmental agencies, so maybe they aren't, would be one possible answer. Or the courts may say it's fine. I just have an issue with it when we move away from proportionality on voting. But beyond that, as Senator Preister made it clear, the people of the state of Nebraska approved a lottery with a scheme in place on how the funds would be managed and governed. We're now by statute

Floor Debate
February 20, 2007

changing that but still keeping the proceeds. Doesn't seem quite cricket to me, Senator. [LB291]

SENATOR HANSEN: Thank you, Senator White. I would just like to bring up the...was there five actions that the trust board...how they spend their money, and one of them is on habitat, and that's for...mostly for wildlife; surface and ground water actions to preserve and restore lakes, streams and ground water; waste management, air quality, and soil management. Those are the areas that they have to fund, and those areas, I think, are going to be mostly out of the areas where the population base is. Strictly asking for geographic representation, because these are the areas that the trust spends its money in, and I think the representation should be out there, and I can't see that big of a difference between Game and Parks, the way they've set up their board, and the way I'm asking for the Environmental Trust. I will admit I'm not a lawyer; I'm not a constitutional lawyer, and I don't play one when I go back to my district. Thank...(microphone malfunction). [LB291]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Preister, you're recognized. [LB291]

SENATOR PREISTER: Thank you, Honorable President, friends all. I appreciate the folks that have been paying attention to this issue. I realize most of us are still here, but if you have needed to move away, this is a central issue, I think, to good democracy and good government and equal representation. And that's why I make it an issue. I don't challenge Senator Hansen personally, but I do challenge the concept of what he's attempting to do. And to go backwards from what we have done in this body, and that's even with Game and Parks, we have added an eighth district to the Game and Parks commissioners, because there are folks who don't feel that that's proportional currently. So when we have moved and taken the steps by this body, just in the last five years to increase the proportional representation of Game and Parks, and now we're attempting to take that backwards from the three congressional district representation back to geographic representation, it, to me, is not the kind of policy that the state should be sanctioning. It's going backwards; it's going away from equal proportional representation. Whether it's constitutional or not, as Senator White questions--there certainly is the question there that it could be--I would rather not do it so we don't have to face that question. When we talk about geography, and that's the center of what Senator Hansen is trying to do, this is not an issue of local control or geography, because as I said, this is factored into the responsibility and the statute. It is clearly in statute and a part of what the trust has to do. It's at 81-15,175, and that states, The board shall establish rating systems for ranking proposals which meet the board's environmental categories and other criteria. The rating system shall--it doesn't say "may"; it says "shall," my friends--not be limited to the following considerations, and those considerations are enumerated. There are seven of them, and the middle one says geographic mix of projects over time, and the way that's interpreted, over time they

Floor Debate
February 20, 2007

should each get a proportional amount of dollars, and that's what they have been getting. They're getting the dollars, the board is functioning not as a manager of resources--that's not even the issue; they're not managing resources as Game and Parks Commission does--so they have a very different function. If you were managing resource, this might make sense. I still don't think it totally does, but then it might. In this case, they're not managing resource; they're given a statutory charge of allocating funds. This is a funding mechanism. This is a system set up to allocate those funds that have been collected through the lottery and go to the Environmental Trust Board for distribution. So their function is to assess and to give a categorized, numerical value to each of the applications that comes in. They get way more applications--and I passed out another handout that you can look at--way more requests for these funds than we have funds to distribute. They have a difficult job. I believe they've done their job very well. [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: They have done their job well, there have not been problems, there have not been issues that have come up as a result, there have not been improprieties that I'm aware of or that anybody has ever raised on this floor with the Environmental Trust. The only problems have been that the Legislature has taken money away from them, and as Senator Hansen said and we both agree, we should stop raiding that fund. We should abide by what the voters enacted. We should leave it for the purposes it was intended to be for, and I think we should leave this section alone in how they're organized and in how they operate. Thank you. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister. Waiting to speak are Senators Chambers and Janssen. Senator Chambers, you're recognized. [LB291]

SENATOR CHAMBERS: Mr. President, members of the Legislature, what we're seeing here is the result of haste. I try to read these bills as they come across the floor, but I cannot examine, analyze, and evaluate every one of them. I have stated earlier that I'm not going to assume everybody's responsibility. This bill ought to have been given much more rigorous consideration on General File. Currently, there are nine members on this commission, three each from each of the three congressional districts. At least...well, not...under the new language it would say "at least," but two of those people would have to have experience in financing public projects or something to that effect. This change that's being offered would reduce that number from nine to eight. There will be no consideration given to the boundaries of the three congressional districts. The new language says at least two of those eight citizens will have this experience in financing. Currently, there is no consideration given when members are elected from those three congressional districts to acres, rivers, streams, lakes, trees, livestock, homesteads, or any other nonhuman factor. The reason each state, regardless of its geographic size or population, is guaranteed two U.S. senators is because of a compromise that had to be

Floor Debate
February 20, 2007

made between the small states and the large states when the United States was being constructed. To assure the small states that at least one house in the two-house government would give them the same relative strength as the large states, having much more population, each state is guaranteed two U.S. senators. In the House everything is based strictly on population, but it was that hellish so-called compromise which demeaned black people. Those of us being owned in the South as property could not vote, were deemed less than human beings, but for the purpose of representation to this slave-holding vicious South, everyone of us, those of my complexion and origin, would be the equivalent of three-fifths of a person, so that the South could have additional representation in the federal government, based on those of my people who were enslaved. Those kind of compromises are straight from the nether regions, but nevertheless, in politics such compromises must be made to achieve political ends. Currently, there is no basis for this proposal that is before us now that Senator Hansen is bringing. When we are redistricting for the Legislature, in states where they have two houses, there was a period of time when geographical considerations were looked at. The U.S. Supreme Court said for the House in each state, everything would be based strictly on population--one person, one vote. [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR CHAMBERS: If you had an entity with 500 population and another with 100 population, you cannot allow the entity with 100 population to have the same voting strength as that with 500, so you prorated. A point was reached where the U.S. Supreme Court then said, the Senate in these two-house legislatures also must be elected on the basis of population, not geography or anything else. I think what is being presented by LB291 is inappropriate, and now that it has been called to my attention, I am in a position where I must resist it. Thank you, Mr. President. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Wishing to speak, Janssen, Preister, and White. Senator Janssen, you're recognized. [LB291]

SENATOR JANSSEN: Thank you, Senator Langemeier, members of the Legislature. I was looking at the geographical distribution of awards for the Nebraska Environmental Trust Fund, and if I could ask Senator Preister a couple of questions, please? [LB291]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB291]

SENATOR PREISTER: Yes, I would. [LB291]

SENATOR JANSSEN: Senator Preister, looking at this colorful map that you put out, I see one area, it would be number one, where there was a large distribution of these funds over the last 12 years. What...is that area in more need for environmental cleanups and so on and so forth? What is the reason that those...that that district kind of

Floor Debate
February 20, 2007

sticks out, or that area of the state, which would be the southeast corner, if you could answer that for me? I'm sure there's a reason. [LB291]

SENATOR PREISTER: Yes, I could answer that for you, Senator Janssen, but before I do, let me state that these funds are not supposed to go for cleanup. The funds are supposed to be used for recycling programs, for preventing pollution rather than remediating or cleaning up after the fact. So there are specific guidelines that the funds can be used for, and they have to go through a grant process, and in that grant process, they are awarded points based on all the criteria, including geography. There are several reasons why District 1 has more of...more dollar amount--one, because it's where Game and Parks office is and where they have some aggressive applicants. They're putting in more of the grant requests, so the NRD here has been very aggressive in submitting the requests. It's also the downstream portion of the Platte River where we've tried to mitigate. And if you look at that map, probably almost a fourth of the Platte River flows through it, so a lot of it has gone for remediation--not remediation, but prevention and habitat restoration and things of that nature in that area. And also, it's where the capital is and where we have some input into that process, as well. So there are a variety of reasons why that one is more, if that helps to answer your question. [LB291]

SENATOR JANSSEN: Yes, it certainly does, Senator Preister, and I thank you very much for the information and I would give you the remainder of my time to you, if you'd like some time. [LB291]

SENATOR PREISTER: Yes, Senator Janssen, I would like the time,... [LB291]

SENATOR LANGEMEIER: Two minutes. [LB291]

SENATOR PREISTER: ...and I do appreciate your question and the interest in it. The central issue here again is geography versus individuals, territory and rocks and sticks versus people. I tend to side on the side of people. The issue of geography doesn't need to be changed in the makeup of the trust, because as you look at this map, the distribution is already factored in and is already essentially proportionately equal. Over the life of the distribution of these awards, from 1994 when they were first awarded, through 2006 grant cycle, you can see that in the Panhandle area that Senator Hansen is concerned about, over \$12.5 million has gone there. That's the second highest amount of any of these territories--second highest amount. So obviously, there are some folks out there that are submitting some grant applications, and they're being awarded those grants, and in fact, almost disproportionately. They're being given deference, and their grants, I assume, are well-written, they've got some capable people... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

Floor Debate
February 20, 2007

SENATOR PREISTER: ...that are doing it, and they're getting the money. So they are represented, and they're represented geographically because in statute, the concept that is embodied in LB291 to have geographic representation, is in statute currently and is one of the major factors that has to be taken into account by the trust board as they approve these applications and grant these funds. And currently, because five and six on your map are underfunded in comparison to the other ones, they in this current 2007 grant cycle, are being given extra points. That's an effort to balance it out, to make sure we have geographic representation proportionate across the state. It isn't proportionate according to the money that's coming in, because certainly the Second Congressional District is putting in way more money than they're getting back. [LB291]

SENATOR LANGEMEIER: Time. [LB291]

SENATOR PREISTER: Thank you. [LB291]

SENATOR LANGEMEIER: You are now...Senator Preister, you are now recognized on your time. [LB291]

SENATOR PREISTER: Thank you, Honorable President, friends all. You mean I get to keep going? I apologize if it sounds like I'm droning on and on. Obviously, this is of concern to me. Obviously, I wouldn't attempt to gut Senator Hansen's bill if I didn't think an important principle were at stake, and it is the principle of proportionality, and we are violating that principle if we pass LB291. We are saying that people are not important--that's the message that we're sending out to the voters. We're saying that your one person, one vote is not as important in the state as geography. I mean, I thought those battles were fought years and years ago and we were past that, and we were over and done with it. I thought equal, proportional representation was how we elected state senators, was how we did most everything in a democracy. This completely turns that on its head and says, no, we're not going to do it that way. We're going to do it by geography, and even, even when geography, as I've said over and over again, is already factored in, is already by statute considered, taken into account, and in effect, is being carried out. The maps that you have, the dollars that are allocated, clearly demonstrate that. Let me take this opportunity while I have a little time left to point out one other problem, as I see it, with the bill. Currently, we have three representatives from each of the three congressional districts. All of them are appointed by the Governor. The new ones would be appointed by the Governor still, but there's no system of doing it in an orderly fashion, as we currently do. Currently, we have one representative from each of the three congressional districts who will have their term expire this year. So in just another month, the Governor will be proposing three new candidates to be on the Environmental Trust. The Natural Resources Committee will have the chance to approve those and send them on to the body. The Governor right now could appoint somebody from this District 7 in the Panhandle. He could suggest a

Floor Debate
February 20, 2007

new representative, which would do what Senator Hansen wants to do. So that authority currently is vested in the Governor. He can do it now, and he'll have the opportunity to do it in only a month. He could take longer if he chose to, but three of these current members' terms are expiring, and they can be reappointed. So the factor of geography can be taken into account in that regard, as well as the fact that it's in statute and is a requirement that when the allocations are done, geography has to be considered. So when geography is a fact of the current process, when the Governor has the authority to appoint people and to do it in the western part of the state, and we've got a system--and that's the main thing that I want to underscore here in this time, that I haven't said yet--we have those three representatives, three of whom are expiring, all three of whom will be reappointed. And in two years, two more of them will have their terms expire. They will be reappointed. And then after that, the third one in each one will be ending their term, and they will need to be reappointed. So we have an orderly, systematic process currently in place that allows for some experience and new people coming in at the same time. With the way that we would change this, we could be bringing more people on board, but in a kind of... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: ...I don't want to say, but...helter-skelter or haphazard, but it would not be an organized fashion. It would not be a clearly thought-out, well-established kind of process, and that's another flaw with the way we would do the process, if we went with the current wording in LB291. I think my amendment, which will leave the status quo, which will leave the one person, one vote, the proportional representation, is the better state policy. It's certainly justifiable, it's certainly constitutional, and I think it should remain. It has served us well, it has done what it was intended to do, was what we approved with the voters' approval, and I submit to you it needs to remain. Thank you very much. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister. (Visitors introduced.) Wishing to speak is White, Stuthman, and Chambers. Senator White, you're recognized. [LB291]

SENATOR WHITE: Thank you, Mr. President. At this point, I yield my time to Senator Preister. [LB291]

SENATOR LANGEMEIER: Senator Preister. [LB291]

SENATOR PREISTER: Honorable President, friends all. Thank you, Senator White. I do appreciate your time, and I am taking time this morning. I think it's valuable time, because I think it essentially gets at the heart of a democracy. Do you have one person, one vote, and do you honor that representation, or do you say that that does not count any longer in our society? That is a bedrock principle of any democracy. I don't think we should lightly or in any other fashion stray from that or intentionally change that kind of a

Floor Debate
February 20, 2007

process. It is an important process, and I think it deserves the time, I think it deserves the attention, and that's why I'm making it an issue this morning. Let me correct something that I may have misspoken earlier in saying. I may have said that three of the current trust board members are expiring next year. I didn't mean that they were expiring, so...I meant that their terms were expiring, if I said that. So my apologies to those Environmental Trust Board members. I'm not Karnac, and I'm not predicting anything, and I'm not wishing any ill to anyone. But if I said they were expiring, I meant to say, the terms are expiring, and those people that have been serving are representing the area. Currently, we have two that are representing Omaha and the First Congressional District. They have both served very well, and I certainly appreciate their contributions. One of them I happen to know, and he's certainly got roots in Madison County and has farm ground and understands that area--Bob Krohn. He's living in Omaha, but I believe he may still even have farm ground out in Madison County from his family. Bob is somebody that brings a good perspective to the board, understands the rural connection, understands more than just an Omaha perspective. He represents Omaha, or I should better say the Second Congressional District. Paul Dunn is also living in Omaha and representing the Second Congressional District. The third representative from the Second Congressional District...oh, I'm sorry. We do have the third one from the Second Congressional District, John Campbell. He also is from Omaha. So all three of those are currently residing in Omaha, and I don't know the other two to give you much background. But I know that they are conscientious and have devoted a lot of time to assessing these grants. I also know that the process that they have undertaken to drive, to commit to being here, they have taken very seriously, and they have honored that. The First Congressional District...and Omaha would lose two of those. Those of you who represent the Second Congressional District in here, you're going to lose two representatives automatically. Those two people will no longer be representing you. Omaha will only get one representative, and it isn't even all of the Second Congressional District, because we're now splitting the Second Congressional District in half, almost in half. Sarpy County will no longer be a part of the Second Congressional District. That would go into what is termed the first of the Game and Parks districts. So Sarpy County would also be cut back, potentially. In the First Congressional District, Lincoln has currently two representatives. Susan Seacrest--Susan and the Groundwater Foundation has worked from one end of this state to the other. Susan and her water issues... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: ...is a knowledgeable, skilled person who understands issues, understands how to use money wisely, and has done an exceptional job. We have very good quality people on the Environmental Trust Board who are doing an exceptional job. But potentially, Susan could be gone; not right away, because her term doesn't expire until the year 2011. But the other representative, Robert Ravenscroft, who I've visited with, who is also a good representative, would most likely be eliminated,

Floor Debate
February 20, 2007

because Lincoln, Lancaster County, would only get one representative. And Vince Kramper from Dakota City, is the other representative from the First Congressional District. So that representation is going to be lost, that proportional representation is no longer going to be there if LB291 is to pass. I hope that we don't do that. [LB291]

SENATOR LANGEMEIER: Time. [LB291]

SENATOR PREISTER: I hope that you adopt my amendment, which remains and retains the current system. Thank you very much. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister and Senator White. Senator Stuthman, you're recognized. [LB291]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would just like to engage in a little conversation with Senator Preister, if he would respond. [LB291]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB291]

SENATOR PREISTER: Yes, I would, Senator. [LB291]

SENATOR STUTHMAN: Senator Preister, in going over this map, and there was some discussion earlier about the grant dollars awarded to the southeast corner of...double of any other area, and you stated in there that it was probably because of professional grant writers and writing of the grants and stuff like that, which would help with that. I have no problem with that. I would like to have you respond a little bit in District 2, \$9.68 million. What would this be utilized for in that highly densely populated county? [LB291]

SENATOR PREISTER: Senator, I didn't hand it out, but we have a handout that lists the grant funding of the various projects. I can sort some of those out and at a later time, I can identify some specific projects that went to that area. But remember, these funds don't go to remediate. These aren't clean-up funds; these are for recycling programs, these are education programs where you're working with children in schools. These funds have specific guidelines of what they can be used for and a point system that allocates points for those applications. So in Omaha you may not have the open territory, but you certainly have the education component, and you have all of those recycling and other community development projects. [LB291]

SENATOR STUTHMAN: Yeah. Senator Preister, would there be any bike trails or walking bike trails? Would this be a grant process or something that could receive grant money? [LB291]

SENATOR PREISTER: Bike trails have separate funding mechanisms, and most of

Floor Debate
February 20, 2007

these...I can't say specifically that these funds have or have not gone to bike trails, but I don't think that would have a very high priority, because the Department of Transportation and other sources fund those trails. [LB291]

SENATOR STUTHMAN: Okay. Thank you, Senator Preister, and I'll give the balance of my time to Senator Chambers. [LB291]

SENATOR LANGEMEIER: Senator Chambers, 2 minutes. [LB291]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Stuthman, and with all due respect to Senator Hansen, my new colleague. Because of the history of black people in this country, a benighted history, I probably appreciate the ability of people to vote more than anybody on this floor. There have been all types of stratagems to deprive people of my complexion of the right to vote. They were asked questions when they came to register--after the Fifteenth Amendment had been added to the U.S. Constitution we could vote--how many bubbles are in a bar of soap? No white person was asked such a question. Many times a registrar which was going to require somebody of my complexion to write out provisions of the constitution which were stated, and I would have to know by memory, that registrar who was white could not write, could not read, could not spell. So I have watched white affirmative action taking place throughout the history of this country. I wish that white people were taught more in their schools so they would be aware of what people of my complexion have come through, how we have been treated, and it would help you understand some of the bitterness that some of us feel to this very day. If that black person who was property was willing to risk life and limb to escape from that hellish condition, the white people's constitution... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR CHAMBERS: ...took care of that by saying wherever that person was found, wherever that person was captured, that person would have to be returned to slavery. That was in America, the land of the tree, the home of the slave, is how we say it. When we hear that George Washington was such a great man, it brings a feeling of contempt, because he was a slaveholder. When Thomas Jefferson is praised for having drafted the Declaration of Independence, which he did not do alone and it was rewritten many times by a committee, Thomas Jefferson was a slave owner and committed what would be considered pedophilia by raping a young teenager and making her a mother. But all that is glossed over. [LB291]

SENATOR LANGEMEIER: Time. Senator Chambers, you're recognized on your own time. [LB291]

SENATOR CHAMBERS: Thank you, Mr. President. All of that is glossed over, and

Floor Debate
February 20, 2007

white people wonder why tears don't come to our eyes when they praise George Washington, Thomas Jefferson, Patrick Henry--all of the rest of them. Slaveholders, raping our women! Why do you think I'm not as black as my shoe, if I were wearing black shoes? Because white people were allowed to jump over fences and contaminate my black blood. But that blood is so powerful that pursuant to the laws and principles of this country, one drop will make a white person black, and there were laws which recognized that kind of perversity. In you all's constitution is a provision that says only one provision in that constitution could not be touched until 1808--anything else could be touched. You could get rid of the Bill of Rights, you could convert the presidency into a monarchy, you could convert the two houses into one house, you could have converted Congress into a parliament. But you know the one thing that could not be amended? The provisions allowing for the slave trade. That could not be touched until 1808. That is the only thing that was deemed so essential and important to the very nature and existence of this country that it could not be touched. And you all walk around here without knowing those things, without caring about those things, and wondering what's the matter with men such as myself. We are products of our education, our genetics, our background, our upbringing, our experiences, and a host of other things that come to bear on us. I'm not like you all! I'm not one of you! I am the outsider; I am the other. I am the contrast concept. I am the one who should not be here. I am the one who regularly am given invitations to go back to where I came from--in America. But I persevere, I survive, and I rise to the top, and I'm from the shallow end of the black people's gene pool. I'm not the smartest person in my district. I'm the one that the district said, we can do without. So you go down there and mess around among them. We don't need you, but you're smart enough to deal with them. So when we talk about things that are going to undercut the value of the vote, then I become exercised--not like an exorcism; that's spelled differently. If it were not for district elections for members of the Legislature, it's clear I wouldn't be here. But because there is election by district, the masses of white people in this state did not like the fact that my district sent me here, so they changed the white people's constitution to make sure that the people in my district could not send a person of their choice, a person who could contend with what goes on in this Legislature. And that matter is pending before the Nebraska Supreme Court, but all the judges are white. Their concerns are your concerns. I am opposed to Senator Hansen's bill. I'm going to support Senator Preister's attempt to kill it. [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR CHAMBERS: It should not have gotten off General File, but it did. It's never too late, until after a provision has been signed into law, to stop, turn around, and go the proper direction. And even if it is signed into law, as long as the Legislature is in session, it's still not too late, because we could offer a bill to repeal that. But I don't want it to reach that point. I'm going to do all I can to help defeat this proposal. Thank you, Mr. President. [LB291]

Floor Debate
February 20, 2007

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) Wishing to speak is Senators Adams, Louden, Chambers. Senator Adams, you're recognized. [LB291]

SENATOR ADAMS: Mr. President, I'd like to yield my time to Senator Preister, please. [LB291]

SENATOR LANGEMEIER: Senator Preister? [LB291]

SENATOR PREISTER: Thank you, Honorable President, friends all. Thank you very much, Senator Adams. I appreciate your yielding me the time. I have a handout on your desks that I'd like to use this time to go over with you. It's the Nebraska Environmental Trust grants by geodistricts, and it's got the 2005 and the 2006 grant cycles. As the trust gets the money in, they have a cycle set up, applications have to be in by a certain time, and they go through a numerical process of awarding them certain points, and those points determine who gets funded and who doesn't. If you look at that sheet, it shows that there were, in 2005, 108 applications received for a total request of \$31.5 million--108 applications. There's a tremendous need all across the state, and we really don't want to be fighting over how these funds are distributed. I think they've been distributed pretty well. If you look at those that were funded, you'll see that only 72 of those applications actually got funded. Nine million dollars of the \$31 million requests were funded. So essentially, one third of the requests in a year, this particular year, were funded. If you look at 2006, there's 115 applications received for a request of almost \$36 million for these funds. Only 80 of those applications were actually funded; again, about a third, less than a third for \$11 million of funding, were done. I'm pointing that out to point out the value of the trust in making contributions to our communities and factoring in geography. They are taking geography into account as these funds are being applied for. You can see that in the requested funds for districts, and then the districts are broken out--the seven that are listed. And each of those has more requests than they have been funded for. It's pretty much across the state--we have more requests, more need, than we're supplying funds to address. It is proportional, it is geographical, so we are addressing the geographical component, which is the essence of LB291. That's being factored in. It's not being ignored; it's being dealt with, and it's being dealt with proportionately. And at the same time, we are electing...or rather, we're appointing these representatives because of the congressional districts and the number of people in each of those congressional districts. So we're doing both currently. We're looking at geography and we're looking at proportional representation, and within that proportional representation, the Governor still appoints these people. We approve it, but in the 15 sessions that I've been down here, I can only recall one person that we did not approve for any board or commission--any! So virtually everyone that the Governor recommends, we approve. So the Governor is the one interested groups could certainly lobby,... [LB291]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 20, 2007

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: ...if they thought that a particular geographic area wasn't being treated fairly. But if you look at the map, those areas are getting a proportional amount of money. The Panhandle is getting the second highest amount of any area. So geography and the fact that it's in statute, the fact that the board is considering it as one of the main considerations, is taken into account, is factored in, and the board is currently functioning well, has good membership, and is proportionate to the population base in the three congressional districts. I think it should stay that way. Thank you. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister and Senator Adams. Senator Loudon, you're recognized. [LB291]

SENATOR LOUDON: Question. [LB291]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote yea; all those opposed vote nay. Senator Loudon, for what purpose do you rise? [LB291]

SENATOR LOUDON: Call of the house. [LB291]

SENATOR LANGEMEIER: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB291]

CLERK: 24 ayes, 0 nays, Mr. President, to place the house under call. [LB291]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. All those senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Lathrop, Senator Kruse, the house is under call. Please return to the Chamber. Senator Lathrop and Senator Kruse, the house is under call. Please return to the Chamber. The senator is en route; it will just be a second. All senators present and accounted for. Senator Loudon, how do you wish to proceed? [LB291]

SENATOR LOUDON: A roll call vote. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Loudon. The question is, shall debate cease? Mr. Clerk. [LB291]

CLERK: (Roll call vote taken, Legislative Journal pages 603-604.) 23 ayes, 22 nays, Mr.

Floor Debate
February 20, 2007

President, to cease debate. [LB291]

SENATOR LANGEMEIER: The motion fails. We'll return back to debate, and I'll raise the call. Senator Chambers, you are recognized to continue, and this is your third time. [LB291]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, some of you think that you're going to get off this issue by calling the question. You're not going to succeed. You might call the question at some point and force a vote on Senator Preister's motion, but as soon as you vote...if you vote his motion down, I'm going to offer a motion to reconsider. Then I'm going to go through this provision and dismantle it if I can, point by point, taking a matter at random out of the statute books. If a city, county, village wants to operate a lottery, it has to get a biennial license and pay a fee. Well, why don't I say, if biannually is good, make it annually. So I bring a bill to change that, just because I can. We could do that with any provision in the statute. This commission, this process which is in place now, is achieving its purpose, and I'm going to do all that I can to preserve it as it is. Senator Hansen has not shown anything wrong with the existing system nor has anybody else. But when I look at the makeup of the committee, I'm not surprised that it got out here, and there will be other things coming from that committee and other committees that ought not to be placed on the floor, but they'll be here, and I'm going to fight them. The purpose of the committee is to weed out bad legislation. That's what the guy who wanted a unicameral had argued. That's a function of the committees. People either out of friendship, ignorance, or whatever will say, well, put it on out there. Somebody on the committee wants it, put it on out there. When it gets out here, I'm going to fight it. My job is not to go along to get along. My job is to fight and resist what I consider to be bad legislation and to support that which I think is good and wholesome and of value to the state. This notion of representing geography is crackbrained. Geography is represented on a commission? Last session, to try to...or maybe two sessions ago, to show how idiotic that approach was, I asked former Senator Jim Jones did he think that a certain kind of sheep ought to have membership on the commission, since those sheep were going to be regulated by the commission. And we discussed it and discussed it until he wasn't so sure that maybe those sheep should not have representation on the commission--a mule deer, thank you, Senator Synowiecki. Yes, a mule deer (laughter) and after we debated it. Now how many acres should be on that commission? This is preposterous! We're not in high school. I don't have to treat people here like they're little children. They sought this office, and they need not think that I'm going to bite my tongue and pussyfoot when I see something presented that I believe is destructive of democracy itself. Democracy has not been kind to me. Democracy has not been kind to poor people, and I don't think it ever will until a majority of the population in this country is no longer white, and that is approaching. And white people need to consider that. Because you're in the saddle today doesn't mean that a day won't come when you'll be under the saddle. [LB291]

Floor Debate
February 20, 2007

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR CHAMBERS: I'm going to have plenty of opportunities and plenty of time to continue discussing this matter, perhaps not on Senator Preister's motion, but I'm going to have some motions of my own up there, and I'll show you all how this process operates. Thank you, Mr. President. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator White, you're recognized, and this is your third time. [LB291]

SENATOR WHITE: Thank you, Mr. President. I yield my time to Senator Preister. [LB291]

SENATOR LANGEMEIER: Senator Preister. [LB291]

SENATOR PREISTER: Thank you, Honorable President, friends all. Thank you very much, Senator White. I do appreciate the time. I think we will end up going until noon, and then you will be spared my voice any further, and you'll be able to enjoy your lunch peacefully, I trust. At this point, I did want to respond to Senator Stuthman's question. He had asked, and I didn't have specifics, but only for the year 2006, we have...and he wanted to know what the applications and awards were for Omaha, or essentially Douglas County and the Second Congressional District. The first one is for the Papio/Missouri River Natural Resources District application, and that is an enhancement program for the Missouri River Wetlands Reserve, so I don't know exactly what that is, but they're restoring habitat for wetlands. That's essentially what I think the resources gets to, and we're doing the same thing along the Missouri, so it isn't just all a concrete jungle in Omaha or Douglas County. That grant was for \$440,000, and it was awarded. A second one was for the city of Omaha. The Parks Department applied and received a grant to enhance Glenn Cunningham Lake restoration project; so again, a natural habitat area, and that amount was for \$250,000. A third one was Omaha By Design, and that was a project to do some planting, some trees I think, in the Gene Leahy Mall for \$74,000. And then we have...just about the end. We really didn't get that much, considering how much money we put into the fund, but the Joslyn Castle Institute for Sustainable Communities wrote a grant and was funded with \$67,000 for the Nebraska/Iowa metropolitan indications conference. So they were looking at getting people together to talk about sustainable communities, and that was funded. The Nebraska State Recycling Association is the only other one. So there were those three, plus the state...and I can't say the state recycling grant went all in the Omaha area. They operate all across the state. They were just the writers of the grant. They received the grant, and what they have done is worked with a lot of the smaller communities and helped those communities to get the grants so that they could do recycling programs and projects in their own communities. So the state association...and I don't know that they have professional grant writers. Senator Stuthman said that I said professional

Floor Debate
February 20, 2007

grant writers. They have aggressive and well-trained grant writers, but I don't know that they're professionals, Senator. So those were the projects in Douglas County--the Missouri River enhancement, the sustainable communities enhancement, the Glenn Cunningham Lake enhancement project, and the total for those, and those were water...a lot of water kinds of programs, and those projects didn't really total the total money that the county put in. So the state recycling programs could have gone anywhere, but because the state does have...the state recycling association have the expertise, they can put the grants in and give these smaller communities in outlying areas far greater chances of getting their grants approved and accepted than would be done in any other instance. [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR PREISTER: So those are the projects. I do have this listing and ranking of all of the awards, and if anybody is interested in looking at this...also, if you have questions, Mark Brohman, who used to work at Game and Parks coincidentally, and did an exceptional job in working with the Legislature on Game and Parks regulations and issues, has now applied and been hired and accepted as the new director of the Environmental Trust. And I think he brings a wealth of background and information dealing with, again, geography and resources to the board and to the process. So he's the new director, I think he's doing a great job, and I would like to see what happens there continue in the way that it has been going. Thank you very much. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Preister. Senators Friend and Aguilar. Senator Friend, you're recognized. [LB291]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I used to, when an opportunity arose, to call the question and to vote to actually move debate forward. I couldn't push green hard enough, and I think Senator Hansen would have appreciated my vote of green on that last one. I didn't vote on that. AM398, I've seen Senator Preister's idea in Natural Resources when I was there a couple of years ago. We shared committee Chair...or not committee Chairs, but seats on that committee. And I haven't been involved much in the discussion or I haven't heard much of the discussion yet this morning, but I think it's legitimate discussion matter, as is LB291. But I guess the reason that I took the mike here and spoke on this occasion is not necessarily to say that AM398 should be approved and adopted and attached to LB291. I don't know if either of these measures should pass. Two meetings this morning off the floor; didn't hear a lot of what was going on. But here is the point. Remember when I used...remember when I said that I used to...I just couldn't push green fast enough; didn't matter whether I heard the debate, didn't matter where I was, who I was speaking to, didn't matter if I was in the lobby messing around. It didn't matter if I was down in my office watching it on TV. I was ready to push green; let's move on, right? That's the way a lot of us feel sometimes. But I think I've changed, and I've changed because I've seen

Floor Debate
February 20, 2007

that we've spent eight hours talking about the eradication of prairie dogs. I've seen that we've spent, you know, who knows? One of my...it could be one of my bills--spent an inordinate amount of time on one of my measures that we should have...a lot of folks would consider shouldn't have spent that much time on. You see where this is going? We have three opportunities to talk about major public policy change--three--and then the Governor gets it. Actually, fundamentally, only two. Theoretically and physically, three. Then the Governor gets it, and the Governor says, okay good, go. Or he says no, do it again; this is bad. Hence, my vote. I don't have a problem anymore with this body spending four, six, eight, ten hours on a particular subject matter on General File. This is where it should happen, folks. And the only thing...and I've said this in the past and I firmly believe it now, there's only one thing that we constitutionally have to do--one. That is pass a budget. So you can take any one of my 13 or 14 bills--whatever I have--you guys can kill them all. We can kill every bill that we have, and the birds will sing, and I've said it before, the sun will come up tomorrow. It doesn't make any difference! What happens tomorrow if this bill doesn't pass? What happens if the five bills on General File following it don't pass? What happens if we kill bills in committee? Nothing. The world spins, folks, and that's what I feel like I've learned. It just doesn't make any difference. We have to pass a budget--we will do that. We'll pass a decent budget, I hope. That's what will happen. But us spending a little more... [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR FRIEND: ...amount...a little more time on subject matter like this, it doesn't hurt. And if I vote yes, whether it's for AM398 or the underlying bill...like I told you this morning, I didn't hear that much of the debate. That's why I voted not to move it on or call the question. I'm going to vote on a measure that I haven't been paying attention to? Yeah, oh granted, guilty as charged. I've done it before, but I don't like to do it, and if I can prevent it, I'm going to prevent it. Sorry, folks, we're going to spend a little more time on this. And I know that in the past, that I've been put into a situation by leaders and speakers and other folks to say, let's move on; we're moving too slow. You can't move too slow. In General File and Select File you cannot move too slow, because guess what? I've probably got about 20 seconds left to talk or a minute, Mr. President? [LB291]

SENATOR LANGEMEIER: Time. (Laughter) Thank you, Senator Friend. Senator Aguilar, you are recognized. [LB291]

SENATOR AGUILAR: Thank you, Senator Langemeier. I would yield the rest of my time to Senator Chambers. [LB291]

SENATOR LANGEMEIER: Senator Chambers? [LB291]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Aguilar. I

Floor Debate
February 20, 2007

caught the tone of what Senator Friend was emitting, but I didn't pick up on all of the words, but toward the end I think he said something that I believe I agree with, if I heard him correctly; namely, that certain subjects merit more debate and discussion. If that's what he said, I agree, especially as it applies to this particular bill, and he did quote me in saying he didn't care if they killed all of his bills. Well, if you killed all his bills, the state is none the worse, but if you kill all my bills, it's your loss. However, I don't care if you kill them all. I reckon success for myself not in terms of how many bills that I pass, but how many bad bills I stop. And why is that? Prevention is better than cure. You know what my philosophy is, Senator Kopplin? If there is a high cliff and the face of it is sheer from the ground beneath it to the edge of that cliff, I will build a fence to protect people from falling off that cliff instead of building a hospital at the bottom. I want to stop some of the bad legislation that routinely is presented to us. People sometimes present it in good faith, meaning they genuinely believe that the idea is good, and I don't fault them for that. But when I think it's not good, I'm going to rip it, slash it, tear it to shreds, and make sure it does not pass because that is my job. And if other people are afraid to assume that burden, fine! They simply view their responsibility differently from the way I view mine. But I don't mind how much opposition I receive. I'll give you an example of a bill that I've got. When people have not been prosecuted for an offense for a certain period of time, the notation of that arrest goes away. The State Patrol has seen a way to try to use that to get \$500,000 to work some automated system. Now Omaha is the largest city in this state, and it was in conjunction with the prosecutor of Omaha that I brought the bill, and he said it won't cost Omaha anything. Then what is the State Patrol doing coming here talking about they need \$500,000 to take the name of an innocent person off the list that they use when they're doing a background check? All they have to do--check Omaha. Look, we got this name. Or Omaha will let them know when these names fall off. Why do they need \$500,000? We had a treasurer who was misleading the Legislature and pretending that a certain amount of money was needed for certain things she said her office needed to do, but she was trying to do some upgrading of technology and wanted to do other things. Well, just because the State Patrol says they need \$500,000, you think I'm going to roll over and give it to them? Absolutely not. That's a piece of good legislation that I think is needed, and I'm going to fight to get it. But if the State Patrol succeeds in killing it, then the State Patrol is not going to get anything through this session. They can mess with me if they want to, but they will see that I will fight them, also. It matters not to me if it's the Governor, the Attorney General, the State Patrol, the judges, or my colleagues. This is not a high school debating society, where I have to be worried about people's delicate psyches or tender feelings. If my words make their ears hurt, they can just leave. You think I'll stop talking? Certainly not. [LB291]

SENATOR LANGEMEIER: One minute. [LB291]

SENATOR CHAMBERS: Because since we're now carried, from gavel to gavel, far more people observe what it is that we do and listen to what we say than would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 20, 2007

ordinarily be the course, so I don't care if nobody is in this Chamber. And pressure will be brought to bear by people outside the Chamber who will see the sense of what is being presented. On this particular measure, I have stated that the line is drawn in the sand for me, and this provision cannot be allowed to go forward and do the damage that I'm convinced it will do. Now maybe you all can trample me in the dirt, and if you do, I'll learn my lesson. I pick myself up, dust myself off, and start all over again. And I'm worse the second time than I was the first time. Thank you, Mr. President. [LB291]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Mr. Clerk, items for the record? [LB291]

CLERK: Mr. President, thank you. Your Committee on Enrollment and Review reports LB67, LB108, LB117, LB290, LB422, LB434, LB472, LB549, LB549A as correctly engrossed. Your Committee on Urban Affairs, chaired by Senator Friend, reports LR5CA to General File. Hearing notice from Natural Resources Committee, chaired by Senator Louden. Amendments to be printed: Senator Erdman, LB402; Senator Cornett, LB211; Senator Erdman, LB185; and Senator Erdman to LB527. Mr. President, an announcement that Education Committee will meet in Executive Session in Room 2102 upon adjournment. Mr. President, Senator Hudkins would move, pursuant to Rule 3, Section 19(b), to place LB49 on General File. Senator Heidemann would like to add his name to LB30; Senator Howard to LB496; and Senator Chambers would withdraw his name from LB535. (Legislative Journal, pages 604-608.) [LB291 LB67 LB108 LB117 LB290 LB422 LB434 LB472 LB549 LB549A LB211 LB527 LB185 LB402 LB49 LB535 LB30 LB496 LR5CA]

Priority motion: Senator Fischer would move to adjourn until Wednesday morning, February 22, at 9 a.m.

SENATOR LANGEMEIER: The motion before us is to adjourn until Wednesday at 9 a.m. All those in favor say aye. All those opposed, same sign. The ayes have it; we are adjourned.