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Transcriber's Office

Floor Debate
February 04, 2008

[LB39 LB235 LB268 LB513 LB550 LB624 LB782 LB797 LB806]

SENATOR PEDERSEN PRESIDING []

SENATOR PEDERSEN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighteenth day of the One Hundredth Legislature, Second Session. Our chaplain for today is Reverend Dr. Dan Flanagan, St. Paul's Church in Papillion, Senator Gay's district. Reverend.

REVEREND FLANAGAN: (Prayer offered.)

SENATOR PEDERSEN: Thank you, Reverend Flanagan. I call to order the eighteenth day of the One-Hundredth Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, Senator Pirsch has selected LB624 as his priority bill for this session, and I have a gubernatorial appointment by the Governor. It will be referred to Reference. And I have a Natural Resources Committee confirmation report, Mr. President, signed by Senator Loudon, as Chair of the committee. And that's all that I have at this time. (Legislative Journal pages 497-498.) [LB624]

SENATOR PEDERSEN: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, General Affairs Committee, chaired by Senator McDonald, reports on the appointment of John Hiller to the State Electrical Board. (Legislative Journal page 428.)

SENATOR PEDERSEN: Thank you, Mr. Clerk. Senator McDonald, you are now recognized to open on the confirmation report.

SENATOR McDONALD: Mr. President and members, the Committee on General Affairs supports the appointment of John F. Hiller to the State Electrical Board. Mr. Hiller has

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served as president for such organizations as the Nebraska/Iowa Electrical Council and the Nebraska Chapter of the National Electrical Contractors Association. Mr. Hiller is a graduate of the University of Nebraska-Omaha, and he currently serves as the owner and director of Hiller Electric Company in Omaha. His confirmation passed unanimously in our committee, and I believe Mr. Hiller has proven that he is a highly qualified appointment to the State Electrical Board, and I would urge your support. Thank you.

SENATOR PEDERSEN: Thank you, Senator McDonald. Is there any discussion on the report? Seeing none, Senator McDonald, you're recognized to close. Senator McDonald waives closing. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 498-499.) 36 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR PEDERSEN: The report is adopted. Mr. Clerk.

CLERK: Mr. President, a second report from the Natural Resources Committee, chaired by Senator Louden, reporting on the appointment of Lynn Berggren to the Nebraska Game and Parks Commission. (Legislative Journal page 465.)

SENATOR PEDERSEN: Senator Louden, you are recognized to open.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. The Natural Resources Committee conducted a confirmation hearing on January 30, 2008, for Lynn Berggren, a new appointee to the eight-member Game and Parks Commission. Lynn is from Broken Bow and represents District 6. He appeared before the committee for his confirmation hearing. Mr. Berggren graduated from the University of Nebraska at Kearney with a degree in industrial arts. He is a self-employed general contractor. Lynn currently serves on the board of directors of Custer Federal Savings and Loan Association and the One Box Foundation board of directors. He previously served on the board of directors of One Box Pheasant Hunt in Broken Bow. The committee recommends the approval of Lynn Berggren to the Game and Parks Commission by a vote of 7 members for, and 1 absent. With that, I would ask for the confirmation vote for Mr. Berggren.

SENATOR PEDERSEN: Thank you, Senator Louden. Is there any discussion on the report? Seeing none, Senator Louden, you're recognized to close on the report.

SENATOR LOUDEN: Thank you, Mr. President. I'd just ask for a green vote on this.

SENATOR PEDERSEN: Thank you, Senator Louden. You have heard the closing on the adoption of the report offered by the Natural Resources Committee. All those in

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favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 499.) 34 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR PEDERSEN: The report is adopted.

CLERK: Mr. President, I have a second report from the Natural Resources Committee involving two appointments to the Environmental Quality Council. (Legislative Journal page 491.)

SENATOR PEDERSEN: Thank you, Mr. Clerk. Senator Louden, you are recognized to open on the report.

SENATOR LOUDEN: Thank you, Mr. President. The Natural Resources Committee conducted a confirmation hearing on January 31, 2008, for John Baker and John Turnbull, 2 appointees to the 17-member Environmental Quality Council. Both men appeared before the committee for the confirmation hearing. Mr. John Baker is from Scottsbluff and is a reappointee to the council, serving as a professional engineer representative. John graduated from Virginia Military Institute in Lexington, Virginia, with a B.S. degree in civil engineering, followed by two years in the U.S. Army. He currently is a consulting engineer with Baker & Associates in Scottsbluff. Mr. Baker is on the board of directors of the Nebraska Section, American Consulting Engineers Council, and on the national board of directors of the American Consulting Engineers Council. He has received national honors in the engineering excellence awards competition and is a recipient of the Nebraska Water Industry Service Award. He serves on the board of directors of the Scotts Bluff County YMCA and is president-elect of the Scottsbluff-Gering Rotary Club. Four articles authored by John regarding environmental issues have been published in national magazines. John Turnbull is from York and is a reappointee to the council. He represents conservation on the council. John received a B.S. degree in agriculture from the University of Nebraska-Lincoln. He served many years in the United States Army and the Nebraska Army National Guard. John is a master aviator and certified flight instructor. John worked as the general manager of Tri-Basin Natural Resources District in Holdrege and currently is general manager of the Upper Big Blue Natural Resources District in York. He serves on the Water Policy Task Force and is a past member of the Agriculture and Natural Resources Education Task Force and the state's Solid Waste Management Plan Advisory Committee. He is the Upper Big Blue NRD representative for the Nebraska Habitat Conservation Coalition and the Platte River Cooperative Hydrology study. In 2001, the Omaha World-Herald and the University of Nebraska-Lincoln IANR named John and his wife Gloria master conservationists. The committee recommended unanimous approval of John Baker and John Turnbull to the Environmental Quality Council.

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SENATOR PEDERSEN: Thank you, Senator Louden. Is there any discussion on the report? Seeing none, Senator Louden, you're recognized to close on the report.

SENATOR LOUDEN: With that, I would ask for an aye vote for the two appointees to the Nebraska Environmental Quality Council, John Baker and John Turnbull. With that, I would ask for a green vote on that. Thank you, Mr. President.

SENATOR PEDERSEN: Thank you, Senator. You have now heard the closing on the adoption of the report offered by the Natural Resources Committee. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 499-500.) 36 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR PEDERSEN: Thank you, Mr. Clerk. (Doctor of the day introduced.) Mr. Clerk.

CLERK: Mr. President, first bill this morning, LB268, introduced by Senator McGill. (Read title.) The bill was introduced on January 10 of last year, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. Mr. President, there are committee amendments pending. (AM1515, Legislative Journal page 460.) [LB268]

SENATOR PEDERSEN: Thank you, Mr. Clerk. Senator McGill, you are recognized to open on your bill. [LB268]

SENATOR MCGILL: Mr. President and members of the body, I bring to you LB268, which would provide a uniform way to elect county commissioners across the state. I provided a handout with a simple chart on it to help you understand how the system is currently set up. What I'm about to explain sounds kind of complicated, but I hope this chart will help you to understand that this is really a rather simple idea. Right now statutes dictate how county commissioners are elected, based on the size of the population of the county. On the handout you will see there are three different divisions based on population. Every county with a population above 300,000 and below 150,000 elect their county commissioners by a district-only vote in both the primary and the general election. They use the same process that we do when we get elected. But if the population of the county falls between 300,000 and 150,000, which at this time is only Lancaster County, then candidates face a district-only primary, but then the entire population of the county votes in every commissioner race. This would be like if each of us was still nominated by our districts in the primary, but the entire state voted on each and every one of our seats. I'm bringing LB268 because I don't believe this is the best way to elect our officials. I don't think it's best for the candidates, and I don't think it's best for the constituents that they serve. LB268 would remove the middle bracket so

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that every county elects their county commissioners in a district-only election. This bill makes sense from both a practical and philosophical perspective. If you take a look at the chart I handed out, you will see that both Lancaster County and, more immediately, Sarpy County will soon have to change how they elect their commissioners, because their populations are growing. I estimate that within 12 years, Lancaster County will have a population of over 300,000 people and will have to change their election process anyway. But Sarpy County is already facing that 150,000 milestone and will have to change their process within a matter of a couple years. I have the support of the Sarpy County Board of Commissioners so they can maintain their current system when electing their county commissioners. Beyond these growth issues, I believe electing officials directly by the constituents of the district that they represent is the most fair election process, both for the candidates and the constituents. In Lancaster County, candidates have to go from campaigning in their own district to campaigning countywide, which is a drain on their time and resources. If they only have to reach out to voters in their district, then they can communicate more effectively and more directly with them. It also holds those who are elected more accountable to their own district. I'm not even sure why Lancaster County has districts at all under this particular system. My staff found three cases since 1990 where it appears that the district elected one candidate in the general election, but once the entire county's votes were in, a different candidate won that seat for the district. That doesn't sit well with me. If you want diverse representation in any elected office, then each district should have the individual that they choose holding their seat. I ask for your support of LB268, and there is a committee amendment that my office did draft and does support. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator McGill. Senator Aguilar, please open on the committee amendment. [LB268]

SENATOR AGUILAR: Thank you, Mr. President, members. The committee amendment ensures the provisions of LB268 do not go into effect until the 2010 election. Without the amendment, the requirements of the bill would go into effect in the middle of the 2008 election process. Some candidates have already filed for the office of county board, and the committee decided the better solution was to allow the 2008 election to proceed without these changes. In the 2010 election, the provisions of LB268 will apply. The committee advanced the bill with the amendment on an 8-0 vote. I urge you to support the committee amendment and the underlying legislation. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Aguilar. Discussion on the committee amendments? Senator Schimek, you are recognized. [LB268]

SENATOR SCHIMEK: Thank you, Mr. President, members. I will speak on the committee amendment and take my opportunity to also support the bill, because what I

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have to say isn't lengthy. First of all, I support the committee amendment; it makes eminent good sense. And I support the bill, and I believe that at one time when Lancaster County had a lower population base, this may have worked very well. But the practical matter of it is that now that we're up to about 250,000 residents, it's very daunting and very expensive for a candidate running for county board to run in the district for the primary and then to run at large in the general election. So I thank Senator McGill for bringing this bill, and I would encourage your support. [LB268]

SENATOR PEDERSEN: Thank you, Senator Schimek. Is there any further discussion? Senator Fulton, you are recognized. [LB268]

SENATOR FULTON: Thank you, Mr. President. Would Senator McGill yield to a question, please? Would Senator McGill yield to a question? [LB268]

SENATOR PEDERSEN: Yes. Senator McGill, would you respond, please? [LB268]

SENATOR MCGILL: Certainly, I would. [LB268]

SENATOR FULTON: Senator, in your opening you indicated you're not certain why this provision existed before. Is there any more elaboration? I guess I'm...whatever reason existed in order for us to have, at least in Lancaster County, this format, there would have had to have been a reason. Is there anything else you can add? [LB268]

SENATOR MCGILL: Yes. Senator Fulton, this is the system that everyone used to use. A hundred years ago it was placed into statute. Over the years there have been a lot of tweaks and changes to the law dealing with how county commissioners are elected. At some point it became everyone with a population under 150,000 changed to this district-only vote, and that was in the 1960s, I believe, and so I'm not exactly sure why that decision was made then. And then about 15, 20 years ago, Senator Chambers got the Douglas County changed into the district-only format. I'm not quite sure why he just didn't have it apply to everyone, but he felt that it was the better way to elect county commissioners, got it changed for populations above 300,000, and it left Lancaster County in this little bubble, and I think the more uniform process really does make more sense. [LB268]

SENATOR FULTON: What would you say was the rationale as to why this...so at one point all counties were elected... [LB268]

SENATOR MCGILL: Yeah. I think the general rationale is that, sure, you're being elected from a district, but you represent the entire county. I think that that was the rationale used to maintain that perspective. That argument could be made on our level that, you know, we're elected by our district but represent the entire state, but that doesn't make it the most logical way to elect someone at this point in time. [LB268]

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SENATOR FULTON: Okay. Was there any thought given to...in my district anyway, I have...it's mainly urban, but there in the southern part of my district anyway, there's some rural area that would..or area that would be considered rural. Is...can you give any explanation or rationale toward any urban versus rural concerns? Because it would seem to me that rural senators might look at this and say...well, I don't know if there are many rural senators, but... [LB268]

SENATOR MCGILL: Actually, the way that our lines are drawn are pie shaped, going inward towards the center of the county, which is Lincoln, or into the center of Lincoln, so every county commissioner district represents both a rural area and part of the city. So I think that that helps balance out and to make sure that, you know, everyone is being represented in that way, because everybody has part of the city and part of the rural area in their district. [LB268]

SENATOR FULTON: Okay. [LB268]

SENATOR MCGILL: Does that answer your question, or... [LB268]

SENATOR FULTON: Well, I'm still...whatever rationale existed to have these county elections in a particular way, in the original way,... [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR FULTON: ...I'm trying to grasp what the rationale was there, and maybe it's an urban/rural, but your response tells me that the urban/rural component would be answered because of the way we draw up our districts. [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR FULTON: So I'm still looking for the (laugh) why do we have it this way. [LB268]

SENATOR MCGILL: And that was my question when I realized that every other county does it differently. Why are we using this particular way? I think it's more fair just to have our commissioners represent the district that they're from. [LB268]

SENATOR FULTON: Okay. Thank you, Senator. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator McGill. Thank you, Senator Fulton. Senator Hudkins, you're recognized. [LB268]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I will be

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supporting this amendment, but I will not be supporting the bill, and I would like to explain that right now. This is not the first time that this issue has come before us. The records that I have show one of the times, at least, was in 1991--same issue, just a different senator introducing it, of course. And although it doesn't happen very often, there was another senator from Lancaster County who went to the public hearing when this bill was being introduced by another Lincoln senator, and spoke in opposition to it. And if you would allow me, I would like to refer to Senator Jerry Warner's remarks on that date. I'm going to not read it all, but he says: I do believe that the system we have here has worked well for Lancaster County. It has ensured distribution to different portions of the county and yet has retained that overall responsibility. My principal opposition lies in the fact that the existing statutes, if in fact there was a great demand, there are at least two processes which are available without the Legislature imposing either of the options, and that is, the county board could put the issue on the ballot if they chose, or the people could do a petition. So we already have two methods of changing this. Either the county board could put it on the ballot for the citizens, or the citizens themselves could bring it up. It seems to me that there is no need for the Legislature to step in and impose a system on the citizens or the local elected officials themselves. They have that opportunity to place the question on the ballot, if they choose to do so. And finally, I would say that I certainly am aware of many instances over the years in which decisions were made or, rather, issues were before the county board, in which the ability to appeal to all five members because they were by virtue of a larger election at the general election, you were a constituent of all of them, no matter where you lived in the county. That has its advantages. It's one that I would hate to see lost. Very frequently, or at least not perhaps frequently--you have to appreciate Senator Warner's language; he's covering all his bases here--very frequently, or at least not perhaps frequently but certainly on occasion, the position of a particular commissioner on issue from a particular district, your own district, may not be consistent with what some people at least felt. And you had that opportunity to know you could go to the others and be listened to. I hate to see that opportunity lost. For those reasons, the system works as it is. The opportunity is already there for a change, if the citizens wish to do so, and I see no reason or logic or justification for the Legislature to impose a different system when the citizens themselves could do so, if they wished. Senator McGill said that this legislation makes us more accountable to our own district. I don't necessarily see that as a positive. The commissioners are nominated and elected in the primary by district. And as she said,... [LB268]

SENATOR PEDERSEN: One minute. [LB268]

SENATOR HUDKINS: ...she said there are five districts. They all "pie shape" into Lincoln. But when that issue...when the election goes on to the general election in November, those commissioners, yes, they do have to campaign countywide. But then they are accountable to the entire county, and as far as liking our elections to be statewide, it's not the same thing at all. So I would leave this alone until the population

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of Lancaster changes, and then we would have no choice. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Hudkins. We are discussing the Government, Military and Affairs Committee amendments to LB268. Senator Louden, you are recognized. [LB268]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I was wondering if Senator McGill would yield for a question, please. [LB268]

SENATOR PEDERSEN: Senator McGill. [LB268]

SENATOR MCGILL: Yes, I would. [LB268]

SENATOR LOUDEN: When I look at this, does Lancaster County now have five commissioners? [LB268]

SENATOR MCGILL: Yes, they do. [LB268]

SENATOR LOUDEN: And they're actually...the voting is at-large for those commissioners, but do they have to be residents of the district that they're representing? [LB268]

SENATOR MCGILL: They do. In the primary, that's where they're elected from, is within their own district. They face opposition in their district. The district votes on them in the primary. [LB268]

SENATOR LOUDEN: Okay, and they represent that district that they were voted into? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR LOUDEN: But then they are elected at large. Well, then how does redistricting affect this, because some of our counties out west, every so many years we have to equalize the number of voters in your districts. Now the way it's set up now in Lancaster County, do those districts have to be equalized for population? [LB268]

SENATOR MCGILL: They all represent about 56,000 people right now. [LB268]

SENATOR LOUDEN: Okay. Then theoretically, when you got ready to draw the lines, you could probably draw the lines so that all the commissioners could be out of the city of Lincoln. Is that correct? [LB268]

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SENATOR MCGILL: Theoretically, they could redraw the map. Well, not so everybody was outside of the lines. [LB268]

SENATOR LOUDEN: Well, if... [LB268]

SENATOR MCGILL: Lincoln has to have representation in one of those. [LB268]

SENATOR LOUDEN: If you have to redraw the lines to get your equalized population, you could kind of make it come out like a pie out of the city of Lincoln and Lancaster County and... [LB268]

SENATOR LOUDEN: That's what it is right now, Senator. [LB268]

SENATOR LOUDEN: Pardon? [LB268]

SENATOR MCGILL: It comes out like a pie right now from the city of Lincoln. [LB268]

SENATOR LOUDEN: Okay. And...well then, what will you gain by this, then, doing it, by having your bill in here, what do you gain if it will...already can happen that way? [LB268]

SENATOR MCGILL: I guess I'm misunderstanding your question, because under the current law, the entire population of the county votes on each of those seats in the general election, and that right now wouldn't change. [LB268]

SENATOR LOUDEN: Okay. Then all you're changing is the fact that they'll vote in their...that each district will vote their own commissioner in. [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR LOUDEN: And in the general election, will it still be the same way, each commissioner will run for that particular district? [LB268]

SENATOR MCGILL: Yeah, they would just stay running in their own district, just like we do, Senator Louden. [LB268]

SENATOR LOUDEN: Um-hum. [LB268]

SENATOR MCGILL: And we just...we run in the primary in our district, and we run in the general in our district, and the rest of the state doesn't have a vote in whether you or I win. [LB268]

SENATOR LOUDEN: Is Lancaster County the only one that does it this way? [LB268]

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SENATOR MCGILL: Yes. [LB268]

SENATOR LOUDEN: How does Douglas County do theirs? [LB268]

SENATOR MCGILL: They do theirs the same way everyone else does, just by within the district. It's for populations above 300,000 do it that way. [LB268]

SENATOR LOUDEN: Okay. Thank you, Senator McGill. [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR LOUDEN: Okay, I'll listen to the debate as we go on about that, but I'm always somewhat concerned about when you start changing districts and messing with somebody else's election in a different part of the state, so thank you. [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR PEDERSEN: Thank you, Senator Louden. Senator Synowiecki, you are recognized. [LB268]

SENATOR SYNOWIECKI: Thank you, Senator Pedersen. Senator Aguilar, would you yield? [LB268]

SENATOR PEDERSEN: Senator Aguilar. [LB268]

SENATOR AGUILAR: Yes, I will. [LB268]

SENATOR SYNOWIECKI: First of all, I support the underlying bill. I think it's good public policy. I think it represents the best interest of election fairness and equity. My question is relative to the committee amendment, in that...help me to understand why we can't move ahead with this, for this election cycle. As I understand it, currently in the primary there's district elections, and in the general election there are elections, an at-large election. Is that correct? [LB268]

SENATOR AGUILAR: That's the way it is right now; you're correct. [LB268]

SENATOR SYNOWIECKI: So if we would proceed with this...if we do not adopt the committee amendment, for this next upcoming election cycle, essentially nothing would change for the primary. [LB268]

SENATOR AGUILAR: Well, the reason for the committee amendment is simply because some people have already filed for this, and we don't really want to change

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horses in midstream, once they've already filed. [LB268]

SENATOR SYNOWIECKI: But we're really not changing in midstream. The primary election is done by districts. Is that correct? [LB268]

SENATOR AGUILAR: Yes. [LB268]

SENATOR SYNOWIECKI: And the consequence of the bill would just be that in the general election, which is not until November, we would have district elections rather than general elections. So those that filed would not necessarily...I'm not seeing where there would be any negative implications to those that have filed already. I'm not seeing the need for the committee amendment myself. [LB268]

SENATOR AGUILAR: The committee felt very strongly that it would be almost an imposition on people that have filed to have to run on a state... [LB268]

SENATOR SYNOWIECKI: Can you articulate why would be the imposition? Because the primary election would go as it has in the past. [LB268]

SENATOR AGUILAR: Yes, and in the general it would go on countywide. [LB268]

SENATOR SYNOWIECKI: Well, no, not with the bill. It would go...that's the way it's done now. The bill would change that to district general election, correct? The general election would be done by districts then. [LB268]

SENATOR AGUILAR: Right. [LB268]

SENATOR SYNOWIECKI: And so those that filed... [LB268]

SENATOR AGUILAR: If the bill...are you saying if the bill passes without the committee amendment? [LB268]

SENATOR SYNOWIECKI: Yes. [LB268]

SENATOR AGUILAR: You're right. [LB268]

SENATOR SYNOWIECKI: So I support the underlying bill. I don't know...I'm not seeing the imposition that might occur relative to those that have filed already. Senator McGill, in her opening, indicated that Senator Chambers was instrumental in instituting district elections in the Omaha area, and I just don't see the need for the committee amendment myself, unless I could be convinced otherwise. Thank you. [LB268]

SENATOR PEDERSEN: Thank you, Senator Synowiecki. Senator Stuthman, you are

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recognized. [LB268]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'm in support of this bill, Senator McGill's bill, and the thing that...and the reason that I'm in support of it is because the district elections, the district candidates, they are...in the primary they're voted on by the district people, and the two top vote-getters go on to the general election. I really never realized that the total population of that area, of that county, would vote on the district nominations. I really think that a top vote-getter in the primary election could be the top vote-getter by 50 percent, but he could get beat out in the general election. And I think the wishes of that district should get the respect of the candidates. The only difference that I see would be when this takes place. And listening to Senator Synowiecki, I see no problem with it taking place as soon as the bill was passed. And the reason for that is, the only difference would be the people in that district, on the general election ballot, would only have those two people that they sent from the primary election, to the general election, in those districts. It wouldn't be District 1 through 5 and everyone voted on them. I think it should be the district, because that is the district those people represent. It's not going to change the candidates, because those two candidates have survived the primary election. Those two candidates are going to be...one or the other is going to be elected on the general election. And I don't know why we shouldn't listen to the people of that district of who they support, because I think there's...the real problem that I see is trying to campaign from the primary to the general, would be a tremendous task to get done. I really think that we should support this bill mainly because it's the wishes of the district, if you're going to have districts, and that's the way it is set up right now. And I think that should be the wishes in the general election and not have the whole body, the whole county voting on the individual districts. Thank you. [LB268]

SENATOR PEDERSEN: Thank you, Senator. Senator McGill. [LB268]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I just wanted to address a few of the things that Senator Hudkins brought up during her time to speak. The first thing that she said was that there are currently two different processes to change how counties elect county commissioners if the population chooses to do so. And there are some ways to do that in the statute, but it's unclear as to whether those actually apply to Lancaster County. They make it clear how a county can go from being district-only in their election process to entirely at large, which some of the smaller counties have chosen to do. They've chosen to go ahead and just totally at large in the primary and in the general election. But since we have a mixed system, the law is not entirely clear as to whether the population of the county could just vote to change that, or the board of commissioners would choose to change that on their own. She said, secondly, that there was no need for this. As you can see by the chart, there is...the populations of Lancaster and Sarpy County are growing. Sarpy County does not want to bump up into our bracket, and that is a very timely matter, as they are about to reach

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that 150,000 threshold. And eventually, we're going to have to change, too, in Lancaster County. And so I wouldn't say that there's absolutely no need for that. Third, she said that constituents have an opportunity to go to every official, since everyone represents them, and I get constituents in my office all the time that are from other parts of the state, and I listen to them and I listen to their e-mails and even respond to some of them, even though they're not my own constituents. I don't think that that's a really valid argument, that just because a voter comes in that can't vote in their district or isn't directly their constituent, that they're going to blow them off and not listen to them. She said there was no reason, logic or justification. I think that by the things I've just said, you know, that proves there are reasons for this legislation. And she said that not being accountable to a district is not necessarily a bad thing, and I think it is a bad thing to not be held accountable to your district, and I'm not going to explain that any further, because I think that that's just a basic debate, I guess, philosophically, about how officials should be elected and who they're accountable to. If you have any further questions, I'd be happy to take them, but for now, thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator McGill. Senator Erdman. [LB268]

SENATOR ERDMAN: Thank you, Mr. President. Would Senator McGill yield to some questions, please? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR ERDMAN: Senator McGill, as I understand the process and as you've tried to explain it, both in your opening and in your most recent comments, Omaha, we elect individuals to the county board based on districts, both in the primary and the general. [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR ERDMAN: And it's your understanding that we do that elsewhere in counties that aren't Lancaster County. [LB268]

SENATOR MCGILL: All the smaller ones. Some of them have chosen to be at large entirely, and not have this mixed system, since some counties are very sparsely populated in some areas. [LB268]

SENATOR ERDMAN: And they have that ability, as Senator Hudkins was pointing out. Lancaster County Board could put on the ballot...is that your understanding, as well? [LB268]

SENATOR MCGILL: That's where the law isn't entirely clear. It's very clear to go from a district-only to an at large entirely, but it's not completely clear, since we have a mixed

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system, that they can do that. [LB268]

SENATOR ERDMAN: And again, what are your projections as far as when Lancaster County will exceed 300,000? [LB268]

SENATOR MCGILL: Based on how Lancaster County grew between the numbers I found in 2000 and 2006, I would say it's about 12 years, but Sarpy County will bump into our bracket within the next...they could be at 150,000 now, actually. But within the next two years, they will, for sure. [LB268]

SENATOR ERDMAN: Next two years or...Sarpy County will within the next two years. [LB268]

SENATOR MCGILL: They're already...in 2006 they were at 142,000 people, and the way they're growing they'll have reached that. [LB268]

SENATOR ERDMAN: Okay. And the last question that I would have, I guess, is that if...and I understand how we've gotten here, but if Lancaster County, if you're growing at about 16,000 people, according to your estimates,... [LB268]

SENATOR MCGILL: Uh-huh. [LB268]

SENATOR ERDMAN: ...about every six years, you're probably looking at quite a bit of time that you've been operating under this system. It's not the first time. If we're close to that 300,000 population, why is there any need at this point to change it, aside from the issue with Sarpy County? And Sarpy County, again, has that option, as I understand it, but maybe that's where it's unclear. [LB268]

SENATOR MCGILL: Oh, once they...yeah, it's unclear in the law, and once they bump up into that bracket, they will have to change it or they may try to introduce a bill next year for this very purpose, to keep them from having to change. [LB268]

SENATOR ERDMAN: Would it be problematic or...obviously, it's clear that there are two counties that are affected now. Would it be acceptable to say that counties that exceed 150,000 may continue with their election format and simply allow the process to run its course in Lancaster County? [LB268]

SENATOR MCGILL: That solves maybe part of the problem, but I think it's just not the right way to elect officials. I think they should be held...elected just from their district and held accountable to their own district. [LB268]

SENATOR ERDMAN: So then we should... [LB268]

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SENATOR MCGILL: So that's a philosophical difference. [LB268]

SENATOR ERDMAN: But we still have to, then, go back...for example, in counties that I represent they're at large. [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR ERDMAN: So under that scheme, you believe they should be elected at district. [LB268]

SENATOR MCGILL: This doesn't... [LB268]

SENATOR ERDMAN: You don't support that scheme, either. [LB268]

SENATOR MCGILL: Since they're so small and the reason that you're allowed to do them at large down there is that there are more difficulties finding people who are qualified in certain regions of those counties to be county commissioner. And so when the population is so small, I think it is okay to give them the option to be at large. [LB268]

SENATOR ERDMAN: Okay. So your opinion is, is that we should change this now, even though it's been this way for decades in Lancaster County, because of Sarpy County? Or is there some real reason in Lancaster County why to change this now? [LB268]

SENATOR MCGILL: Because Sarpy County and because I just think it's the better way to elect our officials, Senator Erdman. [LB268]

SENATOR ERDMAN: Is there a specific reason why we would change this for Lancaster County and not allow that to run its course? Going back to what I said earlier, if we let Sarpy County continue the operation that they're under,... [LB268]

SENATOR MCGILL: This is a... [LB268]

SENATOR ERDMAN: ...if we give them that option, I'm saying they could continue to do it as they're doing it now. I'm just wondering if there isn't a reason specifically in Lancaster County to do this, and I don't know. My district...my county is at large,... [LB268]

SENATOR MCGILL: Uh-huh. [LB268]

SENATOR ERDMAN: ...so it matters not to me. I'm just interested in the conversation. [LB268]

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SENATOR MCGILL: When we first came up with this idea, it was after voting in 2006 and seeing, oh, we're voting on more than one seat, other than our own district. Why do we do this? And after doing research, we realized that everyone else does it this other way, where you actually are held...elected from your own district. And in my mind, I would think that the candidates would like that, you know, because then they don't have to campaign...Lancaster County has a huge population, and to just have to campaign in your own district and worry about your own constituents seems to make sense. And then the constituents know that you're really representing them, too. And so when I learned that every other county--basically every other county--does it districtwide, except for some of the small ones, it just seemed like the right way to be electing officials. [LB268]

SENATOR ERDMAN: So there's no, in your opinion, there's nothing driving this policy change in Lancaster County other than the fact that you think it should be done differently than the way it's being done. There's no proof that the people who are being elected aren't representing their district; there's no proof that... [LB268]

SENATOR MCGILL: Well,... [LB268]

SENATOR ERDMAN: ...people are being disenfranchised. It's just that you want consistency. [LB268]

SENATOR MCGILL: When you see that, since 1990, three people have won their own district, but then didn't win when the general ballots were counted, I think that is a problem, because the district's voice wasn't heard in those three cases. [LB268]

SENATOR ERDMAN: But didn't that district have a voice in the other four commissioners, as well, in who got elected? [LB268]

SENATOR MCGILL: They did, but then there's...those commissioners aren't necessarily going to pay attention to what their own district wants, if they can rely on the rest of the vote of the county. [LB268]

SENATOR ERDMAN: So again, do you have proof that that's happening, or is it, again, just simply a technical change for conformity? [LB268]

SENATOR MCGILL: Well, we have those three cases where someone else would have won. [LB268]

SENATOR ERDMAN: Are they not representing their...I mean, that's what I'm wondering. Is it broken? [LB268]

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SENATOR MCGILL: Oh, no. There's...oh, there's not one particular commissioner or...you know, this isn't at all saying that the county commissioners aren't currently doing their jobs. I don't intend that at all. [LB268]

SENATOR ERDMAN: And I think that comment helps to clarify the earlier discussion. [LB268]

SENATOR MCGILL: Uh-huh. [LB268]

SENATOR ERDMAN: But I was...I'm interested, appreciate the dialogue. Thank you, Mr. President. [LB268]

SENATOR MCGILL: Um-hum. Thank you. [LB268]

SENATOR PEDERSEN: Thank you, Senators. Senator Nelson, you are next. [LB268]

SENATOR NELSON: Thank you, Mr. President. I'd like to get back to the committee amendment and address a question to Senator Aguilar, if he will yield. [LB268]

SENATOR PEDERSEN: Senator Aguilar, would you respond? [LB268]

SENATOR AGUILAR: I will. [LB268]

SENATOR NELSON: Senator, in the course of things with this bill, if we don't pass your amendment, when would the bill become effective, without the emergency clause? [LB268]

SENATOR AGUILAR: It would be in effect for the 2008 election. [LB268]

SENATOR NELSON: Would that be around September 1, then, when it would become effective? [LB268]

SENATOR AGUILAR: Yes. [LB268]

SENATOR NELSON: You mentioned putting this off till 2010 because of fairness. Is it possible that someone might have decided to run within a district, knowing that they probably could make it through the primary against another opponent or an incumbent, but would lose in the general election if they did not have the benefit of a countywide or citywide vote? [LB268]

SENATOR AGUILAR: I think anything is possible and, you know, I plan on addressing that a little bit in my closing, where some people may have made the decision or whether or not to run based on the way the law is currently. So we as a committee

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believed that to change that midstream just wouldn't make any sense at all. [LB268]

SENATOR NELSON: All right. Thank you. Would Senator McGill yield to a question, please? [LB268]

SENATOR PEDERSEN: Senator McGill, would you respond? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR NELSON: Senator, thank you. We don't have a diagram of the way the districts are constituted, but when you talk about pie shaped, is the very tip of each piece of pie, so to speak, right in the center of Lincoln and... [LB268]

SENATOR MCGILL: Yeah, basically, and we do have that chart if you want me to bring it over and show you what they look like. [LB268]

SENATOR NELSON: I'm sorry? [LB268]

SENATOR MCGILL: I can show you what they look like. We do have a flier that shows that. [LB268]

SENATOR NELSON: All right. I'm, of course, from Omaha, which is much larger, but sometimes we have a concentration of minorities in certain areas or districts of town. Now how does that figure in here, in Lincoln? Is it a possibility that one of those pie shapes would represent a distinctly minority population? [LB268]

SENATOR MCGILL: Not distinctly, perhaps, since there is a rural/urban element to each pie shape that kind of helps mute that a little bit. But there are some districts that are, you know, maybe they're less affluent than others. And so there are some differences that I think would...that deserve to have individual representation on the board, and that's, you know, watered down as it is now. [LB268]

SENATOR NELSON: Is that a factor in bringing this bill? [LB268]

SENATOR MCGILL: I think it always is. You want to make sure that everybody has that voice, and if one part of town or one district, you know, has a different opinion than the rest, then they should still have that representation on the board. [LB268]

SENATOR NELSON: Um-hum. All right, thank you very much, Senator McGill. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Nelson. Senator Preister, you are recognized. [LB268]

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SENATOR PREISTER: Thank you, Honorable President, friends all. I think I understand what the committee amendment...and why the committee decided to do it this way. I also think I disagree with them. As I understood what Senator Aguilar was saying in his dialogue with Senator Synowiecki, the committee is not wanting to interject in the middle of a campaign and make changes that would affect it. I can respect and appreciate that. However, in this case, the way that they would do it would affect it, perhaps, but affect it in a negative way. I think the bill, if we're going to pass it, has a better approach. The bill itself would continue what happens in the primary and the change, if we pass this, wouldn't go into effect until after the primary was over. In the primary, the people in Lancaster County run based on the district. So if I were going to run in that district, knowing that I have a good chance of being elected in the district, it would make sense to run. But knowing that in the general election I'm not going to be voted on just by the people in my district, that my campaign is then going to have to be countywide. I'm going to have to run in the entire county. So I may choose not to even run, knowing that I wouldn't have as good a chance or I wouldn't have time to campaign. So the committee amendment would restrict access, as is currently being done. If we're going to change, I think the better course of action is to approve the bill itself but not to approve the committee amendment. Make Lancaster County the same as all of the rest of the counties. It's unusual that Lancaster has a bifurcated kind of system anyway. You vote for a candidate for the county board based on a district in the primary. That narrows it down. But then that same candidate is voted on by everybody in the entire county, as I understand it. So the committee amendment itself would cause some people, I think, to not even run at all. And if this is moving along, candidates are watching this. They can make that decision still, by the middle of this month or by the end of this month. So we've got plenty of time for somebody that's either an incumbent, and even more time for somebody that's not running, to make that decision. I think the committee amendment will affect it, as the committee members thought, but I think it would affect it in a negative way. It will reduce the number of candidates to run. I think the better course of action is to not vote for the committee amendment, and I think probably the committee members were well-meaning in supporting that concern, but I think, perhaps, not seeing the bigger picture, that it will have an impact, but a negative impact. In Douglas County, I think the elections on the commissioners by district has worked well, just as it has worked well with the city council. I think we in the inner city, particularly, have had more opportunity for more direct representation, more direct accountability by our elected representatives. They know who they're accountable to, and we know who they are. It's much easier to have dialogue; they have an easier time getting to their constituents. The process that we have in place,... [LB268]

SENATOR PEDERSEN: One minute. [LB268]

SENATOR PREISTER: ...that Senator Chambers was the champion of, has served us very well. I think it would serve Lancaster just as well, and that's why I'm going to vote

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against the committee amendment, and I'm going to vote for LB268 as it was introduced. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Preister. Senator Hudkins, you are recognized. [LB268]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I want to address a statement that Senator McGill made, and if I said what she said I said, I misspoke. But if I didn't say what she said I said, she's twisting my words. Yes, we have our county commissioners nominated by district, and then they are elected countywide. They are responsible to everyone in the county, their district as well as the county. Lancaster County is a large county. It's 868 square miles. It's 24 miles by 36 miles. Lincoln is situated in nearly the middle of the county, and about 89 percent of the county residents live within the metropolitan area of the city. I agree that the county board candidates should be representative of the geographic and population distribution of the county. That's something else that Senator McGill said. Someone asked her if all of these commissioners could be residents of the rural area. Well, yeah, they could. But she said that wouldn't be good, because then Lincoln would have no representation--same thing, only backwards. We have people that live in town that are representing rural areas, commissioners in town. We have commissioners in the country that represent urban areas. So theoretically at least, all of the commissioners could live in the more rural parts of the county, and the urban residents would be represented just fine. We think that this has always been accomplished in Lancaster County by the present method of electing commissioners by district in a primary. Lancaster County does not provide community infrastructure activities such as water, sewer service, fire protection, schools, and other kinds of things that create concerns about the placement and level of those services within a political, geographic voting district. However, Lancaster County is required to provide mandated services equally and impartially to all of the qualified residents of the county, regardless of where they live within the county. Examples of such services are aid to dependent citizens, the indigent, the aged, the mentally retarded, the mentally ill, law enforcement, courts, legal services, roads, bridges, general government, administration, and others. So if we have a rural county board member who is nominated and elected by his district and there's something going on in the eastern part of the county, well, he doesn't have to worry about it; that isn't in his district. And that's not the way it works now. Our commissioners represent the entire county. Since county board members are unique, in that they serve both the executive and the legislative officials of the governing body, and since the services provided by Lancaster County government are more suitable for selection of county commissioners district...or, yeah, at large in the general election, I would request that you not support this bill. Just like you, I have to tell you that we do have the five geographical regions within the county that make up the five districts. We have the best of both worlds, because the commissioners are selected from geographic areas, but all of them live in different areas of the county. [LB268]

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SENATOR PEDERSEN: One minute. [LB268]

SENATOR HUDKINS: But since they're both policy making and administrative, they have to serve all of the county, and I think to stand up to the accountability of the general election at large is a good idea. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Hudkins. Senator Synowiecki, you are recognized. [LB268]

SENATOR SYNOWIECKI: Thank you, Senator Pedersen. I want to ask Senator McGill a question or two. [LB268]

SENATOR PEDERSEN: Senator McGill, would you respond? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR SYNOWIECKI: But first, I wanted to affirm Senator Preister's comments relative to what district elections have done for individuals living in the metropolitan class city, and in Douglas County in particular, particularly as it relates to the underserved populations in those areas. [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR SYNOWIECKI: It's been very affirming and positive. Senator McGill, I guess I'm just trying to understand how the current system works in Lancaster County. Right now you have candidates for the county board that are, in the primary system, under a district system. [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR SYNOWIECKI: Now help me to understand this. You could conceivably, then, have both the winner and the person that runs second in a district... [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR SYNOWIECKI: ...not make it through the general. [LB268]

SENATOR MCGILL: Well, you have the two nominees from within that district raise up to the general,... [LB268]

SENATOR SYNOWIECKI: Okay. [LB268]

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SENATOR MCGILL: ...and so you will get someone from that district to serve that seat. It just changes who's voting on the seat. [LB268]

SENATOR SYNOWIECKI: So there's five districts? [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR SYNOWIECKI: So there's five county board members in Lancaster County? [LB268]

SENATOR MCGILL: Yes, yes. [LB268]

SENATOR SYNOWIECKI: So you have two that...you have two from each district that make it to the general? [LB268]

SENATOR MCGILL: Um-hum, yeah. So on the ballot you just see the different ones that are up. [LB268]

SENATOR SYNOWIECKI: So it's conceivable then that one district, that neither the winner or runner-up of a primary would make it... [LB268]

SENATOR MCGILL: No, one of the two of them would win, I mean, because you're voting...it doesn't become a totally at-large situation. You're still voting on District 1, District 2, District 3, and the top two, whoever the winner is in each of those races. [LB268]

SENATOR SYNOWIECKI: Okay. Okay. [LB268]

SENATOR MCGILL: So you're still going to get someone who lives within that geographic boundary, but it could just be the one that the district doesn't support that wins. [LB268]

SENATOR SYNOWIECKI: So the individual that finished second in the primary could win the district seat. [LB268]

SENATOR MCGILL: Um-hum, um-hum. Yes. [LB268]

SENATOR SYNOWIECKI: And perhaps the reason why they win the district seat is because they went to countywide balloting in the general. [LB268]

SENATOR MCGILL: Yeah, exactly. And we found three cases where that happened, where the person who came in second...even in the general election, if you just count the votes of that district, they ended up winning because the countywide votes swung it

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towards the other person. [LB268]

SENATOR SYNOWIECKI: Okay, and then your bill would make this more uniform and consistent. It would...in other words, the primary election, which is coming up here in May,... [LB268]

SENATOR MCGILL: The 13th, yeah. [LB268]

SENATOR SYNOWIECKI: ...would...the primary election would then be mimicked by the general election, in that it would be purely... [LB268]

SENATOR MCGILL: Um-hum, just like when we're elected, yeah. [LB268]

SENATOR SYNOWIECKI: Yeah. Okay, thank you. Senator McGill, are you supportive of the committee amendment? I mean, this sounds like something that probably should be done. I wonder why we wait until 2010 to do it. [LB268]

SENATOR MCGILL: Well, you're right, we could. But I guess I did support it as a courtesy to those people who have already decided to run and to other members. [LB268]

SENATOR SYNOWIECKI: But as a courtesy to those who are already filed, like Senator Preister said--and I think I agree--this might open the process to more candidates. [LB268]

SENATOR MCGILL: And that's why... [LB268]

SENATOR SYNOWIECKI: I mean, if you know that if you file for the county board, and you know you don't have to avail yourself to a countywide election, you might be inviting more candidates. [LB268]

SENATOR MCGILL: That's why I want this in the first place is because right now not many people run for county commissioner even, because of the system that we have. And so you're right, and I do think theoretically we could pull it off this year. But as I said, it was a courtesy that I was on...came on board with the amendment. [LB268]

SENATOR SYNOWIECKI: Okay. Well, thank you, Senator McGill, appreciate it. [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR SYNOWIECKI: Thank you, Senator Pedersen. [LB268]

SENATOR PEDERSEN: Thank you, Senator Synowiecki. Senator Chambers, you are

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recognized to speak. [LB268]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I went through many wars trying to get district elections in Omaha and was successful, for the school board, the city council, the county board. That has not happened anywhere in the country. No politician has achieved that, ever. And every kind of argument was made in opposition. Now I don't think the fact that Senator Hudkins has a spouse on the Lancaster County Board may be the total explanation for her concerns, but these are matters, when we're in a political context, that need to be explored. I do not believe, as a courtesy to somebody, in failing to discuss a very consequential element that may tip people's opinion. Senator Warner, may he rest in peace wherever he is--and I don't know where people go when they live here, if they go anywhere--he's been dead a long time. Are you going to let a dead man tell us what we ought to do, when he doesn't even know what's going on? When you have an appreciation of and for history, you will have read what some of the so-called Founding Fathers discussed when they were trying to fabricate a government. One of the Adamses said that a governing body should be a portraiture in miniature of the constituency to be governed. District elections is the way to do that. Electing by district is the norm, it is the rule in Nebraska. Where it does not obtain, there have been powerful special interest groups who wanted to deprive others from having representation. Before district elections for the city council in Omaha, you could take one of those relatively large maps of the city that you could get and place a quarter, and all of the members of the city council would have resided in the area covered by that quarter, because they ran as a unit. The same thing happened with the school board. So I battled year after year, I overcame gubernatorial vetoes, and finally the job was done. And I doubt that anybody in Omaha would want to see district elections abolished for the city council and the school board. I doubt that many people in the county would want to do away with district elections in the county. And let's make this realistic, and let me give you a concrete example. You're going to have five districts, and two people from that district will go to the general. Now suppose I'm the person that the people in my district want, and all these white people who voted for term limits to get me out of the Legislature can vote for who is going to represent our district on the county board. They'd vote for the loser. They'd say, we don't want that Chambers here. Well, the people in his district want him. We don't care what the people in his district wanted. This is a white folks', elitist, so-called democracy. We make the decision. They put up shams, they put up hoaxes, so that there can be the appearance of democracy, when in fact there is not. This is something I have experienced. The rest of you all will speak academically, you will speak theoretically, or you will have a political agenda, or a spouse or a relative or some special interest group may have an agenda. District elections ought to be... [LB268]

SENATOR PEDERSEN: One minute. [LB268]

SENATOR CHAMBERS: ...district elections. Throughout the state you have district

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elections in some of the tiniest political subdivisions. Everybody may know everybody, but you have district elections, where you're maybe electing people to represent a small neighborhood. So when we have an argument made that a county as large as Lancaster should not have a pure district system, something other is afoot than doing that which is going to provide the kind of representation that ought to be in a democracy. When you come to the federal government, you have to live in a Congressional district to run for that district. At the Senate level, each state comprises a district--a district. District election is what we need to have, and Lancaster County is entitled to it, and I will support them. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Chambers. Senator Fulton, you are recognized. [LB268]

SENATOR FULTON: Thank you, Mr. President. It will be instructive, I think, to people to know that, in Lincoln, we have a city council that is both. There are components of both elements, and I'll break this out into the two elements we're talking about here--a district element as well as an at-large element. Within the city council in Lincoln, we have...I think it's four city councilpersons that are elected via their district, so there is the district element. Then we also have three city councilpersons that are elected via an at-large vote, so there is an at-large component. What we have presently in the county commissioner structure in Lancaster County, as I understand it now this morning, there are two elements--a district element and an at-large element. The way that those elements play out, there's the district element in the primary, followed by an at-large element, which is effectuated through the general election. So by moving this bill forward, we would be eliminating the at-large element at the county level. So I guess that's where I have some question. In the city of Lincoln anyway, our political system is set up...or our city council system is set up so there are two components, the district and the at-large, and I'm sure there are policy reasons behind that, and I could probably delve into it. But we have that, those two elements that exist at the county level, also. So I guess...could I...would Senator McGill yield to question? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR PEDERSEN: Senator McGill, would you yield? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR FULTON: Did you...I know you were talking off the mike. [LB268]

SENATOR MCGILL: Yeah, I was. [LB268]

SENATOR FULTON: Did you follow where I was? I'll quickly repeat, then I'll give you a chance to respond. The city council, we have a district element as well as an at-large

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element, okay? [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR FULTON: At the county level, we also have a district element, as well as an at-large element. It's just that the district element plays out in the primary,... [LB268]

SENATOR MCGILL: They're very different things, in my mind. [LB268]

SENATOR FULTON: Well, but would you agree that we have elements that are extant in both situations? [LB268]

SENATOR MCGILL: Well, in the city council races, they're entirely at large. A person can live anywhere in the city. [LB268]

SENATOR FULTON: Well, but we also have...it's not entirely at large. We have three that are at large and four that are district. [LB268]

SENATOR MCGILL: Yes, oh yeah. That's what I'm saying. [LB268]

SENATOR FULTON: Okay. [LB268]

SENATOR MCGILL: Those ones that are at-large oriented are completely at large. [LB268]

SENATOR FULTON: Okay. So I guess my point here is that we have district and at-large elements in our city council. We also have district and at-large elements in our county...at the county level. It's just that they play out in the primary and the general elections. [LB268]

SENATOR MCGILL: And that's true, but I think they're very different things, because in the situation with the county...or with the city council, you're making sure that different parts of town are being represented by the district seats that there are. In the county commissioner situation, that isn't true. [LB268]

SENATOR FULTON: Well, why wouldn't we then change the county...I mean, this basically affects Lincoln. [LB268]

SENATOR MCGILL: Theoretically, we could change it to that way, but why do that when Sarpy County is going to have to change to us,... [LB268]

SENATOR FULTON: Yeah. [LB268]

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SENATOR MCGILL: ...if it's based on population like this? A uniform process just makes sense. [LB268]

SENATOR FULTON: Okay. That's fair. Thanks, Senator McGill. My concern then lies in eliminating the at-large element from the county process, and you know, if it turns out that that's going to be eliminated anyway, I suppose that one could argue in favor in that regard. But as it stands, I'd be against LB268 for that very reason--we're going to be eliminating the at-large element from our county board. We have that at-large element at the city board, so I guess what's good for the goose is good for the gander, if that's an appropriate euphemism here. So I'll yield the rest of my time to Senator McGill, if she'd like it. [LB268]

SENATOR PEDERSEN: Senator McGill, you've got a minute and 12 seconds. [LB268]

SENATOR MCGILL: Again, I would just say what...following your same philosophy, when you look at all the county commissioner races everywhere else in the state, they're all district-only, except for the really small ones that are completely at large. And why we have these brackets now is just because the law, over the years, had tweaked away at certain counties, when Senator Chambers just tweaked Douglas out. It just makes sense to have all county commissioner races being done the same way. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Fulton. Thank you, Senator McGill. Senator Stuthman, you are recognized. [LB268]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to engage in a little conversation with Senator McGill. [LB268]

SENATOR PEDERSEN: Senator McGill, would you respond? [LB268]

SENATOR MCGILL: Sounds good to me. [LB268]

SENATOR STUTHMAN: Senator McGill, you were a freshman senator last year,... [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR STUTHMAN: ...your first year. [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR STUTHMAN: And this was one of your group of bills that you introduced. Who initiated or where did the bill come from or what group? Did the commissioners do

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it, did the Nebraska Association of County Officials? [LB268]

SENATOR MCGILL: There was no group, actually. This was something--and I explained this a little earlier to Senator Erdman--where my staff and I were talking about the 2006 elections and thought, why is it we have this system? And when we did research, we saw that every other county did it differently, and we learned about these population boundaries. And so this was a homegrown bill, if you will. [LB268]

SENATOR STUTHMAN: So this one come right from the top of your head, is where it came. [LB268]

SENATOR MCGILL: No...yeah. It didn't come from anyone, it didn't come because we had a problem with anyone. We just thought that this was the right way to conduct elections. [LB268]

SENATOR STUTHMAN: But has there ever been a concern, prior to you initiating this bill, that there was a political aspect to it of the county board or anything like that? [LB268]

SENATOR MCGILL: I hadn't...I didn't know any of them, really, before I was elected. But now that I've brought this bill and explained it to people, you know, they think it makes sense, too. And I've learned that a lot of people have been discouraged from running, because of this particular system. It wasn't something I knew beforehand, but I've learned that. [LB268]

SENATOR STUTHMAN: Uh-huh. Okay, thank you, Senator McGill. I truly am supportive of the amendment. I think the amendment is good. I think if there's anything that, you know, that we're not seeing or if something is to take place, I think we need to get this amendment, you know, with the bill. I'm...that is what I'm going to support, because I think if there's something that is unknown at this present time, maybe we need a little bit more time to think about it, to see what the total outcome is going to be of it. So with that, thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Stuthman. Senator Aguilar, you are recognized. [LB268]

SENATOR AGUILAR: Thank you, Mr. President and members. If there's anything missing, you know, I can touch on that a little bit, because Senator Chambers kind of opened the door. When we as a committee were looking at this, we thought this bill made sense. We couldn't find anything wrong with it, but at the same time, there was a lot of political banter going on back and forth. Senator McGill indicated that she was going to prioritize the bill, which meant, you know, we needed to do whatever we could to get this to the floor, as a courtesy to her. Now as we see it, we put together the

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committee amendments additionally to help remove the political banter, and we thought we had accomplished that. We thought we had a good bill coming out that people would accept, and it's not going to impact anybody directly right away--in 2010. We believe it's necessary, and we support both our amendments and the underlying legislation. And I would like to yield the rest of my time to Senator Friend, if he would like to expand on what I just said. [LB268]

SENATOR PEDERSEN: Senator Friend, you have 4 minutes and 3 seconds. [LB268]

SENATOR FRIEND: Thank you, Mr. President, and thank you, Senator Aguilar. I just wanted to make...I appreciate the time. I just wanted to make a couple of comments and follow up with what Senator Aguilar...or reiterate what Senator Aguilar had pointed out about the thought process with the committee. You know, we...in an Executive Session we're talking about the idea that if a bill like this comes out on the floor, you end up naturally with--and we do that with a lot of bills, I think--you end up naturally with a situation that could set up a fire wall, even though we all know that it's a nonpartisan body. But we were concerned about setting up a fire wall between Democrat and Republican. Let's be...we talked about that in Executive Session. Now when political banter enters the fray, really specific where we get out here and we start saying, where do those roots come from, or what platform am I going to follow, what flag am I going to wave, the committee was seeking to put a little bit, if we could, if we could even do something like this, to put a little bit of, I guess, some space between some potentially onerous discussion, maybe even some unreasonable, you know, ideas; put some space between those type of things, and what we would end up doing as far as policy was concerned. Now it sounds like some of the discussion here is going...or drawing close to a conclusion, because we've heard some members discuss this, that there would possibly be or could be a difference recognized, based on the size of a county. I mean, we're drawing that line, the difference between the way they're dealt with. Senator Erdman stood up and talked about the smaller counties, and Senator McGill. They had a good dialogue relating to that. What we, I thought, were simply doing is to say...or what we're now simply doing, I think--I'm guessing--is to simply say that drawing those lines would make this whole thing clearer. Senator McGill has brought that up a couple times. What the committee said was that the line should be drawn clearer in 2010, because we could potentially draw a fire wall, that fire wall, between a Republican/Democrat debate and possibly a policy debate that we all want to deal with in one way or another. Now maybe that's a little utopian. I mean, once something comes out here, those type of things can come into the discussion; we know that. But I think it helps a little bit, so I would vote for the committee amendments, only because I haven't really heard yet any discussion that has convinced me that 2010 wouldn't... [LB268]

SENATOR PEDERSEN: One minute. [LB268]

SENATOR FRIEND: ...alleviate some of that. Now again, the reasoning may be totally

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flawed here, and we're all going to have to grasp this, we're going to have to get our hands around it. Maybe something like this morphs into one of those type of discussions, no matter what we do, and we're going to have to deal with it. If I didn't like this bill, I wouldn't have helped move it out of committee. I think that there's some value here in clearing those lines or defining those lines, and we have to draw the line somewhere, at least that's what part of the discussion in the committee was. I liked the committee amendments because--it might be flawed logic--but I thought that it took some of that banter, and you all know which banter I'm talking about, out of play. With that, I would ask for the adoption of AM1515 to LB268, and I guess we'll see where we go. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Friend. Senator Friend, you are next. Senator Friend waives off. Senator Erdman. [LB268]

SENATOR ERDMAN: Thank you, Mr. President. I would just share an observation, and maybe it helps with the further refinement of the committee amendment, and maybe it's white noise. I'm not sure; you decide. But before I do that, one of the dynamics about running for the United States House that's articulated in the United States Constitution is you do not have to be a resident of that district; you just have to be a resident of the state, and I wanted to share that. I shared that with Senator Chambers, in not hopes that he would run for the 3rd District but in the reality that he was eligible. And those of you that live in Lincoln, he's eligible to run in your district, too. It's just the reality that when the framers drafted the Constitution, they articulated that you cannot represent that district unless you're an inhabitant of the state at the time of your election. We have more restrictive requirements on other officeholders, but we can be no more restrictive in our guidelines for a member of the United States House than what the Constitution states in Section 2, so I thought I would share that for the fun of the discussion. My observation on this amendment is if it's a problem now in Lincoln to elect individuals by a primary initially, narrowing the finalists, and then letting the at-large vote for the two, then why would we keep that provision in law at all? Because as I understand the amendment, we're not taking that out; we're simply raising the threshold in which counties are subject to it. And for simplification, maybe it makes more sense to say, as Senator Chambers and Senator McGill have said, let's give counties two options. Let's have at large be one option and by district be the second option. This third option of by district/at large is still retained. We're just delaying this debate to another date for some other group who's subject to this because of the county that they live in. If we're going to make the decision today that it's not good enough for Lancaster County and, in turn, Sarpy County, then why is it good going forward for anyone, based on the case law, based on the precedents, and based on the fundamental application of an election law, and the applicants and the qualifications to be elected in other offices? I don't know. I just thought I would share that. And maybe this is something that we could pursue, should the amendment be adopted and the bill advanced, or maybe there's an opportunity even here on General File to examine that scenario. But I don't know why

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we would push off this burden, if the folks in Lancaster County think it's a burden on them, on some future county. Maybe there's no county that will ever attain that, but at the same point, aren't we setting the public policy in general? And if we at this point think it's not a good idea, why would we maintain that in statute for any future county to be subject to? I don't know. I think that's something that we could consider, and all of the issues, aside from the individual counties, I think generally that may be a worthwhile consideration for a possible amendment. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Erdman. Senator Chambers, you are recognized. [LB268]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when you have a rhyming bone, as I do, sometimes your thoughts run in rhyme, and you fight in order not to rhyme things. But when Senator Stuthman asked Senator McGill the question as to whether somebody brought this to her, because she was a freshman senator, despite the fact she had lived in Lancaster County and Lincoln, this is what I imagine Senator McGill might have said, were she not so respectful and trying to stay in her "place," which I don't think any woman ought to do, unless it's out front: Though I'm a woman, I can think. / I am not the missing link / Between the animal and the human. / I am a rational, reasoning woman. / In the realm of ideas I dwell, / Able to generate ideas quite well. / When I act, let this be clear-- / I'm not the tool of a puppeteer. Now I have made some suggestions relative to the role played by freshmen senators. But I think they ought to be encouraged to bring forth their ideas, and we should not assume in every case that it was generated by somebody else. I say that about senators who have been here almost as long as I have, comparatively speaking, because I know the stamp. I know the fingerprints, the thumbprints, the footprints of various lobbyists and special interest groups, and I'll call them as I see them. But in this case, the notion of district elections is something that anybody interested in government, even if at the high school level in a civics class, would be familiar with. By the way, it is good that Senator Erdman corrected something that I had said earlier; namely, that a person need not dwell in a Congressional district to run for that district. That was a misstatement on my part, Senator Erdman corrected it, but the unit of government under the U.S. Constitution is the state. The state is the district. So to have what some people call a hybrid system, but which I consider to be irrational, is not a wise thing to do when you're talking about representation. I have said repeatedly that if people want to send a mule skinner to represent them, let them send a mule skinner. This is why you should never have an IQ test, you should never have any kind of test to determine whether somebody is "smart enough" to be in a legislative assembly. The people in that assembly are there to represent the people who sent them. If after getting there the person fails in that regard, the voters will send somebody else. When we're trying to structure a method of election, districting is the best way to do it. The Nebraska Supreme Court has ruled that issues related to elections are matters of statewide concern. That's why the Legislature can determine that a city council will be elected by district, that a school board will be

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elected by district, that a county board will be elected by district. I believe in this principle, I believe in it for everybody. But in a political context, when I brought those bills, I never... [LB268]

SENATOR PEDERSEN: One minute. [LB268]

SENATOR CHAMBERS: ...tried to make them apply to any area outside of that with which I was familiar; namely, the Omaha school board, Omaha city council, and Douglas County Board. Some senators were going to try to take one of my school district bills and make it apply to every school district in the state. Some of those districts are so tiny...in one of them, this was true at that time, the father was the superintendent, the mother was the teacher, their children were the students, and their home was the whole school district. That's it. I couldn't believe it until I found out how school districts can be structured in Nebraska. But one size did not fit all. I didn't try to make one size fit all. But when it comes to the methodology of the election, I believe that districting is what it is, and I'm going to follow Senator McGill's lead in this regard. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Chambers. Senator Hudkins, you're recognized. Senator Hudkins has called the question. Do I see five hands? I do. The question before you is, shall we cease debate? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, would you record. [LB268]

CLERK: 31 ayes, 3 nays, Mr. President, to cease debate. [LB268]

SENATOR PEDERSEN: Thank you, Mr. Clerk. Senator Aguilar, you are recognized to close on the committee amendment. [LB268]

SENATOR AGUILAR: Thank you, Mr. President. Only to say that I hope the further discussion has added a little bit of clarity to what we are dealing with here. We still, as a committee, feel strongly that the amendments are necessary. They're good amendments, and the underlying legislation as well. I encourage you to vote green on the amendments. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Aguilar. You have heard the closing on AM1515. All those in favor vote aye; all those opposed vote nay. Have you all voted? Would you record, Mr. Clerk. [LB268]

CLERK: 39 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB268]

SENATOR PEDERSEN: Thank you, Mr. Clerk. The amendment passes. We will further discuss the bill. Next to speak will be Senator Nantkes. You are recognized. [LB268]

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SENATOR NANTKES: Thank you, Mr. President. I just wanted to rise in support of the bill and thank Senator McGill for bringing it. I think it provides much-needed uniformity for our system and really clarifies the election process for our citizenry. And with that, I'd yield the balance of my time to Senator McGill, if she so desires to utilize it. [LB268]

SENATOR PEDERSEN: Senator McGill, you have 4.5 minutes. [LB268]

SENATOR MCGILL: Mr. President, are there other speakers on the queue? Are there other speakers on the queue? [LB268]

SENATOR PEDERSEN: Yes, there is. [LB268]

SENATOR MCGILL: Okay, then I will go ahead and take some of that time. Thank you, Senator Nantkes, for your words of support. All I'll say is, you know, as amended, I'm content with the fact that this puts off making these changes for a couple of years. I think it is fair to the candidates who have already decided to run and to the current commissioners, so that they have time to understand how this is going to impact them and what they'll have to do in future elections. I do feel that this is the right way to go. I think it does make it...and we haven't talked a lot about the candidates who would like to run. And I think this is really to the advantage of any candidate, including the county commissioner, the current county commissioners, in that they'll now just be able to focus on their own populations, spend their money more wisely, and really get their message out and be able to communicate directly with their constituents. And then, of course, the constituents will also appreciate that, and that's what democracy is all about. With that, thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator McGill. Senator Wightman, you are recognized to speak. Senator Wightman, you are recognized to speak. [LB268]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I had a couple of questions. I know this has been discussed but I think...so I have a couple of questions of Senator McGill, if I might. [LB268]

SENATOR PEDERSEN: Senator McGill, would you respond, please? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR WIGHTMAN: Senator, as I understand this, and I think you gave these figures earlier, that Lancaster County probably would remain under 300,000 for about 12 more years. Is that correct? [LB268]

SENATOR MCGILL: That's what I estimate. [LB268]

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SENATOR WIGHTMAN: And at that point, even before that, approximately six years, then Sarpy County would come under...and reach the 150,000 threshold. [LB268]

SENATOR MCGILL: Yes. I think that will just be a couple years from now when that census data comes in. [LB268]

SENATOR WIGHTMAN: Okay. So not six years but more like two or three. [LB268]

SENATOR MCGILL: Yeah, just a couple. [LB268]

SENATOR WIGHTMAN: Okay. So what we're really talking about is something that will affect Lancaster County for approximately 12 more years, and in 2 or 3 more years there will be two counties under it. Is there...now, obviously, Sarpy County couldn't have elected their commissioners in the same manner that Lancaster County is presently electing theirs. Is that correct? Right now, they... [LB268]

SENATOR MCGILL: Yeah, right now they couldn't do that. [LB268]

SENATOR WIGHTMAN: They would do it entirely by districts. [LB268]

SENATOR MCGILL: Um-hum. [LB268]

SENATOR WIGHTMAN: So it seems to me it's a little strange that we would have that much opposition to this bill when Lancaster County is going to pass into the population threshold that will place them out of the reach of this amendment, at any rate, in 12 more years. I realize 12 years is quite awhile. I know that Senator Fulton had some questions with regard to the fact that Lancaster County, or the city of Lincoln, at least, presently elects some of their councilmen on the basis of at large. Senator Fulton, would you yield to a question? [LB268]

SENATOR PEDERSEN: Senator Fulton, would you respond? [LB268]

SENATOR FULTON: Yes. [LB268]

SENATOR WIGHTMAN: Now, you indicated, I think, that, what, four of Lincoln's councilmen or councilpersons are elected by districts. Is that right? [LB268]

SENATOR FULTON: That's correct. [LB268]

SENATOR WIGHTMAN: And three are elected at large. [LB268]

SENATOR FULTON: I believe that's correct, yes. [LB268]

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SENATOR WIGHTMAN: Now, I know you argued or debated the situation that there's some elements of both in Lancaster County, but you haven't totally disenfranchised, on the general election, the districts, as you, in fact, have here, other than they were able to put up the two candidates that would be considered in the general election. Is that correct? [LB268]

SENATOR FULTON: Say it...I didn't understand it; say it again, Senator. You're asking if the general election for the county level is still providing an inequity? [LB268]

SENATOR WIGHTMAN: Well, yeah, it just seems to me there's a lot of difference between the two situations where the districts are electing four of their candidates by district, where in Lancaster County you're suggesting that none of the districts would be the final decision maker on who would be the candidates for the county. So there is a substantial difference, I think. [LB268]

SENATOR FULTON: Yes. Yes, there is. The difference between the city and county...and I agree with Senator McGill, there's a difference in the way of their application. So, yeah, you're correct. [LB268]

SENATOR WIGHTMAN: And do your figures show about the same, that Lancaster County would probably be affected by this for 10 or 12 more years? [LB268]

SENATOR FULTON: Yes, that's the way I understand it. [LB268]

SENATOR WIGHTMAN: Okay. That answers my question. Thank you, Senator Fulton and Senator McGill. I am going to stand in support of this bill. It just seems to me that to change Sarpy County when it reaches 150,000, from their way of... [LB268]

SENATOR PEDERSEN: One minute. [LB268]

SENATOR WIGHTMAN: ...electing their commissioners, doesn't make a lot of sense to me, and that it seems to me it would make more sense to provide uniformity across the state of Nebraska. So I would urge your passage of this bill to Select File. Thank you, Mr. President. [LB268]

SENATOR PEDERSEN: Thank you, Senator Wightman. Senator Gay, you are recognized. [LB268]

SENATOR GAY: Thank you, Mr. President. Just for clarification, I was speaking to some Sarpy representatives. Right now, two years ago, the estimated population was 142,146, so this will affect us sooner rather than later, I guess. The question I have: I think, one time during the process, the county commissioners actually did the redistricting of their own districts. So in a way if they decided to go to seven

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commissioners, I guess they could do that, but...or limit it to five and redistrict. Mr. President, would Senator McGill yield to a question? [LB268]

SENATOR PEDERSEN: Senator McGill, would you respond? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR GAY: Senator, what I just said, is that the correct way now? And I apologize, but is...if Sarpy County wants to go to a seven-commissioner format by district, would they be able to do that under this? [LB268]

SENATOR MCGILL: I think that it doesn't go to seven until you reach that 300,000. [LB268]

SENATOR GAY: Till 300. [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR GAY: Okay. So...but at 150, we would have to do the at-large method (inaudible)? [LB268]

SENATOR MCGILL: Under this, yeah. You wouldn't have to go to seven, or you wouldn't have that ability, but you would have to change your general election to at large... [LB268]

SENATOR GAY: Okay. [LB268]

SENATOR MCGILL: ...under the law. [LB268]

SENATOR GAY: Yes. And I think it's...like I say, right now, when redistricting does come up, they will look at their districts and divide it up, through a...you know, you would use a GIS system or some kind of...to get a fair representation. Take a population and follow, within the law what you have to do. And I think there are specific structures in place, how to do that, so... [LB268]

SENATOR MCGILL: Yeah, there are. [LB268]

SENATOR GAY: But that's the way it would then, Senator? [LB268]

SENATOR MCGILL: Yes. [LB268]

SENATOR GAY: Okay, thank you. Thank you, Mr. President. [LB268]

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SENATOR PEDERSEN: Thank you, Senator Gay. Seeing no more lights, Senator McGill, you are recognized to close. [LB268]

SENATOR MCGILL: Thank you, Mr. President and members of the body. This has been a lengthy and productive debate, I think. I'll just reiterate some of my points, going over why I brought this bill. Because fundamentally I do believe that this is the better process, to have a uniform process, so that as counties are bumping around for a different population growth, that they have a system that they know will be staying the same while they're...they will, as Senator Gay just pointed out, redraw their lines as they continue to grow. They'll at least know that their system will stay the same, a system that I feel is superior as far as making sure that our constituents' needs are being met, that they have...that their representatives are being held accountable to them and are open to them. I don't think that takes away any element of other constituents or voters in the entire county coming to them and hearing their needs. I mean, largely, a lot of the needs they do face are those that the entire county faces anyway. I would just again repeat, I hope that everybody out there can see that a uniform process really is a better way to go about electing our county commissioners. I know that Sarpy County, the commissioners support this bill. The Lancaster County commissioners chose to go neutral on it since it does impact/affect them. I ask for your support for LB268. Thank you. [LB268]

SENATOR PEDERSEN: Thank you, Senator McGill. You've heard Senator McGill's closing on LB268. All those in favor vote aye; all those opposed vote nay. Have you all voted? Mr. Clerk, would you record. [LB268]

CLERK: 35 ayes, 2 nays on the advancement of LB268, Mr. President. [LB268]

SENATOR PEDERSEN: LB268 is advanced. Mr. Clerk, any reports? [LB268]

CLERK: Not at this time, Mr. President, no. Thank you.

SENATOR PEDERSEN: Thank you, Mr. Clerk. We will now move to LB782. [LB782]

CLERK: LB782, a bill by Senator Howard, at the request of the Governor. (Read title.) The bill was introduced on January 9 of this year; at that time referred to Health and Human Services. The bill was reported to General File. There are Health Committee amendments pending, Mr. President. (AM1657, Legislative Journal page 436.) [LB782]

SENATOR PEDERSEN: Thank you, Mr. Clerk. Senator Howard, you are recognized to open on LB782. [LB782]

SENATOR HOWARD: Thank you, Mr. President and members of the Legislature. I'm very pleased to be able to bring this bill to you this morning. I was grateful that Governor

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Heineman had asked me to introduce this important piece of legislation. You may remember a year ago when we passed the reorganization bill, and I cautioned you at that time that the reorganization was a structure that we put in place, and in addition to addressing the structure, we needed to address service delivery. I believe this bill is a step forward in doing that. Current Nebraska law allows the Department of Health and Human Services to release very limited information to the public. This information includes whether a child is a state ward or was previously a state ward, when a child became a ward, and when custody was terminated, adjudication type, status of parental rights, and if other children in the family are in state custody. In the event of a death or the near fatality of a child resulting from child abuse or neglect, the department will provide additional information if a person has been criminally charged and has been convicted or acquitted, or a county attorney certifies that a person would have been charged prior to that person's death. In this situation, the department can disclose a written summary containing information about actions taken and services rendered by the department; confirmation of reports received by the department and information about investigations conducted by the department. With LB782, the Department of Health and Human Services will be able to provide more information to the public. Specifically, the chief executive officer of the Department of Health and Human Services or Division of Children and Family Services' director may disclose information regarding child abuse or neglect, and the investigation of any such services, if in the best interest of the child and any one of the following factors are present: the alleged perpetrator has been charged with a crime relating to the child abuse or neglect report; a judge, law enforcement official, county attorney, or other local investigative agency or official has publicly disclosed the services related to the investigation; an individual who is the parent, custodian, foster parent, provider, guardian, or child victim over 14 years old has made disclosure; the information is related to a child fatality or near fatality; the information is released to confirm, clarify, or correct information concerning an allegation of actual instance of child abuse or neglect made by a public source outside the department; or a child who is in custody of the department is missing from placement, in which case the CEO or director may release the name and physical description of the child for reasons of safety for the child or for the purposes of community safety. The public has a legitimate interest in knowing more when such tragic events occur. The ability to confirm, clarify, or correct information concerning an allegation or actual instance of child abuse or neglect, which has been made public by sources outside the department, will meet the public's need to know by providing substantive and accurate information. This greater transparency will increase confidence in the work of the department and in fulfilling their role in protecting the children of Nebraska. Thank you. [LB782]

SENATOR PEDERSEN: Thank you, Senator Howard. There are committee amendments. Senator Gay, would you please introduce the committee amendments. [LB782]

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SENATOR GAY: Yes, thank you, Mr. President. The committee amendment just adds the E clause on there. It was inadvertently left out during the drafting, but we would like that on there, and that's what that does, is add the emergency clause. Thank you, Mr. President. [LB782]

SENATOR PEDERSEN: Thank you, Senator Gay. Seeing no lights, Senator Gay, you are recognized to close. [LB782]

SENATOR GAY: Thank you, Mr. President. As I spoke, this was just inadvertently left out, and we'd like to include it in the bill. Thank you. [LB782]

SENATOR PEDERSEN: Thank you, Senator Gay. You have heard the introduction and closing to the amendments to LB782 by the committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, would you report. [LB782]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB782]

SENATOR PEDERSEN: The committee amendments are advanced. We are now back to the bill. Senator Chambers, you are recognized. [LB782]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I would like to ask Senator Howard a question. [LB782]

SENATOR PEDERSEN: Senator Howard, would you respond? [LB782]

SENATOR HOWARD: Yes, sir. [LB782]

SENATOR CHAMBERS: Senator Howard, I was on the phone. I was trying to follow your explanation. You don't have to give the whole thing, but whose work would be subject to exposure to the public? Who would have done the work? First of all, what is going to be made available to the public? [LB782]

SENATOR HOWARD: According to the information in the bill, the information that will be released...and please keep in mind, if I could point out to you, that it will be regarding situations of a fatality or a near fatality of a child that's in the custody of the Department of Health and Human Services, so it's very limited in the scope of what information will be released and under what circumstances. [LB782]

SENATOR CHAMBERS: Okay. Now that I know what it would be, what information would be released? You said, in connection with a fatality or near fatality. What kind of information regarding those things would be released to the public? [LB782]

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SENATOR HOWARD: The information that may be released regarding child abuse or neglect and the investigation of any services related to the child abuse and neglect, if the chief executive officer or director determines that such disclosure is not contrary to the best interest of the child, the child's siblings, or other children in the household. [LB782]

SENATOR CHAMBERS: Then what information would be revealed? [LB782]

SENATOR HOWARD: Okay. The information is released to confirm, to clarify, or to correct any information that may have been disclosed previous by other agencies. They could release... [LB782]

SENATOR CHAMBERS: Would that include the names of any people who were involved in investigations or the providing of services? [LB782]

SENATOR HOWARD: Yes. [LB782]

SENATOR CHAMBERS: And which...? Who would those people have been employed by? [LB782]

SENATOR HOWARD: Well, there would be different circumstances, and that would be determined by the director of the Department of Health and Human Services. It could be a foster parent, it could be another individual. There are certain circumstances that limit that disclosure. [LB782]

SENATOR CHAMBERS: Okay. So it would not be a situation where somebody had been found guilty of a crime, necessarily, or charged with a crime. [LB782]

SENATOR HOWARD: If the alleged perpetrator has been charged with a crime relating to the child abuse or neglect, that could be a circumstance where the information is released. [LB782]

SENATOR CHAMBERS: Well, that would...once that charge is made as a crime, the matter becomes public. [LB782]

SENATOR HOWARD: That's correct. [LB782]

SENATOR CHAMBERS: Suppose a person had not been charged with a crime. [LB782]

SENATOR HOWARD: If there is a situation where the individual would have been charged but something had happened to that individual, if that individual had died, that information can be released. [LB782]

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SENATOR CHAMBERS: The name of the dead person could be released? [LB782]

SENATOR HOWARD: Yes. [LB782]

SENATOR CHAMBERS: Thank you. Do you know what? I'm going to watch who votes for this. We have people so sensitive about disciplinary reports made available to the public, of cops who had been found guilty by their agency of sexual abuse, physical abuse, verbal abuse of citizens. People were standing up here saying this is uncharted territory; we don't know where we're going; we don't know what it means, and you're trying to punish these people. These cops are public employees on the public payroll, they did wrong while on the payroll, and the members of the body on this floor felt like that information should not be made known. What value will there be and whose interests will be served if you make known the names of the people who did these things that you're talking about? Why not just give the information in the same way you can say some cops have done wrong but you don't tell who did it? Just say what the problems were but you don't release information about specific perpetrators, unless they were charged with a crime, which then makes it public. Are you willing to adopt that approach, as was being done with reference to the cops? [LB782]

SENATOR HOWARD: Is that a...you're asking me a question? [LB782]

SENATOR CHAMBERS: Yes, that's a question for Senator Howard, if you have an answer. [LB782]

SENATOR HOWARD: Senator Chambers, I would say I had supported you in your approach with the police, and I believe that full disclosure really makes the system work better, to put it very clearly. I think when we are willing to share information regarding situations, especially regarding child abuse, child neglect, or fatality of a child, I think we are helping the system to work as it should. [LB782]

SENATOR CHAMBERS: And, Senator Howard, I think you are on very firm ground, but I like to call things to the attention of my colleagues who have so much trouble understanding things when I bring them up. I'm going to support you, but I'm going to watch some of these hypocrites around here and see what they do. My light is on. I'm going to speak one more time, then I will be through with your bill. [LB782]

SENATOR PEDERSEN: One minute. [LB782]

SENATOR HOWARD: Thank you, Senator Chambers. [LB782]

SENATOR CHAMBERS: I'm not going to even take that minute. Thank you, Mr. President. [LB782]

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SENATOR PEDERSEN: Thank you, Senator Howard. Thank you, Senator Chambers. Senator Chambers, your light is on next. Thank you. [LB782]

SENATOR CHAMBERS: You think because Senator Howard brings this, I've got to go for it? I don't buy it. I don't buy that. No, we're in uncharted territory. You're trying to punish these people further. I'm quoting Senator Friend. That's what he told you all: You all don't know what you're doing; you're punishing these cops. They're the ones who did wrong. Now, I'm going to see how many hypocrites vote for this bill, where you're revealing the name and information about dead people. That's what I mean by hypocrisy. You all got snookered by the police union. You were intimidated. And Senator Friend does have relatives on the police force. That's why he's so interested in police matters; that's why. Am I irritated? Yes. Am I annoyed? Certainly. Will I refer back to that issue every time I get the opportunity? I certainly shall. You all think that certain public employees who have done wrong, who have been found to have done wrong, should be protected. We've got a prosecutor sitting over there. If a cop was found to have committed sexual abuse against a child, like we're talking about here, he thinks you should not make it known to the public that that cop was disciplined by the police department for having done it. If that cop committed physical abuse of a child in his official capacity as a cop, it should not be known, because he wants to protect the cops. But in other instances, he's going to be so solicitudinous about the rights of people if they wear uniforms, if they're cops, if they're prosecutors. I listened to his questioning as a member of the Judiciary Committee. I see where his interests and his concerns are, and I'm going to call these things to light. I want the public to be aware what protects the rights of the people, and will maintain the integrity of the democracy, the vigilance of the citizenry. They should not just be vigilant on their own. They should have things called to their attention by those of us who know. And we shouldn't run around here, afraid to put names on the people who do these hypocritical things. Are they hypocritical because I say they are? Let those who feel attacked, respond. I can be taken to task. I can be called a hypocrite. Senator Harms chastised me the other day. You all heard him. And I didn't pick up a book and throw it at Senator Harms, and I didn't run out of here either. But I didn't forget, and when we get back to that bill, I've got a thing or two to say on that also. I'm talking about giving money to those movie producers. But when people are moved to act, not on the basis of a valid principle...by the way, Senator Harms voted for my amendment that led to his chastising me. The only reason I didn't vote for it was so that I could put up a motion to reconsider. He and I would have been the only two voting for it. This idea of saying that certain people should be protected from the wrongdoing, from the consequences of their wrongdoing is preposterous. If you're going to protect all public employees, all private employees, then you would be consistent but you'd still be wrong. There will be people who voted against revealing that information about the cops, who will think information ought to be revealed about others. But I am not of that turn of mind, and as long as I am here I'm not going to throw a rock... [LB782]

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SENATOR PEDERSEN: One minute. [LB782]

SENATOR CHAMBERS: ...and hide my hand. I'm going to call these things to our attention. You all voted that if a cop was disciplined for committing sexual, physical, or verbal abuse against a person, including a child, the public should not know about it. Do you know why Senator Friend said they shouldn't know? Because you're punishing the cop. Punishing him. Punishing her. That's crazy. If they don't want their conduct known, let them engage in the kind of conduct that doesn't have to be hidden. But to pretend that we're in uncharted waters and you don't understand what I'm talking about is insane. You all understand thoroughly, but you were intimidated by the police union, and you had a man like Senator Friend lead you from the wilderness into the swamp. But we'll have an opportunity to deal with this on other occasions. And don't you all defend him. [LB782]

SENATOR PEDERSEN: Time. [LB782]

SENATOR CHAMBERS: Senator Friend is able to speak for himself in a very loud, boisterous voice. Thank you, Mr. President. [LB782]

SENATOR PEDERSEN: Thank you, Senator Chambers. Mr. Clerk, items for the record? [LB782]

CLERK: Mr. President, Health and Human Services reports LB797 to General File; LB806 to General File with amendments; LB513 and LB550 are reported indefinitely postponed. I have a Revenue confirmation hearing report, actually a series of confirmation hearing reports by the Revenue Committee; a Reference report referring a certain gubernatorial appointee to a standing committee for confirmation hearing. Amendments to be printed: Senator Erdman to LB39; Senator Chambers to LB235. I have a notice of hearing from the Revenue Committee. An announcement, Mr. President, a reminder to the members of the Education Committee that you will meet in Executive Session today at 1:00; Education Committee today at 1:00. (Legislative Journal pages 501-503.) [LB797 LB806 LB550 LB39 LB513 LB235]

And a priority motion, Mr. President: Senator Kruse would move to adjourn until Tuesday morning, February 5, at 9:00 a.m.

SENATOR PEDERSEN: Thank you, Mr. Clerk. All those in favor of adjournment say aye. All opposed? We are adjourned until 9:00 tomorrow morning, Tuesday, February 5.