

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

Floor Debate  
November 14, 2011

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[LB1 LB4A LB4 LR3 LR4 LR5 LR6 LR7 LR8 LR9 LR11 LR12 LR13 LR14 LR15 LR21]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the ninth day of the One Hundred Second Legislature, First Special Session. Our chaplain for today is Senator Hansen. Please rise.

SENATOR HANSEN: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Hansen. I call to order the ninth day of the One Hundred Second Legislature, First Special Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SENATOR GLOOR: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do, Mr. President. Your Committee on Government, Military and Veterans Affairs chaired by Senator Avery, to whom was referred LR8 and LR12, instructs me to report the same, those two resolutions, back to the Legislature with a recommendation they be reported for further consideration. That's all that I have, Mr. President. (Legislative Journal page 71.) [LR8 LR12]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll proceed to the first agenda item, confirmation reports.

CLERK: Mr. President, the Transportation and Telecommunications Committee chaired by Senator Fischer reports on appointments to the State Highway Commission and to the Nebraska Motor Vehicle Industry Licensing Board. (Legislative Journal page 65.)

SENATOR GLOOR: Senator Fischer, you're recognized to open on the confirmation report.

SENATOR FISCHER: Thank you, Mr. President and members of the body. The Transportation and Telecommunications Committee held a confirmation hearing on Thursday, November 3, for the reappointment of five members to the State Highway Commission and one new member. The one new member is James Kindig. The reappointees are Doug Leafgreen, Greg Wolford, Rodney Vandenberg, and David Cople. The State Highway Commission is composed of eight members, each of whom represents one of the eight field districts. They are appointed by the Governor for six-year terms with approval by the Legislature. The commission, which serves in an advisory capacity, normally holds meetings the fourth Friday of each month. At these

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meetings and various other hearings on proposed projects, the commission serves as a channel for citizens to voice their opinions concerning the state highway system. Mr. Kindig is from Kearney and is the director of sales for Cash-Wa Distributing. He has been appointed to represent District 4. His term will run from September 14, 2011, to September 13, 2017. Mr. Leafgreen is from Gering and he's employed in sales and marketing for Regional Care Incorporated. He was appointed to represent District 5. His term will run from September 14, 2011, to September 13, 2017. Mr. Wolford is from McCook and he is a consulting engineer for W Design Associates Incorporated. He has been reappointed to represent District 7. His term will run from September 14, 2011, to September 13, 2017. Mr. Vandenberg is from Falls City and he serves as chairman and chief executive officer for First National Bank and Trust Company in Falls City. He has been reappointed to represent District 1. His term will run from September 14, 2011, to September 13, 2017. Mr. Cople is from Norfolk. He is an attorney in the Norfolk area. He has been reappointed to represent District 3. His term will run from September 14, 2011, to September 13, 2017. Mr. Kindig was the only appointee to appear in person before the committee because the committee has interviewed all the other appointees in their previous appointments. The Transportation and Telecommunications Committee recommends this confirmation with seven members present and voting in favor and one member absent. We also had a hearing on Thursday, November 3 for the one appointment to the Motor Vehicle Industry Licensing Board. The appointee is Donald Hansen. This board is made up of ten board members who are appointed by the Governor and serve for a three-year appointment. The chairperson of the board is the director of the Department of Motor Vehicles. The remaining members are: one member of the general public; one new motor vehicle dealer from each of the three Congressional districts; two used motor vehicle dealers; one trailer dealer; one factory representative; and one motorcycle dealer. The new appointee is Donald Hansen. Mr. Hansen is a new appointment and he will serve as a member of the general public. His term is from July 13, 2011, to May 18, 2014. Mr. Hansen is the owner and operator of Nu-Trend Mobile Homes Incorporated in Omaha, Nebraska, and did appear in person before the committee at the hearing. The Transportation and Telecommunications Committee recommends this confirmation with the seven members present voting in favor and one member absent. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Fischer. Are there any members wishing to discuss the report? Seeing none, Senator Fischer, you're recognized to close on your report. Senator Fischer waives. The question to the body is the adoption of the report offered by the Transportation and Telecommunications Committee. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 72.) 43 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR GLOOR: The report is adopted. Items for the record.

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CLERK: Mr. President, thank you. Before we proceed, confirmation reports from the Revenue Committee, those signed by Senator Cornett, as Chair of the committee. And I have a new A bill. (Read LB4A by title for the first time.) And that's all that I have, Mr. President. (Legislative Journal pages 72-73.) [LB4A]

SENATOR GLOOR: Mr. Clerk, we'll proceed to General File, LB4. [LB4]

CLERK: Mr. President, LB4, a bill by Senator Langemeier. (Read title.) The bill was introduced on November 2 of this year, at that time referred to the Natural Resources Committee for public hearing. The bill was advanced to General File. There are Natural Resources Committee amendments pending, Mr. President. (AM13, Legislative Journal page 68.) [LB4]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Langemeier, you're recognized to open on LB4. [LB4]

SENATOR LANGEMEIER: Mr. President, members of the body, at this time I would pass and go to the committee amendment. [LB4]

SENATOR GLOOR: Senator Langemeier, you're recognized to open on the committee amendments. [LB4]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I, first, want to thank the Natural Resources Committee for their participation and hard work on legislation throughout this special session and previous sessions. We had three hearings. We had 160 testifiers and nearly 25 hours of testimony. LB4, as amended by the Natural Resources Committee amendment, would provide the state with a sound process for siting oil pipelines. No, it's not perfect and it's still a work in progress. To a degree, that was my intention. Many Nebraska citizens and elected officials felt the Legislature should have a full, fair, and open debate on the issue of pipeline siting. By voting out LB4 onto the General File, the committee responded to that demand. In doing so, several committee members have voted against their beliefs about the pipeline. The committee spent a great deal of time on and has struggled with this issue. As you have come to find out for yourselves, this matter is not as simple and clear as citizens and lawmakers would lead you to believe. The committee has worked very hard to take all the information provided to us and find a workable solution for both those of us who are concerned about the preservation of the Ogallala aquifer and Sandhills and those of us who want to see the pipeline built soon rather than later. I realize many of you don't like LB4 and you think it's not the answer. If it is the will of this body to pass legislation, then it is the responsibility of each and every one of you to contribute your ideas to this process. I call this the committee of whole. With that, I welcome each and every one of you to the Natural Resources Committee. Therefore, I expect each of you to have

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prepared debate and have drafted amendments and are ready to work on this bill. My interest is not preserving the provisions within LB4; it is to ensure that each of you, as members of the Legislature, will have the opportunity to weigh in on the language and the debate and to decide together the best and most legally sound policy for Nebraska. I look forward to hearing your amendments and your ideas and the debate. Thank you. [LB4]

SENATOR GLOOR: Thank you, Senator Langemeier. Mr. Clerk, there's an amendment to the committee amendments. [LB4]

CLERK: Mr. President, I do have a series of amendments to the committee amendments, the first offered by Senator Dubas. Senator Dubas would move to amend the committee amendments with AM14. (Legislative Journal page 69.) [LB4]

SENATOR GLOOR: Senator Dubas, you're recognized to open on your amendment to the committee amendments. [LB4]

SENATOR DUBAS: Thank you very much, Mr. President. Good afternoon, colleagues. First of all, I would like to take the opportunity to thank Senator Langemeier and his work on this issue. This has been an issue that the Natural Resources Committee has heard, not just in this special session but in previous, regular legislative sessions. We've had several bills brought forward over the course of the last several years to talk about this. I became involved with this issue about two years ago, first and foremost, just trying to understand if the state really did have any ability to have any authority over this kind of a pipeline, because I think I, like many others, believed that we didn't. It's not uncommon for federal law to preempt anything that states may try to do. And so I was of that understanding. But it was only after an interim study that Senator Sullivan and I conducted, a very thorough one--we met with all kinds of different state agencies, visited with people at the federal level--that it became more and more clear that states do have the authority to institute some type of siting legislation. And for me, I am very glad that we are finally on the floor having this discussion because I think it's one that we, as a state, need to have. Do we or don't we want to give ourselves the authority to interact with any kind of a pipeline project such as this? Other states have that authority in place; it's worked very well for those other states. And so I think it's a very legitimate question that we, as a body, need to determine. If we want that authority, then we need to work very hard to make sure that it is sound policy that we're putting forward. If the majority of the body decides it's not what we want, then we take the up or down vote and we're finished. But I think our citizens have been demanding from us a serious discussion about this, and here we are today. We all know the importance of intent language in any bill and certainly this bill is no different. It's very clear that our authority only goes to siting and can no way infringe on federal government's control of safety, operation, or maintenance of such pipelines. So the amendment that I've introduced today is a savings clause to reinforce that fact by emphatically stating that nothing in the

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bill we have before us shall be construed to regulate any safety issues with respect to any aspect of an interstate oil pipeline. This act is intended to deal solely with the issue of siting, totally apart from safety considerations, and recognizes the express preemption stated in the federal Pipeline Safety Act of 1994. This legislation is intended to exercise only the remaining sovereign powers of Nebraska which are not included in the category of safety regulations. So, again, the purpose for this amendment is to avoid preempting federal law. Federal government, again, thoroughly regulates pipeline safety, construction, operation, and maintenance. States, therefore, do not and may not regulate these areas. We need to make this law very clear on its face that its intent is not to preempt federal law but to enter in an area the federal government has left to the states to regulate. The federal government has said that states have the authority to regulate siting and routing of pipelines. Even some of the legal memos that we've seen from TransCanada have stated that authority. And in the meetings that we've had with TransCanada officials, they spoke to how this authority has worked in other states. So if it's not safety, what is it? It's land use. It's economic value. It's aesthetics. It's the protection of our natural resources for future use by Nebraskans. That's placed in our public trust. The state can regulate to protect the land from intrusions of placing a pipeline in the ground regardless of what, if anything, runs through it. Exercising our sovereign power over land use, soil and water conservation, and aesthetics is an important element of a viable, federal-state partnership. We know that when judges are looking at legislation that is being challenged, they look at the intent language. And, again, that's why I think it's very good that we state very clearly what the intent of this is. And it's my understanding that as they go through that examination, if it does not appear to preempt, they're not as likely to go forward and look at legislative history; it's only if that legislation appears ambiguous. So I think the more emphatically and the more clearly that we can state in the existing legislation what we recognize as our powers and what we recognize as outside...out of bounds for the state, I think that goes to serve us down the road. This is not an uncommon practice to my understanding. I've asked several attorneys, you know, is this just something that's been cooked up for this particular issue or is this something that has been used in the past? It's my understanding that Minnesota has used a similar savings clause through their rules and regulations. And so, again, I think the amendment goes to support the purpose of the bill, clearly outlines where our authority lies and where it does not lie. And I...this particular amendment was a part of the bill that I introduced and, again, it was to very clearly state what the purpose of the bill was and to, again, outline where we have the authority and where we don't. And so I felt it was very important to bring this amendment to the floor for discussion and, hopefully, to gain the support of the body to include into Senator Langemeier's bill. I do appreciate his comments about having all of you be a part of the Natural Resources Committee now. And, again, I think because of the importance of this issue and the amount of public scrutiny that this issue has received and is still receiving, we need to have this discussion out in the open, full and fair debate, very transparent, allow everybody to get their points and questions and concerns out onto the table. Because if we are going to craft legislation, every

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legislation we craft is of importance, but this one is especially in the public eye right now and will need to be a very sound piece of legislation that we move forward. So I think it's important we have this discussion on the amendment. [LB4]

SENATOR GLOOR: One minute. [LB4]

SENATOR DUBAS: Look forward to future discussion on this and hope to gain support for this amendment to the bill. Thank you. [LB4]

SENATOR GLOOR: Thank you, Senator Dubas. (Visitors introduced.) Members, you have heard the opening on the amendment to the committee amendment to LB4. There are members wishing to be recognized. Senator Carlson, you are recognized. [LB4]

SENATOR CARLSON: Mr. President and members of the Legislature, I start my report today by, first of all, thanking Senators Avery, Haar, Dubas, and Langemeier for their hard work putting together something that would be applicable to the subject at hand on this pipeline. And then I also thank the Natural Resources Committee for their diligent listening and questioning and hearing this past week. I departed from my normal behavior in voting to advance LB4 in this special session. Those of you on the Ag Committee know that we've talked about before, if we have a hearing on a bill and you vote to advance it, I ask that you support it on the floor or else make it very clear to the committee that you are voting to advance the bill but you're not going to support it on the floor. I did make it very clear to the Natural Resources Committee that I do not support LB4 or, thus far, any other bill that was heard in our committee this past week. We, on the Natural Resources Committee, listened to 25 hours of testimony on four bills. The testimony was heated, passionate, emotional, and many times even lacking civility. That's what can happen when citizens exercise the freedom that many men and women in services to our country have fought to preserve and many gave their lives for it--freedom of speech. We're free to say what we want to say and it doesn't even have to be truth. But I do believe that this subject should be debated by the full Legislature and that's why I voted to advance the bill. At this point, I don't support and won't vote for any of the bills heard last week. But there must be three elements as a part of any pipeline siting legislation in order for me to support it. First of all, no company currently in the process of procuring a permit to build a pipeline in Nebraska should be required to comply with the new siting law. Secondly, no bill should by rule restrict a pipeline from being built in any specific region of Nebraska. Third, a siting bill must be probusiness, inviting pipelines to our state, must help them find an appropriate route, and make a decision on the permit application in a reasonable time period. I think it's wrong and I think it's unfair to change the rules in the fourth quarter of a game. Restricting certain areas in the state for pipelines forever I don't believe would be a wise decision. Things change over time. We shouldn't paralyze ourselves, and that's what's happened in laws toward the building of an oil refinery. The burdensome regulations have made it impossible to build a refinery. We are a common-sense, fair, business-friendly state.

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Regardless of the issue, let's stay friendly, in a cooperative spirit, so the legislation is a win-win deal. If these three components are not a part of a pipeline siting bill, I will be active in the filibuster to defeat it. If these are a part of it, it would be a bill that I certainly could consider. Thank you. [LB4]

SENATOR GLOOR: Thank you, Senator Carlson. Senators wishing to be heard are: Christensen, Schilz, McCoy, Fulton, Mello, Smith, Lathrop, and others. Senator Christensen, you are recognized. [LB4]

SENATOR CHRISTENSEN: Thank you, Mr. President. I, like Senator Carlson, would like to reflect a little bit about Veterans Day, our freedoms that we have that have been given to us by our forefathers, by those that fought for this country and many who gave their life for this country. We need to remember those that have served our country. We should all be thankful for our vets and their families and the sacrifices so we have the freedoms that this country was founded upon, freedom of religion to serve Jesus Christ openly as our founding fathers did. I've been part of a request to designate a short stretch of highway in honor of a local citizen in Culbertson. I was disappointed to read a letter of denial from the state, stating it was reserved for substantial statewide importance and significance. I challenged the denial on importance. Everyone, I mean everyone that has served our country, no matter what part or when they served our country, served for substantial, statewide importance and significance, especially those that gave their lives for our country. We also can be thankful for this last Saturday, thankful for coaches at Nebraska like Coach Brown that led a special time of prayer for healing, reflection of the pain that was caused by those who have turned their back on Christ and went the wrong way of deviant behavior. I applaud both teams Saturday for their time of respect of families harmed by this deviant behavior which led up to the Saturday's football game between Nebraska and Penn State. I think it was very honoring to see teams walk out hand in hand, both teams gather and pray in respect for them families that have been harmed. To me it was an awesome event to see. And I respect ESPN that had an extended pregame just so that they could show it. It was very honoring. Thank you. [LB4]

SENATOR GLOOR: Thank you, Senator Christensen. The Chair recognizes Senator Schilz. [LB4]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good afternoon and welcome back to Lincoln. Well, we got the bill to the floor and now we're here to all debate it. So what should this debate be about? Should it be about our philosophies on pipelines, our philosophies on the environment, our philosophies on how we want to see economic development happen in the state of Nebraska? I guess we can each decide that upon our own. But I know how I want to make the decision and I know after working on this issue for over two years now, having listened to all sides come in and give their best case, and then looking at all of it, there's some fundamental questions that we have

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to answer as a Legislature. First of all, and I think things have changed now that we've seen the actions of the State Department, but the first question is, do we as the state of Nebraska have the authority to put a siting bill in place? We've all heard the arguments on that. That's one thing that we have to decide. Secondly, and I think this is important--and I appreciate Senator Langemeier standing up and saying welcome to the Natural Resources Committee--the next question is, do we understand the facts as they truly are? And I would hope that everyone is studying them diligently to make sure that you actually do because I can tell you this, there's a lot of stuff out there that's not adding up on this side and that side. And it makes it difficult to make those decisions when you have scientists on both sides that are telling you completely opposing views. And then the third question is, how do we weigh those facts? And once we do weigh those facts, how do we come to the right decision as a Legislature for the state of Nebraska? You know, in my history and in my past in working with economic development, it is economic development is so important to the state of Nebraska, especially rural Nebraska. We all witnessed what happens when you have population decline in the rural areas. We went through redistricting. It was not easy trying to figure out what you do when you have fewer and fewer people. This pipeline could lower taxes. This pipeline could provide jobs. This pipeline could do a lot of things that we espouse everyday that the state of Nebraska needs. And then there's the other side. Will this pipeline do the damage or are the risks as real as the opponents would say they are? That's the question that we need to ask. And as I've looked through this and as I've gone through it, much like Senator Carlson, I did vote yes to bring this bill to the floor. I did not vote yes because I'm in support of this bill. I believe there's a lot of work that still has to be done and there's work that needs to be done in the setting that isn't quite so contentious, that isn't quite so timely. And so I would say let's take the time, let's look at this the proper way, but I cannot support LB4 as written. Thank you very much. [LB4]

SENATOR GLOOR: Thank you, Senator Schilz. Senator McCoy, you are recognized. [LB4]

SENATOR McCOY: Thank you, Mr. President and members. I believe it's important that we have this debate today, but I, too, would join some of my colleagues on the Natural Resources Committee and let it be known that I cannot support LB4 at this time. I believe LB4 has constitutional issues that can't be worked out during the special session, and I don't believe it's possible for us to pass a bill that can pass constitutional muster. This is not a sign of disrespect to my colleagues on the committee. As it's already been said, we knew that during the extraordinary circumstances that surrounded this situation that it was important for all of us here on the floor to have the opportunity to weigh in on this issue that's critical to our state. And that's what we're here today to do. I want to speak about unintended consequences. We're here principally because of the Keystone XL pipeline, but our actions in this extraordinary session will have consequences that reach far beyond, and we need to give those

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potential unintended consequences careful consideration. We're told the special session is about safety, more specifically about preventing leaks from the Keystone XL pipeline into our precious Ogallala aquifer and the water supply for many folks in this state and elsewhere. But as it's been articulated in the many, many, many hours of testimony in front of our committee last week, we face insurmountable legal challenges if we pass legislation that seeks to accomplish this. I would ask you, are we willing to look past the thousands of jobs, billions of dollars in investment, and potentially put at risk a long relationship between our largest trading partner as a state and as a nation, our country's best friend and ally, Canada? I believe Nebraskans are depending on us to put politics and emotions aside and do what's in the best interest of our state and our country. We heard a great deal of testimony about the impact on jobs, particularly in the construction trade, and what that means to our state. I believe we can't fail many families across this state that are in need of jobs today. If we fail to take this into account, the unintended consequences will be more than our consciences should allow. Today we have an opportunity, I believe, to help the citizens of Nebraska have a clear understanding of the facts, which at times have been missing, lacking from this debate. We've heard a great deal of testimony about pipelines and the many, many miles of pipelines across the Ogallala aquifer, and we've heard from noted experts from here in the state and from elsewhere across the country on this issue. As it's been mentioned, as we just celebrated Veterans Day, we have many of our citizens who are wearing our nation's uniform or who have in the past, especially since 9/11, in foreign conflicts, and I believe that we must take that into account when we look at this issue. This special session is a clear message to Canada and to Nebraska businesses that work with Canada. [LB4]

SENATOR GLOOR: One minute, Senator. [LB4]

SENATOR McCOY: Thank you, Mr. President. As of August of 2010, 55,000 jobs in Nebraska depend on trade with Canada. We're, of course, talking about Nebraska businesses that employ Nebraskans, pay taxes that fund our state government and the important programs that we provide. All eyes are on us and the current message we are sending, and that's why this debate is critically important. Thank you, Mr. President. [LB4]

SENATOR GLOOR: Thank you, Senator McCoy. Senator Fulton, you are recognized. [LB4]

SENATOR FULTON: Thank you, Mr. President, members of the body. Welcome to the special session. It is appropriate and I would like to thank the Natural Resources Committee, particularly Senator Langemeier, for working on this. There will be different opinions of this I'm sure. That does not in any way diminish the appreciation that any of us should have for the work in the committee, and so I'm thankful we actually have something to debate. So we are here. Question: Should we act or should we not act? I think that's a way that this can be broken down logically. Let us look at this answer. We

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should not act. If it is your contention that we here in the Legislature should not act, then consider the message we are sending to Nebraska, that we are fine with the federal government and TransCanada speaking for us as to how this pipeline should traverse our great state. Now we being colleagues, you know how I feel about the federal government telling Nebraska what to do. Some of you share that sentiment, some not. I'm not comfortable with it. We don't have siting legislation in place in Nebraska. The federal government and TransCanada, for this particular route anyway, has chosen where it will go. To be clear, TransCanada actually put forward I think it was eight different proposals. This was the one chosen by the federal government. This controversial route was chosen by our State Department. And they said that it was chosen because it's the most...because, through its environmental impact study, it's the environmentally superior route, which causes me to question. Don't we already have another pipeline running through Nebraska now? Is that to say that that was the environmentally inferior route? Then why, I ask, was it approved in the first place? Perhaps that's not fair because this pipeline is going to be taking oil from the Bakken Formation, but...and this is a particular, I understand, but that's a question that I ask. I think it's a pretty logical question. Now we hear from our federal government that indeed they're going to take another look at this route. I'm happy about that. But it causes one to question. If indeed the environmental impact study was the upshot of reasoned and measured and scientific thought, then how is it that our President steps forward and says, no, we're going to route this perhaps around this environmentally sensitive area? Wasn't that what the environmental impact study was to accomplish anyway? With all due respect to my federal government, they're not exuding confidence, at least they don't inspire confidence within me. And so I come back to that question: Should we act or should we refrain from acting? We are Nebraska state senators. We are not from Canada. We do not represent Washington. We represent Nebraska. While I understand this can be taken simply as rhetoric, I really believe this: We should act. Now how should we act? And this I believe will be the meat and potatoes of this debate. I worked with Senator Dubas on her bill. I like her bill better, but I recognize that this is the bill before us. And with thanks to the Natural Resources Committee, this is the bill ahead of us. Given no other options, I will support LB4. I don't think it's the best policy. I'd rather see this power not situated in the hands of one,... [LB4]

SENATOR GLOOR: One minute. [LB4]

SENATOR FULTON: ...even though it's a Governor whom I respect. I'd rather see this power situated in the Public Service Commission. So I'm laying my cards out on the table. I've taken heat just like the rest of you from folks who I usually consider my friends. But this is how I feel. I was drawn into this, by the way, about a year and a half ago when TransCanada, a company whom I have familiarity with from a previous life, a company whom I respect, a company that has provided me access to their engineers and I've been able to talk with them, they had originally proposed to operate this pipeline at a higher pressure with thinner pipe, and no one was speaking up. I felt an

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obligation to get involved. That's what drew me into this. And, indeed, they ended up backing off of a scientifically founded proposal. I propose to you that we should act, for in the absence of action we are allowing someone else to decide our fate. We have a responsibility as Nebraska state senators to do so. [LB4]

SENATOR GLOOR: Time, Senator. [LB4]

SENATOR FULTON: Thank you, Mr. President. [LB4]

SENATOR GLOOR: Thank you, Senator Fulton. Senators wishing to be heard are: Mello, Smith, Lathrop, Sullivan, Conrad, Ken Haar, Dubas, and others. Senator Mello, you are recognized. [LB4]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. First, while I'm not on the Natural Resources Committee, I would like to thank Chairman Langemeier and all of the members of that committee for the work you've done on this issue, not just during this special session but obviously the last year. It's been a lot of committee hearings, it's been a lot of testimony, and I, for one, appreciate your due diligence and leadership in looking for resolution on this issue. But with that said, we do stand here today to join what has become a national debate on job creation, energy independence, and the balance between state and federal power. Unfortunately, we find ourselves in this unique special legislative session due to a genuine lack of leadership from Governor Dave Heineman. Since 2008, well before many of us were even in this body, the Governor and his state agencies began meeting with TransCanada to discuss the proposed Keystone XL pipeline. Yet somehow in the past three and a half years of meetings, our Governor has never once discussed with the Legislature about what was discussed in these meetings, has never brought to us any of his concerns he may have regarding the proposed project, or brought forward any legislative proposal that would create any kind of regulatory framework to help our state deal with pipeline siting. Now with no legislative bill or proposal still from Governor Heineman, we find ourselves debating LB4. I believe for us to reap the benefits, the economic benefits of the proposed Keystone XL pipeline, we cannot continue to leave job creators and workers ready to report to job sites with uncertainty over how our state will regulate pipelines or their siting. I believe that LB4 is a significant step towards eliminating that regulatory uncertainty that we have heard from the business community that causes job creators to refrain from hiring or investing. Over the past few weeks speaking with many of you, I know there's been significant frustration and confusion on what we can or cannot do as a sovereign state government as it relates to regulating pipelines or their siting. I believe the recent announcement by the U.S. State Department to delay the federal permit on the Keystone XL pipeline has given Governor Heineman and this Legislature an opportunity to not only ease the regulatory uncertainty that surrounds the pipeline siting in our state, but to address concerns about proposed routes of the pipeline without endangering jobs that it will create. I believe, along with Governor Heineman, that we

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must take advantage of this opportunity, and I think we should establish a regulatory framework for pipeline siting so that we can protect the thousands of jobs that are currently at stake with the Keystone XL pipeline. Like many Nebraskans, I'm not opposed to the Keystone XL pipeline, but I would like to see another route selected for this project in our great state. And while the framework in LB4 provides a significant amount of oversight and power to the executive branch, I believe the process established in the legislation provides for both citizen involvement as well as for sound science recommendations from our Department of Environmental Quality and Department of Natural Resources. Moving forward, I believe LB4 brings our state in line with South Dakota, North Dakota, Montana, Wyoming, and many other states which have pipeline siting legislation already in place, assuring a proper balance between our state government and the federal government in regards to regulations of oil pipelines. I urge all of you to consider supporting LB4 and the meaningful amendments... [LB4]

SENATOR GLOOR: One minute, Senator. [LB4]

SENATOR MELLO: ...and the meaningful amendments behind it because, if anything, it provides regulatory certainty to pipeline companies, promotes balanced federalism in oil pipeline regulation, and protects the rights of Nebraskans to have a direct say and input in pipeline development in our state, all while not endangering the jobs that will be created by the construction of the Keystone XL pipeline. Thank you, Mr. President. [LB4]

SENATOR GLOOR: Thank you, Senator Mello. Senator Smith, you are recognized. [LB4]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. Like all of you, I came to the Legislature a common citizen concerned about the economic well-being of families, of workers, and of business owners all in our state. I came here concerned about social issues that can only be addressed and improved through a strong economy and healthy business climate, not through government alone. I also came here as a person that believes that Nebraskans and Americans are smart and resourceful, resourceful enough to solve complex environmental problems without sacrificing the prosperity of this and future generations. I, like many of my colleagues and fellow Nebraskans, I'm frustrated as to why we are here today. Participating in the hearing last week did nothing to explain to me how this or other bills that have been introduced would produce better results than those reported in the environmental impact statement process. And that, colleagues, is one reason I voted no in the committee on LB4. I plan to engage on LB4 and on this issue on four general points. First, that emotion clouds the truth and hinders constructive and rational outcomes; that rushed and ill-prepared legislation puts this state at risk and threatens the economic and financial well-being of our citizens; that failure to move this project forward threatens the energy supply for our country and will be the final blow, and please believe this, that it

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will be the final blow to a U.S. economy that is already on the ropes; and then, finally, that delaying or ending this project is harmful to our citizens and it robs our state of jobs and economic benefits. I would like to continue with an excerpt from the Lincoln Journal Star by Art Hovey, and this was on November 13. About halfway through the article he writes, "Three years into the permitting phase for \$7 billion worth of construction, and with the Nebraska Legislature still meeting in special session, the State Department pulled back on its repeated promises to act by the end of the year. Just as quickly, other hefty dollar figures associated with the Nebraska portion of the project slipped into dormant status. That includes paychecks for unionized," and I'm going to add myself nonunionized, "construction workers and brisk business for small town main streets. It includes earlier estimates of \$55 million worth of work by the Nebraska Public Power District on electrical connections that would serve TransCanada pumping stations between the South Dakota border and the Platte River. And it includes real and personal property tax payments to local units of government from the pipeline that would be comparable to the \$145 million TransCanada will start paying next year," or would have begun starting next year, "to ten counties, including Seward and Saline, along the route of its first Keystone pipeline farther east." Colleagues, this and more is what's at stake. So please, colleagues, I beg you--and, yes, I'm going to use the word "beg" that was used frequently in our hearings--I'm going to beg you to please be careful and thoughtful of where we go from here. Thank you, Mr. President. [LB4]

SENATOR GLOOR: Thank you, Senator Smith. Senator Lathrop, you're recognized. [LB4]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I, too, want to join in thanking others and thanking the Natural Resources Committee. I watched much of the hearings that happened before that committee. I can appreciate that the committee for the most part exercised a great deal of patience listening to the input from those who are on either side of the issue, and those who were experts, and those who were simply concerned as landowners in the Sandhills and about the aquifer. That said, first of all, I want to express my support for Senator Dubas' amendment. I think it makes it...it helps us navigate around the preemption issue and I suspect we'll have an opportunity to talk more about the concerns that have been expressed. The constitutional and the preemption concerns, I'm happy to talk about those because I don't think they're an issue and I think we can easily navigate the preemption and the constitutional issues by properly drafting a bill. With that said, I will tell you one of the first things I did when I started to explore this issue was to look at 57-1101. If you've not looked at that, you should. If you did, you would see, as I have, that in the state of Nebraska with the current state of law, if you are a person or a company that transports oil through a pipeline, interstate or intrastate, you don't need to do anything before you start "eminent domain" private property owners' property. There's no restriction. And I will tell you, I will compare it to the safe haven. This isn't about the XL pipeline; it's about a process. There's a hole in our law. And we realized that when we passed the safe

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haven bill, and we came back here and fixed it. And now we're here today to fix a different problem. And if you look at that statute, you will see that there is no restriction. Anybody who wants to do a pipeline through this state can do it, and they can eminent domain the property of a private landowner to do that. Shall we let them? Because the question today isn't about TransCanada. They are a fine corporation. They do what corporations do. They make money for their shareholders, and there's nothing wrong with that. But the question now is...and, frankly, people said we're at the eleventh hour. We were at the eleventh hour two weeks ago, but the President moved the clock back. We're not at the eleventh hour. We have a year to work with and the question is whether or not in that year we will take it back and let the people be responsible for where we route pipelines or whether we're going to abdicate that to the federal government. All of you, at one time, we bring resolutions in here to talk about state's rights, state's rights; the state should have all the power, the state's. Here, we're at it. This is the crossroads. We have an opportunity to take back a say in where pipelines go, not just the Keystone XL but pipelines from this day forward. Are we going to take it back, set reasonable processes in place, which I think we've done with LB4, or are we going to let the federal government decide that for us? I've looked at the constitutional issues and I've looked at the arguments of preemption. I hope you've read the memos because this is not difficult and we should not...we owe it to TransCanada not to waste the next year... [LB4]

SENATOR GLOOR: One minute. [LB4]

SENATOR LATHROP: We owe it to TransCanada not to waste the next year doing nothing when we could be helping them site and route a pipeline through this state in a way that they'd probably agree to, and then a year from now wait for the federal government to tell them where it should go coming through the state of Nebraska. That doesn't make any sense to me. These arguments that we're at the eleventh hour are no longer true. The arguments that this has been preempted is not true, particularly with the Dubas amendment. And the argument that we're going to violate the interstate commerce clause requires that you first accept that a process that we would put in place would have an unreasonable result, and that's not the way we're going to do it. Let us move forward today with debate on this issue and pass a bill that allows Nebraska to say where pipelines go when they come in and out of this state. Thank you. [LB4]

SENATOR GLOOR: Time, Senator. Thank you, Senator Lathrop. Senator Sullivan, the Chair recognizes you. [LB4]

SENATOR SULLIVAN: Thank you, Mr. Speaker. I know that most of us could think of lots of other places where we could be today, but I'm glad we're here and I'm glad that Senator Langemeier has introduced LB4. I'm glad to see that he is open to making his bill better, and I hope that all of us will remain open-minded in this process and the discussion to that end. As part of that discussion, I want you to know that I am not

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against oil pipelines. I'm not against oil. For heaven's sakes, I need oil to put on those 40,000 miles a year on my car driving back and forth to Lincoln and across my district. My constituents aren't against oil pipelines. I've said many times on this floor that I try to take my marching orders from the people that sent me here, my constituents. And we have been very religious about not only taking to heart and recording their feedback on this issue and responding to them as well. I will tell you that the vast majority of my constituents are not against the pipeline. They are simply concerned about the route through the Sandhills. I am, too, quite frankly. Having grown up on the edge of the Sandhills, driving through them yesterday, looking over across Highway 56 and Highway 70, knowing that the pipeline will come through...the proposed pipeline will come through that route, I'm concerned about the fragility of the Sandhills. You know that as well when I introduced LB629 last year and worked all session to get it passed, because I know that it will be difficult to reclaim that land. But, again, I'm not against oil pipelines. I want to be part of the process in locating oil pipelines in this state, and I would like to think that all of us are. That's part of our responsibility. And clearly, as Senator Lathrop said, we have virtually no guidance in that respect. Had we had siting laws in place, we would have had these conversations with the oil pipeline company early on in the process. It would have been a guide for the process. And without legislation, we, quite frankly, are being led, and I don't think that's what we as a state want to be. And I think it's perhaps erroneous even to say that we can't do this midway in the process when, quite frankly, I think in their newsletter the oil pipeline company has said, okay, it's sort of a new ball game. I quote: Elected officials in Nebraska have said they support the Keystone XL pipeline but have concerns about the route through the state. TransCanada looks forward to working with these leaders to address those concerns and we are hopeful they reaffirm their support for the projects once Nebraska routing concerns have been addressed. That, in my estimation, in my interpretation, opens the door. But we currently have no guidelines for that conversation to take place. That's precisely what we're trying to do. And in the executive order issued by the State Department, I don't know how much clearer it can be. They say, and I quote, state law primarily governs routes for interstate petroleum pipelines. However, Nebraska currently has no such law or regulatory framework authorizing state or local authorities to determine where a pipeline goes. Again, I don't know how much clearer... [LB4]

SENATOR GLOOR: One minute. [LB4]

SENATOR SULLIVAN: ...the marching orders need to be for us that we have not only the authority, but clearly, folks, the responsibility as state senators to take to heart not only what our citizens have said but to also weigh the facts, take the emotion out of it, but look at what we are responsible to do and seize the opportunity to do so. Thank you. [LB4]

SENATOR GLOOR: Thank you, Senator Sullivan. The Chair recognizes Senator Conrad. [LB4]

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SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. As I'm sitting here this afternoon and have the opportunity to participate in this historic dialogue, I wanted to take a moment to reflect upon how lucky we are in Nebraska, in particular how well this Nebraska Legislature serves its citizenry. We're liberated from a lot of political considerations that affect so many of our sister states and even the federal level in terms of their political discourse. Here, we come in representing our districts and serving the entirety of the great state of Nebraska to the best of our abilities, not split along partisan caucuses, not split along policy or issue caucuses, but as independent contractors with open minds as to each and every issue that comes before this august body. And I think it's important, and we've already heard these themes presented this afternoon and through the course of this special session, that we reflect upon how lucky we are to be here today. It was said that it was impossible to have this debate. Indeed, colleagues before us who brought forward these ideas didn't have a chance to bring them to the floor for full and fair debate. But here we are. We have a special session. That was a significant obstacle to overcome. We had a very well-attended, very comprehensive, very balanced public process in terms of the committee hearings that were held on the various pieces of legislation presented. The bills themselves that were presented, people said it would be an impossible obstacle to present something that's balanced and legal and comprehensive in dealing with these issues. Well, I contend that with LB4 and the pending amendments, AM13 and AM14, we, in fact, are working towards those very goals. In addition, it was said that we'll never have a floor debate on these issues. These issues will never see the light of day; they'll never come out of committee. And for that, I thank the senators on the Natural Resources Committee that have reservations about this legislation but did give the body an opportunity to debate these issues today, because I firmly believe that these issues are significant. Whether on the environmental, economic, legal, or other policy questions that are contained in oil pipeline regulations on the state level, Nebraskans deserve these conversations to be held in a public forum subject to debate, robust debate, and they deserve an up or down vote on these issues. Nebraskans deserve a return on their investment for paying for these daily charges in our special session. We need to move forward and address this issue because we've come so far already. And then, of course, we'll live with the result. We'll have an up or down vote on these issues as the process continues to work, as the legislation continues to change, as ideas are brought forward, compromises are forged, and sound public policy could be enacted. That's the beauty of the legislative process; we're seeing it work right now during this special session. There have been tremendous gains and improvements in legislation from what Senator Dubas originally proposed to what other senators put forward, to the combination of ideas contained in LB4 and the amendments that are now pending, some substantive, some for other purposes. But I think it's important that we utilize this process to recognize there are legal and policy issues we have to continue to deal with. But it is not a minefield and they are not insurmountable,... [LB4]

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SENATOR GLOOR: One minute. [LB4]

SENATOR CONRAD: ...and authority...thank you, Mr. President, authority after authority after authority agrees with that contention. And let's have that debate, and let's work together to continue to refine and improve and put forward Nebraska's best effort in dealing with an important issue that affects our state not just now but for years and years and years to come. It's time that the Nebraska Legislature took up this charge, took this call to action, and became the leaders on these issues that we were sent here to act upon and lead upon. We have that opportunity before us. We should not squander it. The issues that will come forward deserve attention and deserve additional attribution and debate. But they are not insurmountable and they are no different than other complex and emotional issues that come before the Nebraska Legislature and that we've dealt with successfully over the years. [LB4]

SENATOR GLOOR: Time, Senator. [LB4]

SENATOR CONRAD: Thank you, Mr. President. [LB4]

SENATOR GLOOR: Thank you, Senator Conrad. Senators wishing to be heard: Ken Haar, Dubas, Avery, Christensen, Wallman, Larson, Loudon, and others. Senator Haar, you're recognized. [LB4]

SENATOR HAAR: Mr. President, members of the body, I, too, want to start with thank-yous, first of all, to all the citizens who have participated in this process so far, some driving after work to Lincoln from the Sandhills and driving home after the hearing back to the Sandhills. I want to thank the committee. We sat through 25 hours of committee hearings. I learned a lot and I think everyone did. And I want to thank Senator Langemeier for bringing LB4 as a way of bringing this debate to the floor. I rise in support of LB4 and Senator Dubas' amendment. My attitude at this point is, to quote a famous Nebraskan, Larry the Cable Guy, is just "git-r-done." I believe that this siting process, which we need, is a three-legged stool--the federal government, TransCanada, and Nebraska. And I think that Nebraska needs to be at the table helping make the decisions, not just being listened to. The state must have a say. Right now, we have no place at the table. I believe we need siting authority that respects the interests and values of Nebraskans and gives Nebraska a voice. And there's a real opportunity right now, to the surprise of all of us when we heard that the State Department was delaying the decision. And Senator Sullivan brought this up but I'd like to bring it up again. This a publication called "Just the Facts About Keystone XL," published...Edition 4 published today, published by Keystone itself. And this important clause saying: This new Department of State process allows us to work in a new and different way with Nebraskans to help ensure that the economic benefits and secure...and energy security promised by the project will finally be delivered to America. This does not sound like they've given up the project but they see new opportunities and they say, "We also will

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be able to work with the state of Nebraska, local, state, and federal agencies to determine an acceptable rerouting of Keystone XL around the Sandhills." I handed out a map, and of course there will be a lot more discussion, but I want to go over this map with you. You probably wonder what kind of life I've had in the last three months--not much, just working on this issue. And the map I handed you is from the Crude Oil Forecast, Markets and Pipeline Expansions, June 2007, published by the Canadian Association of Petroleum Producers. And the thing that struck me about this map, I mean, it's a matter of geography. If you look at this proposal made in 2007, there are four pipelines going through Nebraska. Why? Because we're right in a straight line between Edmonton and Hardisty in Canada, where the oil is produced, and the Gulf. It's a straight line, folks. And you notice the one, the Keystone Cushing extension is already in place. This, again, was done in 2007. And then they list three others: the Altex, the TransCanada AB-California, and the Express Bullet. And each of these pipelines kind of moves a little bit west. Now in the 2011... [LB4]

SENATOR GLOOR: One minute, Senator. [LB4]

SENATOR HAAR: ...thank you...CAPP report, the final...there are only two shown, not four. But I brought this before the body to show that we better get ready for this, unless we want to just roll over and let somebody tell us what to do. There are going to be other pipelines coming through Nebraska. We're right in that straight line. We should expect it. We should be prepared for it. And I hope that we will come out with siting legislation to tackle that project. Thank you very much. [LB4]

SENATOR GLOOR: Thank you, Senator Haar. Senator Dubas, you are recognized. [LB4]

SENATOR DUBAS: Thank you very much, Mr. President. I, too, would like to go on the record saying I support this pipeline and probably any future pipelines that will come through our state because I understand as long as we remain dependent on fossil fuels, and I'm right in that club, meeting our energy needs will be a challenge. And working with friendly countries provides us many, many advantages. I also fully understand the economic benefits that come with jobs and additional tax revenues. However, where the rubber hits the road for me is I do not believe giving the federal government or any private company complete control over decisions impacting Nebraska land use is in our best interest. What I have sought from the very beginning when I became involved with this issue is what other states already have, and that's a state agency that can have a seat at the table to represent Nebraskans' interests when these types of pipeline projects come knocking on our door, and an eminent domain law that respects our landowners' rights but at the same time does not inhibit economic progress. Nothing in Senator Langemeier's bill or the bill that I introduced deviates from what other states have in place. In fact, my office has spent an inordinate amount of time researching what other states have in place and how it works. We didn't create something new,

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didn't recreate the wheel by any stretch of the imagination. We looked for what is already working, for what these companies are already complying with in other states, and tried to mold it into something that would fit Nebraska. So, you know, there have been no legal challenges to these laws to date on the book. And, in fact, again I think I mentioned earlier, TransCanada talked about the benefits of having that process in place that allowed them to interact with the state and try to address their concerns or even provide economic opportunities for those states. My motivation has never wavered since I began working on this issue. It's not to stop the pipeline. I never even promised a reroute through this type of legislation. I simply was seeking what works in other states, an agency that will represent Nebraska and Nebraskans. This bill, where we're at today, the bill that I introduced in the special session, the bill that I introduced in the last regular session is not a knee-jerk reaction. We have spent the last several years looking at this, trying to understand where we fit in this process and how we can make this process work. Senator Dierks introduced a bill in 2010. And because, again, of all of the conflicting information that was coming forward, Senator Sullivan and I decided to team up and do an interim study to help us gain clarity. And from my perspective, we did gain that clarity. Through that interim study, Senator Sullivan had a bill that was successful; mine still remains in committee. But, again, we've had untold hours of testimony through Senator Dierks's bill, through the interim study, the hearing we had on that, all of the hearings we had on the three bills that were introduced last session, and then the bills that we had introduced in this special session. So we aren't coming at this as a Johnny-come-lately. We have been spending a great deal of time trying to be responsible, trying to be responsive, trying to put forward thoughts and ideas that are legitimate, that are constitutional, that will represent the concerns of the citizens of our state, but also trying to... [LB4]

SENATOR GLOOR: One minute. [LB4]

SENATOR DUBAS: ...to be business friendly, too, although some may disagree that that is the case. I think my colleagues have raised some very legitimate concerns, and I hope that they're going to come forward with some specific amendments that will address the components that they're looking for in creating a bill that will be a good, sound piece of policy. We do need to be responsible in our decisions and what we do. We need a policy that will serve us not just today but well into the future. I, too, was encouraged by the comments that I read in the publication by TransCanada. We have an opportunity, through this special session and through the debate we're having today, for a very cooperative and collaborative process. I have been and I will continue to be very open to working with all vested parties so that we can put together something that will not be onerous by any stretch of the imagination for those companies that want to come into our state, but yet give our citizens a degree of comfort... [LB4]

SENATOR GLOOR: Time, Senator. [LB4]

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SENATOR DUBAS: ...and confidence. Thank you. [LB4]

SENATOR GLOOR: Thank you, Senator Dubas. The Chair recognizes Senator Avery. [LB4]

SENATOR AVERY: Thank you, Mr. President. Good afternoon, colleagues. I am going to speak about AM14. I support this amendment offered by Senator Dubas. I believe it's really important that we remove any ambiguity that might be out there as to whether what we might decide to do in this session constitutes preemption of federal law. We have heard a lot of discussion from various testifiers in the hearings that we've just concluded, and a lot of criticism of what we were proposing to do, also what is being proposed under LB4, that all of this is unconstitutional. TransCanada has said that hundreds of times. In fact, on every single bill that was introduced and heard in public hearings last week, they came in and they found all five bills, all five, deficient on the same grounds, which was spectacularly unbelievable because they couldn't all be deficient on all the same...for all the same reasons. And they continue to talk about the unconstitutionality and they raise the safety issues. No matter how many times we said that it was not true, no matter how many times we denied the charge, it didn't go away. So we need this amendment and we need this amendment to make it crystal clear that what we are doing or what we hope to do is not by action or intent seeking to preempt federal law with respect to safety issues. This is known as a savings clause and it is not unheard of in the law to do this. Of course, this amendment is just a small part of a much larger issue and a small part of a much larger bill. That larger issue to me is whether this body will exercise its sovereign power, sovereign power to protect our state interest, sovereign power to do what our citizens are demanding. We have more than merely the right to act; we have an obligation to do this. I strongly believe that we cannot shirk that obligation and keep faith with our citizens. I firmly believe that we must adopt constitutional regulations that put in place a legal structure to protect Nebraska, and will give us a legitimate voice in where oil pipelines will be built across our state. That's not asking for much. It's not overregulating business. It's not an undue interference in the conduct of business in our state. I support this pipeline. The question for me is not and never has been whether we have a pipeline; it's always been where. And I am, of course, in support of the jobs that will be created and tax revenues that will be generated. I think, however, we must stand up and exercise our sovereign power to give a legitimate voice to our citizens in this process. This is what they expect and it is what they deserve. I urge you to support AM14... [LB4]

SENATOR GLOOR: One minute, Senator. [LB4]

SENATOR AVERY: ...as the first step toward constructing effective legislation to regulate oil pipelines in our state. There will be many amendments offered later. I will have at least one of those. And I believe that we have the means and the ability in this body to put together effective law. And it will, I believe, remove a big obstacle to

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TransCanada's federal permitting process because it will remove and meet the concerns of Nebraska citizens. But if this is to happen, we have to act and I urge you to vote for AM14. Thank you, Mr. President. [LB4]

SENATOR GLOOR: Thank you, Senator Avery. Senators in the queue: Christensen, Wallman, Larson, Loudon, Krist, Carlson, McGill, Adams, and others. Senator Christensen, you are recognized. [LB4]

SENATOR CHRISTENSEN: Thank you, Mr. President. I left normal reflection last time on the floor here that we normally adhere to. I never mentioned the bill, LB4, or the current amendment. I feel our vets are that significant. Now I'll state where I am on the bill. The amendment is intent language and does not hurt or help the bill, in my opinion. Now the bill I voted out of committee with a huge pit in my stomach. I knew it was wrong to send a bill out of committee without much work. I struggled to keep calm and listen to 25 hours of debate. We are all emotional people with deeply held convictions. I know of no one living in western Nebraska, perceived as west of Lincoln by many, that don't feel that we live in God's country. Nebraska is a unique place to live with many conservative ideas and philosophies. I do believe that if I lived in route of this pipeline, I would be concerned or watch very closely. As we watch closely, we must look at the facts and history. If you look at the soils maps, you can find similar soils on other pipelines, just like the Platte pipeline in Lincoln County that crosses west to east across this whole state and across the Ogallala aquifer. I have been on site of this pipeline visiting with ranchers to see how safe it is, how restoration was done, and to see if there has been any leaks and how they were handled. The Platte pipeline was built in 1952 and has handled oil since then. This Platte pipeline has handled Alberta crude, yes, tar sands oil, for 15 years without problems. Has there been a leak? Yes. I was on site where it occurred. Was the rancher pleased with the care of the leak? Absolutely, even impressed that they found it as quickly as they did. Did he have concerns? Yes, more on restoration and concerns of getting people paid back for damage outside of the leased route area. That is why I asked questions of TransCanada on the mike and I asked if they'd had a history of paying some in the past, and I visited with other producers in that area to make sure that we had a just solution on record of how they would handle it. I do believe a process is good, that getting something done could be good for the state. I don't agree that LB4 is the answer at this time. I remain open to see solutions to better the bill or to replace this bill I voted out of committee...or to replace the bill I voted out of committee. I still believe the bill was not ready to come out though. I believe much work must be done on this to gain my support. I still struggle I voted it out of committee, but agree that everyone wanted a debate on the floor for all Nebraskans. Now let's do our job, Senators, to better this bill or be willing to wait and finish this bill or one like it in January of next session. Thank you. [LB4]

SENATOR GLOOR: Thank you, Senator Christensen. Chair recognizes Senator Wallman. [LB4]

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SENATOR WALLMAN: Good afternoon, all. Mr. Chair, this is an emotional issue and eminent domain is imminent. And we're not talking much about the landowners here. And I appreciate all the ranchers and farmers that came down and testified. I have lots of pipelines in my district, not very many complaints, but a lot of them are natural gas and anhydrous. So they do bring economic development to your communities and they...good jobs. So that is a plus. Should we have the right to route a pipeline now that we...it's retroactive, government by emotion sometimes instead of common sense? I feel we owe TransCanada something. The State Department decided to postpone it. I think we can hammer out something that is a win-win. It's going to be hard. The farmers have to be involved, the ranchers have to be involved, the landowners. They could build a pipeline through my farm, that would be okay. And I think most of them in my district would be okay, but the people that own land in the Sandhills in my district, they are not okay. And so that's what I go by. I'm listening intently here, trying to figure out how we can hammer out something that's a win-win. And that doesn't happen very often. But I think it's an economic opportunity for our state. We don't exactly want to make everybody mad that have businesses in our state. And I'm against overregulation, as you can tell. But now we're going to have to watch out extremely of what's going to happen to our coal industry and our power plants. Are they going to come down in 2013 or '14 on strict regulations on that? I think we have to be proactive instead of reactive. So this is reaction. If we were proactive this wouldn't have happened. Thank you. [LB4]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Wallman. Senator Larson, you are recognized. [LB4]

SENATOR LARSON: Mr. President, I rise today on behalf of my constituents, of those of Holt County especially, in support of siting legislation in the state of Nebraska. Many of us have spoken as we move through debate. We have to listen to both sides, the scientists on one side and the scientists on the other. And I, too, watched many of the Natural Resources hearings and saw both sides. And both sides are very emotional about their issues. I, personally, have received hundreds of calls and e-mails from my constituents in Holt County and the people who will be most directly affected by the Keystone XL pipeline. This issue really is the issue of the century for many of the residents in Holt County. And LB4, siting legislation in general, goes a long way in the possibility of protecting what many residents of north-central Nebraska, Holt and Rock County, call God's country. The Governor called us into special session to show leadership to the rest of the state. And because Nebraska has no siting laws in place, LB4, Senator Dubas' LB1 would finally give the Governor of our state, the leader of our state, the authority and the possible opportunity to do what he was elected by the people to do, just like us, and that's lead. Thank you, Mr. President. [LB4]

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SENATOR COASH: Thank you, Senator Larson. Those wishing to speak are Senators Louden, Krist, Carlson, McGill, and others. Senator Louden, you are recognized. [LB4]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this bill, LB4 I feel is probably a step in the right direction. And, as I think Senator Langemeier said, it's a work in progress, and I think it needs to continue to be so. We have to look at the future when we're talking about this pipeline and where we're routing them and what we're going to do. Even Senator Haar's map that he pushed around here showed all the pipelines that were coming across. And the discussion has always been from up in Alberta, Canada, down to Louisiana. But really, in a few years we'll probably be looking at an oil field up here in North Dakota, that Bakken oil field. And that product will be the same way, it will move south or it will move east or southeast. So we will probably see a lot more pipelines in the future coming through Nebraska. Nebraska has always been a transportation state. Didn't matter whether people were going west 150 or 160 years ago or whether we were building a railroad or building an interstate, it's always been across Nebraska. And the pipelines will be the same way. So we have to look to the future on what's going to become of these pipelines. And therefore, I think we do have a call to set in some safety measures and routing...and pass some legislation and some regulations on what can or can't be done. As we talk about safety measures, I think Senator Dubas's bill wants to preempt that so that we aren't in conflict with the federal regulations. But my question is, are those federal policies or are they regulations, and can they be changed? And should we probably in the interim perhaps try to see what negotiation can be done to have an agreement with the Office of public...Pipeline Safety, which is called the OPS, which other states do make agreements with them now that they can be a party to some of the safety measures. As I passed around this picture here that was taken in 2004, up there on the Trans-Alaska pipeline, and on the first, page 1, that's what they call a pig, and that's devices that they send down those pipelines to either clean them or else to find...look for any abnormalities that are anomalies that are down that pipeline. And right now the federal regulations only require that to be done every five years. It's up to the companies to decide if they want to do that more often. And so this is something that we need to have people from the state of Nebraska to be party to when they're testing them, and also what kind of requirements we have to have to do that testing. Also, on the back page of that you can see that was pump station number one, up at Prudhoe Bay. And that back then was a big concern about building that pipeline across the permafrost above the Arctic Circle. As you can see, they did quite well. They put it up on legs, I guess, with a device that would allow that pipeline to move around as it froze and thawed and got cold and that sort of thing. So when we talk about routing pipelines across Nebraska, this is all engineering-type deals that we need to have someone that knows something about pipeline construction in our committees that we appoint, such as what's been addressed in LB4. So I think those are some of the issues that have to be addressed as we go forward. Now do we have to do those right away? Right now, since the politics have got involved with it and environmentalists, we have until actually 2013. We actually have

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nearly two legislative sessions... [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR LOUDEN: ...to address this problem. So I would...my suggestion is that we need to do this right. And I'm wondering if it needs to be...have a study group or committee, whatever you want to call it, between now and when our session starts and partway into the next session to do this thing right and see what we have to have for regulations and move forwards with that. So with that, my suggestion would be that we either table this or recommit it to committee or wait on that. I think it's good to have the discussion on it today. But I don't see any point in getting in a big hurry and drafting legislation, because that's usually when you get poor legislation is when you get in a hurry and it's either drafted on the floor or drafted with a knee-jerk attitude. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator Louden. Senator Krist, you are recognized. [LB4]

SENATOR KRIST: Thank you, Mr. President, colleagues. I am in favor of using North American oil to fuel North American needs. I have seen firsthand and have knowledge of the geopolitical realities of the dependence on foreign oil, specifically southwest and southeast Asian oil. Every time you see one of our soldiers in the obituary column, you need to realize this is partly due to our dependence on oil outside of North America. I am in favor of pipelines running through this great state. I am in favor of working towards legislation that takes the control that this state needs and issues that this state can legally mandate and maintain. I will help in working towards that quality legislation during this session. I think it's important, after hearing 30 hours of testimony, that we give the reverence due when the citizens tell us to act, we need to follow through and act. I appreciate Senator Conrad's words a few minutes ago about those things that need to come to this floor for debate. And I do not wish to chastise any chair of any committee, present or absent from this Chamber right now. But I would remind you that when issues come to your committee four or five or six or seven times, you owe it to this body, to the other 42, to be able to debate the issue in some form. I don't think we'd be here today or we would have been called back by this Governor had we had quality, open and honest debate on this particular issue. I want to remind you though of this past summer's experience. I want to incite you, I want to incentivize you to keep working towards a conclusion to this issue. The reason that we were under water and the Missouri took many of our farmlands and endangered a major airport and seven power stations down the Missouri Valley, sorry, the upper Missouri and Missouri Valley is that we, the state of Nebraska and the state of Iowa, did not weigh in. We have to take the opportunity to weigh in on these issues, no matter what the federal agency involved. The Army Corps of Engineers traveled all over this country. And I can attest for the last 11 years I sat through many of those hearings because I flew them there when they

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were lobbied by the state of Montana, North Dakota, South Dakota, Missouri to maintain a recreational fishing industry, for those that wanted the piping plover to flourish, for those that wanted the pallid sturgeon to flourish. You know what was missing from that whole discussion? Flood control. We need to inject the state of Nebraska's needs, this great state's needs and its citizens' needs into all of those discussions, no matter what federal agency is trying to regulate us. When you think about it, it makes sense. The old adage, the squeaky wheel gets the grease, you need to speak up when those issues are important to you, to your constituents, your 35,000-plus and the constituents in this state. I have an idea I'm going to come forward with. After listening and reading and doing the due diligence that I have, I believe that we have public commissioners that are in this state. They are qualified to do the job. They may need augmentation. But we need to take the initiative now to put legislation in place, because, as Senator Loudon said earlier, when the spigot is opened... [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR KRIST: ...in the Bakken, we will see a flow of oil that needs a refinery. Thank you for your attention, colleagues. [LB4]

SENATOR COASH: Thank you, Senator Krist. Senator Carlson, you are recognized. [LB4]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This time, as I stand up to speak I'm going to talk a little bit about the lobbyists. The lobbyists were very, very active this past week, as well as the time leading up to our special session. I'm not opposed to lobbyists. I don't dislike them. Many are my friends or were my friends. But they don't own me and they can't dictate every step of the hearing and debate process. Now I think the goal is often the same for us and the lobbyists we deal with. We may well differ on how we achieve the goal. Several pro pipeline lobbyists are upset with some of us right now, that's okay. My message to them is this: Get mad and get over it; we'll do what we think is best for the state of Nebraska. There's another set of lobbyists that work very hard to defeat the pipeline. They stirred people up, in my opinion, with half-truths and some outright lies. They created a very strange partnership. They influenced independent, strong-minded ranchers who aren't against pipelines. They're not against the development of fossil fuels. They're not against further development of coal-fired electrical generation. They're not opposed to drilling for oil in Nebraska. They're not opposed to nuclear energy. But they influenced these people who love the land to join with them and join with them with those who are against all of these things, those that are against pipelines. They're against development of fossil fuels. They're against further development of coal-fired electrical generation. They're against drilling for oil in Nebraska. They are against nuclear energy. They want most energy to come from wind and solar, and they don't care what it costs. I think this is a dangerous view. And I strongly believe that we as a state cannot go there. Now the

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leaders of this group, I say leaders, paid no attention to the Rules of the Legislature in regard to the hearing process. They intentionally put three testifiers, who were dead set against the pipeline, to testify in a neutral category. They weren't neutral. And one was an attorney who knew better. The other two were put in an embarrassing position they couldn't get out of. With this group of leaders apparently the end justifies the means. We have a responsibility. Let's figure out what is best for the entire state of Nebraska. Now the federal government I think took the easy way out on the permit--no decision for at least a year. With pressure from Governor Heineman and the concerned citizens, the route, in my view, will be changed. We have some time, as Senator Lathrop spoke on earlier today. [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR CARLSON: We're not in the eleventh hour anymore. So let's be careful. Let's work on a good, sound siting bill the majority can support and not risk long-term paralysis or crippling to our economy and to our national security in the process. Thank you. [LB4]

SENATOR COASH: Thank you, Senator Carlson. Senator McGill, you are recognized. [LB4]

SENATOR MCGILL: Thank you, Mr. President and colleagues. This is really exciting to me. I know we're kind of all hushed and thinking seriously. But this to me has been the most unpredictable process or issue I've seen while we've been in the Legislature. And to me that's a great thing for democracy and a great thing for Nebraska that we all can come in here and not know exactly what's going to happen. I remember when this issue first came up a year and a half ago. And I am not an expert on pipelines by any means, and I would send people to Senator Fulton saying, he's the one who is on top of this issue and Senator Haar and Senator Dubas. And I really respected them for digging into this. But the public has really put the pressure on all of us to fully understand this issue and to make something happen. I've been incredibly impressed by the public input. And I'm not talking about the people who showed up here physically last week. I'm talking about the everyday person on the street. As most of you or many of you know, one of my part-time jobs is working at Target. And I love working there, just working the sales floor in retail because I'm among normal people. And I think we can all agree that none of us are normal, (laugh) but they're people who don't normally follow politics. Often when people find out I'm a state senator, they ask me embarrassingly, what is it that you do at the Capitol? What laws do you pass? Now when people find out, they say, where do you stand on the pipeline? I would have never gotten that three months ago even, maybe even two months ago, much less a year ago. People are engaged and listening. The press has been doing their job in getting information out there in a way that has made this process work and, in my mind, the best way it has since I was elected five years ago. When people do ask me about my stance, I'm very open about that. I say, I

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wanted a special session because, while I absolutely support a pipeline, we need oil, we'll have more renewable resources in the future, but right now we need oil, we need a pipeline, but we don't have any local process of regulating a pipeline and the siting of it. And they shake their heads and they say, that's good to hear, that's exactly how I feel. They want the pipeline; they also want to make sure we have a process. To me this is common sense that we should move forward with a version of this bill that we have here on the floor. I'm not too caught up on the particulars. I just know that we're here to create a process, not get bogged down on too many of the facts. The fact is we don't have a process and most other states around us do. That's the fact in this case. It isn't a moral issue or an environmental issue or a business issue. It's just common sense about having a process that we can use moving forward. It's that simple. And I'm excited that the public has gotten so engaged and has come to us. And really, without them we wouldn't have had a special session. I doubt the President would have reconsidered their decision-making process on the national level without the input that we've gotten from the public. So I, for one, am excited to be here and a part of this special session, and hope that we can advance a bill this session. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator McGill. Those wishing to speak: Senators Adams, Wightman, Fulton, Karpisek, and others. Senator Adams, you are recognized. [LB4]

SENATOR ADAMS: Thank you, Mr. President. Members, in the time that I've been in this body, we have dealt with a lot of difficult issues--capital punishment, abortion, lean budgets, the list goes on. But I don't recall a time when we have dealt with as politically-charged an issue as this has been. We have had forces from all sides and all levels interject their personal interests or group interests on this issue. But here we are. Here we are and the issue is now in our hands. It is out of the hands, in my opinion, of the teleservices and their quasi-robocalls, and you know what I'm talking about. (Laughter) It is out of the hands, in my opinion, of the special interest groups. It is now in our hands. We have an obligation to craft state policy that is constitutional and is effective. It's our job now within the confines of the four walls of this Chamber. I started dealing with pipelines January 2007, shortly after I was sworn into this body, because Keystone I was coming through Seward County, which is in my district. And guess what? This proposed line comes through York County. Now don't come to the microphone and ask questions of me because I have no presumption of expertise on pipeline. But I'll tell you this, this I've learned. First of all, wherever, wherever you place a pipeline there will be upset property owners. And they may be upset because of aquifer and Sandhills or they may be upset because they are a seed corn producer and their contract is jeopardized or they have developed an acreage that they have spent a lot of dollars restoring to a natural habitat, and oh, my gosh, guess what might come through it? Nowhere will property owners be completely happy. And I will tell you one other thing that leads me to LB4. In all of my time working with my constituents and

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pipelines, what became very clear to me that was missing was some kind of statutory framework where citizens in our state and the state itself could have some kind of authoritative voice in the planning process. It's not there. I don't know if LB4 is the answer, but I think it is a step in the right direction to fill a void. Now I will tell you, I am still concerned about constitutionality. And I'm certainly no expert (laugh) on that subject. I find it hard to believe that Nebraska or South Dakota or Montana or anybody else has total autonomy over siting. If that be the case then it would seem to me you can't build anything interstate. We could stop trucks at the Colorado border and tell them to go around to get to Iowa. But do we potentially have some... [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR ADAMS: ...siting authority? I think so. I'm listening carefully to the debate and I'm studying the bill carefully to find out where that balance is. But I think we have some. And if we do, we ought to exercise it. There's going to be more pipelines. Senator Louden is right. And where are we going to be? And whatever we do it needs to be constitutional, it needs to be effective, not overreaching. And we're in a place where we can begin that process. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator Adams. Senator Wightman, you are recognized. [LB4]

SENATOR WIGHTMAN: Thank you, Mr. President. Good afternoon, colleagues. I, too, want to thank the Natural Resources Committee for all of the work and the time they've spent. I think they've done an excellent job in bringing forth the scientific evidence, all of the evidence I think with regard to this issue. Well, maybe all would be a little broad, but nevertheless they've certainly considered a lot of the issues. So one of the questions I would have, and I thought Senator Lathrop, but I don't see him here, and Senator Avery. Apparently word got out that I was going to ask them some questions. (Laughter) My next choice would be Senator Dubas and I don't see her either. (Laughter) So maybe there's a conspiracy, I don't know. But one of the issues I have with regard to that, and it's always tough to follow Senator Adams. He raised a lot of the issues and in, as he always does, a very dramatic fashion. But one of the issues I have with regard to legislative history and the safety issues is just exactly how far we can go in discussing at the level of the committee and even on this floor safety issues and then draft a provision such as...or an amendment such as Senator Dubas has proposed that says that we're not considering safety issues at all. Because it seems to me that if we looked at the total...the totality of the evidence that was received at the committee, much of that had to do with safety issues. So I certainly do agree with Senator Adams that just because you call it siting rather than safety issues, it's a little difficult to just rule out the fact that this bill does have a lot to do with safety. One of the points...I might ask somebody on the committee this. One of the points that's been discussed a lot of times by the pipeline is that 91 percent of the property owners have already, and I've heard 90

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and 91 and 92, have already signed easements. Now I'm assuming they're talking about the numerical number of property owners. And I wonder, and I don't know whether this was discussed at the committee level or not. If it was, I missed it. I wonder how many of the lineal miles of line are represented by the 91 percent of property owners. Perhaps...I don't see Senator Langemeier, Senator Carlson might be able to answer that. I'd have a couple of questions, if Senator Carlson would yield. [LB4]

SENATOR COASH: Senator Carlson, will you yield? [LB4]

SENATOR CARLSON: Yes, I will. [LB4]

SENATOR WIGHTMAN: One of the points, as I said, discussed was that 91 percent of the property owners have signed easements. I've heard 90 and 92. But was there ever any discussion as to how many of the lineal miles or lineal feet or whatever segment we break it down into were included in that 91 percent? [LB4]

SENATOR CARLSON: There really wasn't much discussion in that direction. So if I would say I assume that the linear miles is probably near that percentage, that's just a guess. [LB4]

SENATOR WIGHTMAN: And my own thought is that that probably is not a very good guess. Is somebody...well, at any rate, I think that generally speaking probably more of the numbers came from the valley and the irrigated area where they had 60- and 80- and 160- and 320-acre tracts as opposed to maybe 6 square miles or 20 square miles. [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR WIGHTMAN: But I don't know that either. Senator Langemeier, could you...well, if Senator Langemeier would yield I'll ask some questions. [LB4]

SENATOR COASH: Senator Langemeier, would you yield? [LB4]

SENATOR LANGEMEIER: I would yield. I don't know the question. [LB4]

SENATOR WIGHTMAN: Well, I'll rephrase it and summarize it. One of the things we've heard is that 91 percent have signed easements. And I'm wondering if you know what that translates to, into the percentage of lineal miles that we're going to be traversing with the pipeline. [LB4]

SENATOR LANGEMEIER: Well, the entire pipeline is 1,700 miles with 435 of that in Nebraska. [LB4]

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SENATOR WIGHTMAN: No, I'm interested in Nebraska, but... [LB4]

SENATOR LANGEMEIER: So 435 times 91 percent. [LB4]

SENATOR WIGHTMAN: But that doesn't mean that's the lineal miles. That's probably the number of property owners, is it not? [LB4]

SENATOR LANGEMEIER: Ninety-one percent of the right of way is purchased. [LB4]

SENATOR WIGHTMAN: Okay. [LB4]

SENATOR LANGEMEIER: So that could be one person not... [LB4]

SENATOR COASH: Time, Senators. [LB4]

SENATOR WIGHTMAN: Thank you, Senator Langemeier. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senators. Senator Fulton, you are recognized. [LB4]

SENATOR FULTON: Thank you, Mr. President. If Senator Wightman will want some time, I could yield back the remainder of my time here in a moment or so. But I'll go ahead and take some time to...I just wanted to clarify, because I didn't get the opportunity to when I spoke earlier. I'm supporting AM14, Senator Dubas' amendment. And I think it is, at a minimum, necessary just to delineate that authority which we are appropriating unto ourselves as a state within our statute. Part of...when we hear these arguments for states' rights or for the Tenth Amendment pursuant to that resolution I brought, pursuant to the thought that we have on this, I just want to point out that it's very easy to jump to one extreme and say, ah, the feds shouldn't have all of this power, the states should have all of the power and vice versa. It is indeed a balanced federalism that I believe we should strike. And so I think it's very important to that effect that AM14 gets adopted. And so I want to make clear that I'm supporting Senator Dubas' amendment to that effect. And also there was something that Senator Carlson pointed out that is a great point and something that I at least want to clarify at least for myself. I recognize that there are folks who flat out don't want this pipeline to happen. They're opposed to oil, they're opposed to nuclear, what have you. I'm not one of those people. I'm not one of those persons. Great respect for folks on the environmental movement, but I just don't agree with them. So for instance, one thing I get asked over and over is why we don't have more refineries. And here's an example where if we were able to build some refineries in this country, maybe we wouldn't be talking about a pipeline cutting across our Sandhills and our aquifer. But regardless, it is possible to seek authority on behalf of Nebraska to act on what I think is clear, something with Nebraska interest without being opposed to oil. And I said it a year or so ago, I say it

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again, I'll say it going forward. After having looked at this and studied it and weighed it and employed my own judgment, I'm pleased to see this pipeline. We do need the energy. It's good that it's coming from a friend and neighbor. It's good that it will provide jobs. It will provide revenue to local units of government. Senator Haar handed out this map that shows all of the different proposed routes that are coming through Nebraska. I look at that and I'm excited. That's great. Those are more jobs. That's more oil. That means it's less that we have to depend on sources from countries that despise us. But we should still act as a state to exercise sovereignty, to say where we believe this route ought to go, just like other states have. That's my position on this pipeline. If Senator Wightman would like the rest of my time, I would yield my time. But it is apparent that he does not. And with that, Mr. President, I thank you. [LB4]

SENATOR COASH: Thank you, Senator Fulton. Senator Karpisek, you are recognized. [LB4]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I don't have much to say that hasn't been said. But a lot of it...this pipeline came right through my district, the first pipeline. In fact, it came about ten feet from my dad's property. They did a great job. It's nice. You can't tell where it was, where it went. They did a good job. I don't know if there was a lot of economic impact in the area but I'm sure there was some, better than nothing, that's for sure. But I would like to see this pipeline rerouted. I would like to see it go more according to where that first pipeline came in. I'm not against the pipeline at all. I'm not all that worried about leaks, but I think there possibly could be something happen. Things break, things go wrong. I think TransCanada did a wonderful job putting in that first pipeline. Again, I'm more than happy with it. I've seen what kind of money comes into the Wilber-Clatonia school system because of the pipeline, it's substantial. I have not heard anyone really upset about what happened. I've had a couple people in the district that weren't happy about it. But in all these discussions TransCanada wanted their names to go out and talk to them and try to make things right. I give them kudos for that. They want this to go the right way. They want to be a good company, a good neighbor, a good partner. I was hoping all along that they would just change the route in Nebraska, run it more from the west over to the east and bring it down south. The two were supposed to meet up in my district at Steele City. Very good, the people are excited for that, they're happy about it. They want to see the jobs, as do I. They want to see the economic impact, as do I. Maybe this thing will never leak, maybe. But is it worth the risk? Will it damage the aquifer? I know we've had all sort of doctors, specialists, everyone tell us one way or another. I guess bottom line to me comes down to, why would you risk it? Is it that important to risk it? And if it does run more miles in Nebraska, then isn't that more pipe that needs to be put in, more jobs, more that will be on the tax rolls? To me that just seems to make some sense. Let's be safe, let's move it over and let's get it done. I know they've said that it will take too long, that it will take another two to three years. I don't know. I'd like to be...this body to be involved in making some sort of a compromise, sitting down and telling the State

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Department, we're good with it now, please expedite it and let's get this thing moving. We don't want to be the ones holding everything up. But on the other hand, just as I've heard today, what's the hurry now? What's the hurry with passing any legislation? Well, what's the hurry not to? There's going to be more pipelines. I don't know of anything in the state that we don't have some control over. My goodness, we have more boards and licenses than you could ever... [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR KARPISEK: ...name off in a whole day, but we're worried about this siting law. If for no other reason, it needs to be for the next one. We're here, it's fresh on our minds. I'd like to see us come together and work something out. But I would like to see this pipeline moved east, not across so much of the aquifer, not across so much of the Sandhills. Put it near the one that's already come through that most people are happy with and let's get on with business. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator Karpisek. Speaker Flood for an announcement. [LB4]

SPEAKER FLOOD: Thank you, members. Good afternoon, Mr. President. This has been an issue that will define us for many years. And I'm going to use my opportunity as Speaker to talk about what I believe a path forward is. Last week during the discussion on LB1, Senator Dubas' bill, there was a testifier that testified about the state having the ability to conduct a supplemental environmental impact statement if a new route was to be considered. That public hearing was very valuable for me and I'm sure many of you, because citizens, both pro and con to Senator Dubas' bill, shared what they wanted to with the committee. And we have public hearings for the reason that we have to learn as much as we can about an issue. And I don't remember who the testifier was but it struck me as something that was worth looking into. Last week on Wednesday, I sent a letter to Secretary Hillary Clinton at the U.S. Department of State. And as you are sitting in your seats, copies of those letters are being handed out right now. And I asked Secretary Clinton, does Nebraska have the authority to conduct a supplemental environmental impact statement on a new route, if a new route is to be considered? I want to let you know that today I received a fax from the State Department, also included in the packet before you, dated November 14, from Dr. Kerri-Ann Jones. Dr. Jones advised that, yes, in fact the federal laws and regulations provide for and in fact encourage cooperation between federal and state governments on issues such as the siting of oil pipelines. She confirmed what the testifier said last Monday, that Nebraska in fact does have the ability, if we want, to participate in and conduct a supplemental environmental impact statement. I have visited with TransCanada. They have agreed to voluntarily move the route out of the Nebraska Sandhills. TransCanada has agreed to do this after hearing from Nebraskans and many of you in this room and the thousands of people that have come to our State Capitol to make their voices heard. TransCanada

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is willing to consider a route that will not cross the Nebraska Sandhills. In fact, they're willing to go through a process that sites it out of the Nebraska Sandhills. This is a voluntary decision on their part and it is a major development in this issue. You'll also see in your packet a letter from Mike Linder, who is the director of the Nebraska Department of Environmental Quality. Mr. Linder responded to my request regarding his agency's ability to engage and conduct a supplemental environmental impact statement along a route chosen...that does not include the Nebraska Sandhills. His response is in front of you. What I am proposing that we do, and I have just filed an amendment to LB4. It should be on your gadget as AM37. And I am proposing a two-step process. The first step, following the filing of AM37, is to set it for a public hearing tomorrow in the State Capitol before the Natural Resources Committee at 1:30. It is not by the rules necessary by all means, but I think it is appropriate that this amendment have a public hearing. And for that reason, we will not meet tomorrow afternoon. Instead, the Natural Resources Committee will take testimony on the amendment. They will not vote it out of committee as it is filed to an existing bill. But the public will have the chance to hear about AM37. And essentially what AM37 does, it directs and allows, I should say, it allows the Department of Environmental Quality to conduct a supplemental environmental review statement on a new proposed route to an oil pipeline project. It clearly states that the supplemental environmental impact statement will be paid for by funds from the taxpayers of the state of Nebraska. This is our land, these are our people, this is our water. If it's important enough to study and to get an answer on a supplemental environmental impact statement, it's important enough for us to pay the bill. TransCanada will not pay for this; we will pay for this because it's the right thing to do. Usually, it is customary for the applicant in these situations to pay or have the costs assessed. I believe what I've heard very strongly from citizens across this state is that they do not want a process paid for by a company. If it's important, we pay for it ourself. The other provision in AM37 basically says there shall be no conflict of interest between any of the vendors hired by the state and the applicant choosing to move an oil pipeline route. I thought that was important, given some of the concerns that have been shared relative to this issue. Finally, in AM37 there is a provision that requires the Governor of this state, after receiving the final supplemental environmental impact statement from the Department of Environmental Quality, to advise in writing any and all federal agencies interested whether or not the Governor of this state consents to the new route. That I believe is something that has been important along this way as well. I want to stress to you that by the DEQ taking part in this process and commissioning this supplemental environmental impact statement that DEQ will be following federal rules. There will be public hearings, there will be transparency. That's the way the process works, and that's the way it will work in Nebraska. And that brings me to the second part of this two-step process. I have asked and I believe the Natural Resources Committee members are in agreement to kick out and return to the floor...and send to the floor LB1. LB1 is Senator Dubas' bill that relates to the Major Oil Pipeline Siting Act. I believe it's appropriate that this bill be passed as well this session so that we never have to live through this nightmare again. We should put oil pipeline siting legislation on the books.

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Now from my understanding, and I want to thank Senator Langemeier for his close cooperation on all of these issues and specifically his legal counsel, Laurie Lage, LB1 will come to the floor with a committee amendment that clearly says that the siting legislation that Senator Dubas has proposed will not affect the Keystone XL project. Instead, after its passage in the Legislature it will be proactive and prospective to any future projects that want to build in the state of Nebraska. I am hoping that tomorrow we can take up debate on LB1, adopt the committee amendment and move it to Select File by noon. After that, I've asked Senator Langemeier and Senator Dubas to sit down with legal counsel on both sides of the issue and make sure that any and all changes that can be agreed-upon are agreed-upon, and that on Select File with LB1 they're voted upon on the floor. That is a two-step process. It respects our citizens, it moves the route, and it defines the state policy into the future. I want to take a moment and to not only thank all of the citizens that have been part of this process, and obviously there's more work to be done, I want to specifically thank Senators like Ken Haar and Annette Dubas and Bill Avery for taking the time to put in bills and all of you. I also want to take a moment to talk about the Natural Resources Committee. The members on that committee have not only been thoughtful, attentive, they are interested in doing the right thing for Nebraska. And the fact that they kicked out a bill on Wednesday night to allow us to have this discussion and set up this process is something that we should all be thankful for, especially as we'd like to be with our families by Thanksgiving. The process for me, from my standpoint, is that we get to 5:00 today and we adjourn. The Natural Resources Committee will Exec and send to the floor LB1 as amended. We will take up LB1 tomorrow at 9:00 a.m. We will hopefully move it by noon. We'll have the public hearing on AM37 tomorrow at 1:30 with the Natural Resources Committee and then we'll take up debate on that amendment, if I can get the agreement of the other senators to work with us and remove some of the amendments. I believe this course of action represents a win-win. It is a win-win for everybody. And to those folks that live in the Nebraska Sandhills, you will hear directly from TransCanada later today. They will not be proposing any route that crosses those sensitive areas of the state. I want to thank everybody for being so attentive. And I look forward to discussing and visiting with you on these issues. Thank you, Mr. President. [LB4 LB1]

SENATOR COASH: Thank you, Speaker Flood. Mr. Clerk. [LB4]

CLERK: Mr. President, I have items. Senator Flood and Senator Langemeier would like to print AM37 as an amendment to LB4. Senator Langemeier, as Chair of Natural Resources, gives notice of hearing on AM37 tomorrow at 1:30 p.m. by the Natural Resources Committee. And I have a new resolution. Senator Cook would like to offer LR21. That will be laid over. (Legislative Journal pages 73-77.) [LB4 LR21]

SENATOR COASH: Thank you, Mr. Clerk. Senator Langemeier, you are recognized. [LB4]

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SENATOR LANGEMEIER: Mr. President, members of the body, I just want to rise and say thank you to Senator Flood assisting in our negotiation. And we think with the passage of LB4 we have never made any promises that at the end of the day that that would move the pipeline. But with what we've developed today and the process we've gone through, we have a win. It will be moved out of the Sandhills. That's a big win for those in the Sandhills. We also think we have an opportunity to do two things, number one, to allow Nebraska to participate in an EIS study that will allow this process to go a little faster in a different location in Nebraska than what's out there through the federal process. And it will also allow us to have Senator Dubas' bill. At the end of the day we will have siting authority. So with this, I think we have hit a milestone and we appreciate everybody's cooperation. And I know some of you have turned your lights off to talk. I do ask that you continue to talk on this subject because I will convene the Natural Resources Committee for an Exec Session to talk about LB1 and to continue to put these pieces of the puzzle together. And look forward to having an opportunity to report that out later today. Now we do know that we'll come up with a solution, some of the fixes that you have brought up on LB1, in the future. We also have next session to refine anything that develops over the next 45 days. So with that, again want to thank the committee, they've been a pleasure to work with, and the Speaker for helping us, and all those involved. We think we have a good solution for Nebraska. Thank you. [LB4 LB1]

SENATOR COASH: Thank you, Senator Langemeier. Those wishing to speak: Senators Price, Harms, Pahls, Ken Haar, and Hadley. Senator Price, you are recognized. [LB4]

SENATOR PRICE: Thank you, Mr. President and members of the body. How fortunate I am to speak right after the Speaker and Senator Langemeier, to be able to engage in some conversation. I know it's so unlike me to get on the mike and speak. So I'll do my best to assist Senator Langemeier in his request. But what I'm truly grateful for is the eleventh hour save from having to make any pithy comments as some have asked that quotes be made. But I won't have to do that now because we have tremendous leadership here in the Legislature, something that we're truly blessed with, people who will work beyond the partisanship, who look at the needs of the state and work together. We truly are blessed that way. I wanted to spend time talking about things that we do down here on our policy and consistency and how do we look at things, in what light do we look at them. Are we looking for consistency in our policies? Are we looking, if we're looking at the pipeline, and saying, hey, this pipeline is better here than there and what reasons we're using for that and how we're validating that, as others have said out here that we're not only holding to one point of view. Senator Adams shared with us some of the issues when going through York County. We've heard from other senators. Again, we truly are blessed to have these points of views, to have a committee that would listen. The Natural Resources Committee performed a yeoman's task, as you've all heard, so many hours of testimony, graciously, in doing their duty and listening to the

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citizens of Nebraska, listening to people, giving point and counterpoint. And now when they get ready, when they thought perhaps they were done they will go back, they will engage again and they will listen to the people of Nebraska. Again, we are so blessed to have this Unicameral, to have this system. And I would ask that all of you, both on the floor and in the state, respect the committee. And when you come to the Legislature know that the Legislature is going to respect you as you respect them in presenting your thoughts. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator Price. Senator Harms, you are recognized. [LB4]

SENATOR HARMS: Thank you, Mr. President, colleagues. You know, just a few minutes ago you have just observed what we call great leadership. Senator Flood has the ability to lead. We've just had a part to witness that. I've watched him in the four years that I've been here time after time after time, when it looks like it's very bleak and we're not going to find a solution, he comes forward and leads us down that pathway. So for me it's very fortunate to have had an opportunity to even know Senator Flood and to participate with this man. We're most fortunate, colleagues. And as we look at our term limits, as we start to lose this kind of leadership I think it will be a sad day for this great state. So for Senator Flood I say thank you for again finding a solution and thank you for being truly a leader for this body. I now want to yield some time to Senator Flood. [LB4]

SENATOR COASH: Senator Flood, 4 minutes. [LB4]

SPEAKER FLOOD: Thank you. And thank you, Senator Harms. That means a lot. Thank you, Mr. President. One thing I want to mention about AM37 is that the bill proposes that or allows the Department of Environmental Quality to work with a contractor or any vendors to conduct the supplemental EIS. It does waive the RFP requirements that are in statute to allow the process to begin responsibly and efficiently, assuring that there's no conflict of interest between the applicant and the vendors. And I think it's a process that could take six to nine months. And it will be done right and it will be done responsibly after the process starts, should you be in favor of AM37. I just want to clarify those points and make sure that you understand that those are provisions of AM37. And again, we're not debating it now. It will have an opportunity to have a public hearing tomorrow at 1:30. Thank you. [LB4]

SENATOR COASH: Thank you, Speaker Flood. Mr. Clerk for announcements. [LB4]

CLERK: Mr. President, Senator Langemeier would like to have a meeting of the Natural Resources Committee at 4:00 in Room 2022; Natural Resources, 4:00 in Room 2022. Thank you.

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SENATOR COASH: Thank you, Mr. Clerk. Senator Pahls, you are recognized. [LB4]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I want to thank Senator Langemeier because he said earlier that I could be part of the Natural Resources Committee. And it's 3:54 and he's calling that meeting at 4:00, so how can I be at two places at once, Senator Langemeier? I do appreciate that. And I also was going to say, I'm going to welcome him to the Banking, Commerce and Insurance Committee. However, he's already on there and he does a good job on that one also. And I know we are using a little bit of time here so the committee can meet. I do have one statement. You know, I, personally, I'm not for pipelines. I've heard everybody says, I'm for pipelines; I'm not. I'm not for pipelines when you talk about Libya, Iran, Syria, any of those countries over there, although I know we do need that. The point is we...my comment is we do need a pipeline in the United States. That's the point I'm trying to get across. Another thing, too, I want to just respond to a couple questions or a couple statements. Senator Adams said that this was one of the most contentious debates or episodes that has happened since he's been here. Well, I can assure you if he had been here when we had a...we were taking a look at Class I schools, when we were talking about the learning community, this rivals those to be honest with you. So a lot of things do happen that people on both sides have a lot of feeling towards as this one. Senator Carlson made a comment about lobbyists. What I wanted...to be honest with you, one lobbyist talked to me, spoke to me a little bit, and I said, what do you want from me other than a yes or no? I was sending the message, I'll listen to you but don't ask for a yes or no. And that seemed to satisfy that person. And that may have caused some of the other lobbyists not to speak to me on this issue, which I, to be honest with you, do appreciate. One thing that interested me is earlier when Senator Sullivan made a statement, and I would like to ask the good senator a question, Senator Sullivan, if that's possible. [LB4]

SENATOR COASH: Senator Sullivan, will you yield? [LB4]

SENATOR SULLIVAN: Certainly. [LB4]

SENATOR PAHLS: Thank you, Senator Sullivan. Earlier in your testimony you sort of sent a light to me, something that says, oh, if this is true, this should be telling us something, and that dealt with your statement about the pipeline's ability to work with us. Can you just go over that again for me? [LB4]

SENATOR SULLIVAN: Well, Senator Pahls, I took those comments from a newsletter, actually, that TransCanada puts out. It's called, "Just the Facts About Keystone XL." And they...this was edition number four. So it was actually the fourth newsletter, and it came out on November 14. And so I was quoting from that where it said that we will be able to work with this...well, first of all, TransCanada is now working under a new process established by the Department of State. And then it went on to say, we also will

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be able to work with the state of Nebraska, local, state, and federal agencies to determine an acceptable rerouting of the Keystone XL around the Sandhills. [LB4]

SENATOR PAHLS: When was that published? [LB4]

SENATOR SULLIVAN: Well, the 14th, that would be today. I don't know what time. Let's see, this says, oh, 2:49 a.m. this morning. [LB4]

SENATOR PAHLS: Okay, so at 2:49 a.m. this morning they were saying, hey, I'll work with you. [LB4]

SENATOR SULLIVAN: Um-hum. [LB4]

SENATOR PAHLS: Well, I also notice, and the good Speaker, the information--because I look at all kinds of information when it is given--and I notice on his fax that was faxed to him was 2:10, so... [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR PAHLS: Thank you. In the morning there was...something was jelling and the Speaker received something at 2:10. And here we are, almost 4:00, and goes to show you how fast things can move. But it does appear that this was in motion very early today, if I'm to understand what you read to me. [LB4]

SENATOR SULLIVAN: It does appear so, yes. [LB4]

SENATOR PAHLS: Were you up at that time? [LB4]

SENATOR SULLIVAN: No, I wasn't. (Laugh) [LB4]

SENATOR PAHLS: Okay, okay. Well, I do...that's the type of information we need. And I thank you for that. That...to me that sends a message other than an emotional type of response, I want it or I don't want something. When you present facts to us it does sort of cause the light to go on for those of us who are sitting around. And I appreciate that type of information as, of course, I do appreciate what Senator or Speaker Flood has done for this particular piece of legislation. Thank you. [LB4]

SENATOR COASH: Thank you, Senators. Senator Ken Haar, you are recognized. Senator Hadley, you are recognized. [LB4]

SENATOR HADLEY: Mr. President, thank you, members, colleagues. I wasn't going to speak but I had sent out a little handout. And I think...I had a number of people come up and tell me I was crazy because I didn't know where Interstate 80 went in the state. And

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I just wanted to make a point on this that there probably is a reason that at times the federal government has to be involved in things called interstate, whatever they are--highways, pipelines and such as that. If you allowed each state to decide where Interstate 80 was going to go, you could have had a patchwork, as shown in the first map that I have. Iowa could have ran it up to Sioux City, Nebraska could have run it to Scottsbluff, and Wyoming could have run it through Cheyenne. On the second page I just show what happens if each state has siting authority and each of them site the pipeline to a different place. I wonder how that is going to be handled if Nebraska decides to have the pipeline on the eastern part of the state and South Dakota decides they want to end the pipeline above Valentine. I don't know if that's a concern or not. Because if you give each individual state the ability to say where the pipeline is going to go, is there a way to hook them up? I will say that I do speak in favor of Senator Flood's proposal. I had some concerns with LB4, and that concern was long-term putting this decision in the Governor's Office. I'm not as concerned with the current Governor, but we don't know what's going to happen in the future. And as we have more siting, more pipelines coming through I think the Public Service Commission is the place to have it. Thank you, Mr. Speaker. [LB4]

SENATOR COASH: Thank you, Senator Hadley. Those senators wishing to speak: Senators Hansen, Wallman, Ashford, and others. Senator Hansen, you are recognized. [LB4]

SENATOR HANSEN: Mr. President, members of the Legislature, I haven't stood up yet and spoke anything. But I do want to talk now about the sensitive areas of the Sandhills. And there's been a lot of discussion about that and there was a lot of discussion last week about the sensitive areas of the Sandhills. If you want to see sensitive areas of the Sandhills, go back 133 years when my great-grandfather homesteaded that area. That was sensitive, that was sensitive then. It's not sensitive anymore. It has cover on it. If we were worried 133 years ago about sensitive areas we wouldn't have settled that area. There would be no roads, there would be no county roads, there would be no federal roads. The right of way of Highway 83 is wider than the right of way for a pipeline. To say across the board that there will be no pipeline, there will be no construction of anything over sensitive areas of the Sandhills, that's crazy, absolutely crazy. I got off the phone a little while ago with my good friend Jim Goeke that worked with the...that's worked with the university his whole working life. He told me a year ago that we can build a pipeline over the Sandhills with no tragic outcome of the Ogallala aquifer. We have risks. I drove down here yesterday. I had a risk driving down here. If I walk to my condo I have a risk walking to the condo. Ask former Senator Kent Rogert, there is a risk walking to the Cornhusker. (Laughter) We can't live without risk. And we can't live in this small shell of saying no construction 2011, no construction in sensitive areas of the Sandhills. It's not as sensitive as you think it might be. It's a tough land to live on, it's a tough land to try to farm, like they did back in the twenties and thirties of the last century. That didn't work, so now we're finally getting that thing cleaned up. But the

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Sandhills are tough. The people that live there are tough and we know what sensitive areas are. And I don't think...I think we're way off base with this legislation. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator Hansen. Senator Wallman, you are recognized. [LB4]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I think Senator Hansen is probably right on some cases, but I also talked to range people who said, in my area also, above the pipe grass greens a lot quicker. It's just warmer soil. So it does make a difference on your landscape. But I thank the Speaker and Senator Langemeier for working out something. Compromise is always better than confrontation. And if we could just have that in Washington, D.C. So we can thank TransCanada for this too. You know, we can just take the credit here? No. They might win the battle if they would have stuck with it, we don't know, so we have to thank them also. And I thank the legislative body also for coming back to listen to these arguments, listen to citizen involvement. And that is really, really neat to see citizens come down and give their point of view. Whether we like it or not, we have to listen and we should listen, and a lot of times it makes sense. And so that's what I like, to listen to ordinary citizens. And the paid lobbyists are good, but I like to listen to the citizens. So I feel we should be a citizen Legislature. They put us in here and that's what our job is, vote for the people, by the people, and that's pretty neat. I've been in different capitals across the United States; it's not this way. It's more like Washington, D.C. So am I partial to the Unicam? You betcha. I went to a place where there was two veterans spoke, a general and a former...a Purple Heart victim and they both said, folks, make sure you're worthy of the people who died for you. It's not easy being free. And I think we were lucky to be born here. We're lucky to live here. So freedom ain't free. So thank you all for serving here, and thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator Wallman. Senator Ashford, you are recognized. [LB4]

SENATOR ASHFORD: Thank you, Mr. President. And, Norm, thank you for your words. And Senator Harms, as he always does, said it so well. Thank you, Mike Flood, and thank you for...to all of those senators who have put so much time and effort into this bill. Senator Langemeier deserves significant credit. I just am always moved by this place. And this example, this week has shown us again that the very trite phrase of never give up applies so well to our Legislature and to our state and to the people of our state. Nebraskans have a unique way of dealing with things. This Legislature, both because of the way it is structured and the way it works, I think very appropriately reflects our population, our citizens, our people who speak many times calmly, reflectively, sometimes with a little ire. But I can't, thinking back over the 14 years I've been here, there have been some great moments, and Senator Harms talked about it.

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There have been some great moments here. This is really something else. To sit here and on the floor of the Legislature and to have our Speaker, Mike Flood, stand up and say, we've chatted with the State Department, we've chatted with the federal government, and we've chatted with our friends at TransCanada, and they're going to move the pipeline out of the Sandhills. My, my gracious! There will not be a better day than this. I'm just thankful to be a part of this organization, this body. Every single one of you are reflective of our state and the attitudes of our people. And our ability to come together, never give up, find a way to make things happen is a trademark that makes us different, makes us all come together and diverge at times as well, but certainly to come together. And we knew it was time to come together. We had a leader that got us there. So, Mr. President, thank you for the time. Thank you, members, for all your efforts and most especially thank you, my good friend, Mike Flood. [LB4]

SENATOR COASH: Thank you, Senator Ashford. Those wishing to speak: Senators Smith, Krist, Council, and others. Senator Smith, you're recognized. [LB4]

SENATOR SMITH: Thank you, Mr. President. And good afternoon again, colleagues. I'd like to thank Speaker Flood, Senator Langemeier, and the Natural Resources Committee for creating a win-win solution for Nebraska, for Nebraskans and Americans. I feel this solution keeps the open for business sign on Nebraska and achieves the smart and resourceful solution that I had mentioned in my remarks earlier this afternoon. I want my colleagues to know that I am in support of this development and this plan. I believe this is a good day for Nebraska and a good day for America. Thank you. [LB4]

SENATOR COASH: Thank you, Senator Smith. Senator Krist, you are recognized. [LB4]

SENATOR KRIST: Thank you, Mr. President. I want to follow up with my comments last time and, in view of what's happened, comment briefly on where we are going so that there's no mistake about what I said. The related issue of another federal agency that regulates the Missouri River did not have the input for flood control for the state of Nebraska and the state of Iowa. We missed that opportunity to weigh in over the past decade. I will not, I will not be remiss in reminding us as a body and agencies, including the Governor's code agencies, that they need to take more attentive look at those priorities in the master manual because, although different in subject, they are the same in result. If we do not advocate for ourself on the federal level when it comes to those kinds of mandates, that kind of a document, the document I refer to as the master manual, then we will be flooded again and we will have the problems that we have. Shifting gears, I would like to commend Speaker Flood. I take it this time he didn't have to lock anybody in a vault to come to this decision, but I do commend him for his, again, Speaker-like work as we come to this point. Finally, I would like to remind everyone that in 2002 the body that was here passed natural gas line legislation that told the Public

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Service Commission that they needed to take action. They gave them no time to take action in 2002. We're giving them an incredible amount of time to take action. And I think they'll stand up to that tasking when we see LB1 that is, at its core, where our legislative or where our state will take its action in terms of future pipeline activity. With that, I thank you for the time, Mr. President. [LB4 LB1]

SENATOR COASH: Thank you, Senator Krist. Senator Council, you are recognized. [LB4]

SENATOR COUNCIL: Thank you, Mr. President. Colleagues, I had intended to withhold comment until we had arrived at that point in time in debate today that we were actually debating the substance of LB4 and the amendments that were on the floor, because I had concerns with some of the substantive aspects of LB4 and had hoped that we would get to that point in our debate that we could address those. I have stated from the outset my support for siting legislation, have conveyed that to Senators Dubas and Haar on a number of occasions, and want to take this opportunity to commend them for their persistence and their perseverance and their commitment to moving this. And after listening to what has transpired this afternoon and listening to some of the comments that preceded that announcement, I guess the thing I wanted to comment on and remind some of my colleagues of is the fact that there are many in this body who are now applauding the point at which we seem to have arrived which had questioned the wisdom and value of holding a special session on this subject. And I submit to you that but for the convening of this special session, we would not be at this point where we are on the verge of enacting what I trust will be legislation that will withstand constitutional scrutiny when it comes to siting. It has addressed the concerns of those about the then proposed location of the Keystone XL pipeline and places Nebraska in a position where in the future it can exercise its authority to have input on these very critical decisions. One of the points I was going to make about LB4 was looking at the panel and the composition of the panel and what the panel was proposed to do. In my mind's eye, I said, well, what would guarantee any result different from where we are prior to Speaker Flood's announcement, because my understanding was that all of those agencies had some input into the process, had every opportunity to express objections, and my understanding that no objections were forthcoming. So I was concerned about that. I was concerned about the ultimate decision resting with the executive branch and was much more supportive of the Public Service Commission having that authority, as reflected in LB1. So I was waiting with my comments to get to that point. But I couldn't resist taking this opportunity to just remind us of the fact that there was wisdom and there was value in convening this special session when you look at the results of it, and it's the result of the efforts of far too many of my colleagues to mention. Every single one of us had some input and involvement and some impact on where we are today, by our comments during committee hearings, by our exchange of correspondence with each other or our constituents. We have all had some impact on the point that we have reached today. And I'm very glad that we have reached that point and that when we

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move forward on the... [LB4 LB1]

SENATOR COASH: One minute. [LB4]

SENATOR COUNCIL: ...siting legislation that we go forward again as thoughtfully and as carefully as we have sought to address this entire issue from the first time it was brought to my attention by Senators Dubas and Haar as to the magnitude of the issue and the need to address that as expediently as possible. And you may have your comments about the State Department, but I'm pleased that the State Department listened to what was coming out of the state of Nebraska. Thank you. [LB4]

SENATOR COASH: Thank you, Senator Council. Senator Bloomfield, you are recognized. [LB4]

SENATOR BLOOMFIELD: Thank you, Mr. President. Members, as we look at the new possibilities presented by Speaker Flood, I want to suggest again, as I did during regular session, I think perhaps as we study this we should also in the future consider the possibility of siting an oil refinery in Nebraska, to not only reduce the number of pipelines but also create a great number of jobs and economic activity in so-called outstate Nebraska. This also would be a thorny issue, but without thorns we would not have roses. Thank you. [LB4]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Brasch, you're recognized. [LB4]

SENATOR BRASCH: Thank you, Mr. President. And I wanted to also thank the members of all the committees that worked on billing, creating bills this session. I want to thank Senators Avery, Senator Haar, Dubas, Langemeier, and also Senator Sullivan for her consult throughout the interim as questions arose regarding the pipeline. I also want to thank the Speaker for his decisive action and the Governor for calling this very important special session. This has indeed been the summer or the interim of great urgency. As Senator Krist first mentioned, it was unprecedented flooding of the Missouri River and Platte Rivers. Whether those floods were 500-year floods, they happened. The devastation is still there. It's not over. Cleanup remains that requires skilled labor, more than civilians. And the cleanup will be ongoing. And despite our schematics of six dams, great reservoirs from the state of Montana all the way to South Dakota, the greatest of technology, the greatest of scientists, of minds, of agencies, state agencies, federal agencies, they were all designed to protect us from flooding, well, it happened, we did have floods. And we are still under the threat of another great flood if things are not changed, if the master manual is not changed, if agreement is not made from Montana and North Dakota. Something does need to happen. I am a farmer. I'm also a businesswoman. I'm also a state senator who is anxious to create jobs. We need rural development in our rural communities. We do need energy. Energy is important. On

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October 16, Secretary Gale held an international transatlantic symposium on food, fuel, energy, and water here in the Capitol. Many attended, many had sent their legislative aides. There was a few of us senators that attended. We need to be more aware of the need for energy, that we have an opportunity to create alternative energy. Oil is wonderful, petroleum is wonderful. And I do agree, Senator Bloomfield, we have it here. We need domestic oil, domestic energy, and that will create stable and ongoing economic development. A constituent wrote that they lived in Seward when another TransCanada pipeline came through. It created a few jobs, but they weren't ongoing jobs. The price of gasoline and diesel keeps going up. More pipelines are coming but we don't see those prices dropping at all. And in fact, I've been alerted that there's a mysterious shortage of diesel fuel ongoing, that the trucks are going to have to stop pretty soon. Farm equipment will have to shut down. We need to get diesel, it's a big mystery. I was for moving the pipeline, like many of the constituents in our district. I am more for American jobs perhaps by buying American. Maybe we should have a session on how we can create ongoing American jobs, bringing back the businesses and the companies, more tax incentives, more special, you know, opportunities to go to rural communities. Again, I'm not against pipelines. And the actions taken here by all the committees, by all the senators have been... [LB4]

SENATOR COASH: One minute. [LB4]

SENATOR BRASCH: ...very clear, that we have listened to our Nebraskans, to our constituents and the work will continue. And I thank the Speaker and the body for all their actions. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senator Brasch. Senator Wallman, you are recognized and this is your third time. [LB4]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, members of the body. I'm listening here to Senator Bloomfield and Senator Brasch, some good ideas. I'm a renewable fuel guy. There is part of the answer: soy diesel, ethanol. Is it the total answer? No. There's lots of things to look at, but renewables is one of them, produced in the United States, used here and renewable. So that's important to me. And also for the tax structure, farmers got more price...better price for their corn, I honestly believe, on account of ethanol. Do we have more economics in store for ethanol, incentives to use more? We don't know. But soy diesel, is it too high-priced now? I talked to ADM on a new formula they have. It could be very viable in Nebraska because of our packing plants and all this. So I have a biodiesel plant in my area with soybean oil, but it's much too expensive. It never got going, it went broke. Foreign investments, they decided to pull out. So then they leave local banks holding the sack. And so we have to be careful when we give these tax incentives to make sure they're held accountable that we get some value out of this, whether it be jobs or property or something. And we have a very good state as far as unemployment is. But my area is pretty high for some reason

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because Husqvarna left and some of the big plants left and they went somewhere else but in the states. So when we give these incentives we're betting against somebody else. So that's a thing we have to watch out for. But this pipeline thing, are we going to get a lot of income out of this in the state? We don't know. But it will bring economics while they build it and then pay taxes while it's built...when it's built. But that brings me to the issue of farmers that own land where the pipe goes through. I just came from the assessor's office. You have transmission lines going through your land, pipelines going through your land, you definitely can't do what you want to do on your land. And will they lower the valuation? No. So another farmer and I was in there, they wouldn't lower his either. But it's a concern that, do we have to take this up in front of the TERC board as a legislative body to renew, you know, what we can do with property taxes? Because if you have a pipeline going through your property, you can't build a house or barn or shed, anything next to that pipeline. So it's restricting your land use. And I don't think you're compensated enough by selling your easement. Maybe there should be something you get a little bit every year instead of a lump sum, then you got to pay income tax on the lump sum. That's always bothered me. I went through the condemnation proceedings, I know. Eminent domain is imminent if you have something the state wants, the pipeline wants, the power company wants. There's three biggies. And will someone treat you better than others? But you better have your ducks in order because it's not public knowledge what you get until you see it in the paper. If you got so much an acre, he got so much an acre, then your neighbor comes over, he's upset because you got a lot more. So fairness, equity in things, we can't be totally fair, we can't legislate fairness but we should try. And I appreciate what's being done here. And I think I've said enough. Thank you, Mr. President. [LB4]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Senator Wallman. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR3, LR4, LR5, LR6, LR7, LR9, LR11, LR13, LR14, and LR15. Continuing with discussion, Senator Conrad, you are recognized. [LB4 LR3 LR4 LR5 LR6 LR7 LR9 LR11 LR13 LR14 LR15]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. What a welcome surprise and an excellent announcement from the Speaker this afternoon in the course of this debate. And I rose just a few hours earlier to talk about how lucky we were in Nebraska to have a system that is responsive to its citizenry and that works. It is not hobbled by the political dysfunction that many institutions in our sister states and even somewhat at the federal level we see time and time and time again. Indeed, this process has worked and it has brought together unique and varied interests. It dispels any sort of simplistic notions or alliances regarding urban versus rural, labor versus management, Democrats versus Republicans. And instead, it allowed people to come together around an idea, an idea that was presented during the course of our public

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hearings by a learned professor at one of our...at our university law school, our public institutions, my beloved university. You all know how I feel about the university system. And the process worked. A person came forward who had legitimate expertise and ideas on these issues, who wasn't a hired gun by either side, and presented an idea that then generated more thought, more activity and led to a potential compromise that is now on the table. So I want to thank that citizen and all the citizens who came forward and took the time to write their senators and e-mail their senators and call their senators and to engage in the debate. I also want to thank Senator Dubas and Senator Ken Haar who I think I received a call, like many of you, back in August of this year, talking about how we could get a path forward to address these issues and how these issues deserved a public forum. So despite the fact that they've been working a lifetime on protecting Nebraska's interests, they've been working for months and months and months and months behind the scenes up through today. And I want to commend them for their tenacity and for their dedication and for the work that this compromise seems to make possible a path forward for Nebraska to protect its interests today and into the future. I am excited to hear more about the details. We'll continue to trust yet verify (laugh) as we move forward and look at the intricacies of the legislation. But I'm hopeful and all Nebraskans should be hopeful. Those that feel cynical towards their government or who seek to tear down institutions can see that democracy works in this instance. This is the shining example. With that, I will yield the balance of my time to my good, good friend Senator Lautenbaugh. [LB4]

SENATOR COASH PRESIDING

SENATOR COASH: Senator Lautenbaugh, 1 minute 50 seconds. [LB4]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Conrad. Thank you, members of the body. Best filibuster ever. (Laughter) I knew I could count on all of you. I haven't had to say anything yet and we're three hours into it. And so I wanted to take this opportunity. I reviewed all the parts of my prepared comments and none of them would be appropriate since we're not angry at the moment, so I don't have anything. We'll see where the compromise takes us. I want to thank the Speaker for his hard work on this, and Senator Langemeier as well. We'll see where it takes us. I hope it works out well. We need those jobs. I support that pipeline. I hope this gets it done. Thank you, Mr. President. [LB4]

SENATOR COASH: Thank you, Senators. Senator Ken Haar, you are recognized. [LB4]

SENATOR HAAR: Mr. President, members of the body, I believe this is a win-win. It happened across the aisle, aside from politics, which freezes so much of what goes on in the federal level of government. And the process works. I want to thank the citizens again from all over the state and particularly from the Sandhills who have taken all the time and energy they've spent on this. And then I want to thank the leadership of

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Speaker Flood, he came up with a compromise that I certainly didn't see, and also the leadership of Chairman Langemeier for bringing this forward. And hopefully this will all work. And finally, I promise to recycle the three-foot high stack of paper that I've accumulated on this issue and I look forward to tomorrow. Thank you very much. [LB4]

SENATOR COASH: Thank you, Senator Haar. Senator Nelson, you are recognized. [LB4]

SENATOR NELSON: Thank you, Mr. President, members of the Legislature. Up until this time I have not spoken because we really hadn't gotten to constitutional issues and some of the things that we're going to have to deal with on what will basically be a siting bill. I'm not going to add to the thanks of all the others that have been proffered here. Congratulations to everyone here that's participated and particularly our Speaker in coming up with AM37. I haven't had a chance to review that completely, scanned it, but it looks like it's a great step forward in coming to a solution here of some of our diverse viewpoints. I think that in this era of euphoria here, we better still consider that we have issues of preemption by our federal government and also the commerce clause and issues of safety. And we're going to have to move slowly, I think. I wish that that were not the case. I wish that we could be in and out of here in another two days. But I think we have to move slowly and very carefully in what we do. I endorse what Senator Loudon said, that we need to take ample time to craft a bill that will not be subject to it being overturned by the federal courts. It's particularly pleasing to me that TransCanada has volunteered to move the line. I feel that they've always been willing to work with us here in the state of Nebraska. Moving the line means one thing to me, it's going to cross other people's property and there are going to be objections to that. And we'll have to see whether we're still above the aquifer or going over the aquifer. But I am particularly pleased as well that whatever we do, according to the Speaker, will not apply to TransCanada, because I think they have acted honorably in all respects. In the situation of having a lot of false and untrue information put out there that has incited people, I know in my district people are, not all but many, are completely misinformed about the true facts. They see a few headlines and draw their conclusions and, consequently, we get a lot of e-mails that you just have to put aside and say, well, they need to be here to understand all the issues or they should have listened to the extensive hearings. So let's move ahead slowly and with caution. It appears that if we bring back Senator Dubas' bill that we'll be dealing with the Public Services Commission. I have some concerns there. I, for one, don't want to put undue impediments in the way of future pipelines. We may resolve the TransCanada and the Keystone pipeline, but there will be others coming through. I think that we want to observe environmental things in this state and other issues and we want to avoid safety issues and do something that's going to be effective for years to come, that will serve us in good stead, and something that we're not going to have to mend or spend a lot of money defending in the courts. Thank you, Mr. President. [LB4]

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SENATOR COASH: Thank you, Senator Nelson. Those in the queue wishing to speak: Senators Dubas and Sullivan. Senator Dubas, you are recognized. [LB4]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I love the Legislature. I am so very proud to be a member of this Unicameral. It is an incredible institution. And I found that to be so when I have the opportunity to travel to other states. And the minute they know you're from Nebraska, the first thing they want to know is, tell me about this Unicameral, and it really can't work, can it? And I'm always so eager and excited to tell them that, yes, it can, warts and all. There's nothing perfect about any process, but in my estimation this is the best form of government that there can be. And it really is responsive to its citizens. So I am humbled and I am honored to represent them as their Nebraska state senator. Quite frankly, we're here today because of our citizens. They engaged in the process early, early on. From the very first bills that were introduced, whether it was Senator Dierks's bill through the interim hearing process, through the bills that were introduced last session, through the bills in the special session, they have been there every step of the way. They did not waver in bringing their concerns to the Legislature. They used the process, they used it in a respectful manner. They stayed engaged. And again, we would not be here today if it wasn't for their involvement. So I'm more than excited about what has occurred here today. And it does reflect that the process works. But if our second house hadn't engaged, if our second house hadn't stepped forward and stayed engaged in this process I firmly do not believe we would be here today. They're the example, they are the example to all of us. You know, and I think Senator Conrad said this earlier, you know, there's a lot of distrust and people just would prefer the government to just go away and leave them alone and a lot of political posturing that goes on. But through this process I hope that we have showed our citizens that we are a government that does listen to them. No, you don't ever make everybody happy and there's always going to be somebody who is going to raise a concern or an objection. But I think through the process that we unfolded over the course of the last two years, we never discouraged them. They never became discouraged, I guess would probably be a more appropriate statement. They never became discouraged, they stayed engaged. So, you know, there's been a lot of praise for our Speaker, who I am certainly very much appreciative of all of his efforts, Senator Langemeier and the efforts that he's put into this, my fellow colleagues like Senator Haar and Avery and others who have been supportive through this whole process. But this really is, it's about the citizens today. And I would just like to take the opportunity to thank them for what they did. You know, we like to talk a lot about accountability. They held us accountable and I think we're here today because of that. Thank you. [LB4]

SENATOR COASH: Thank you, Senator Dubas. Senator Sullivan, you are recognized. [LB4]

SENATOR SULLIVAN: Thank you, Mr. President. I'd first of all like to show my appreciation and say my appreciation to Speaker Flood. I think it was remarkable

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leadership on his part. Certainly, as Senator Dubas said, so many, many people, our citizens first and foremost, sent a clear message. But Speaker Flood listened carefully and put together a road map that I think will allow us to get on the highway to a successful completion of this special session that will result in good siting legislation. And I recognize Senator Nelson's concern. But there is language in a variety of different laws that are on the books and verbiage that I think give the message that there is a difference between safety and siting. And also the other issue is siting authority doesn't mean stopping a pipeline. It simply means that we will be part of the decision-making process. Up till now we haven't had the opportunity to do so. So I think that this is a very good thing. I would also say that there are good number of people in the Sandhills, many of whom are my constituents, that are breathing a sigh of relief that TransCanada has said that they will be rerouting this particular pipeline away from the Sandhills. And I respect the fact that TransCanada has had a job to do and, because Nebraska lacked siting authority, they forged ahead as best they were responsible to do. But I also will hold them to the fact that now they are simply changing course and are willing to work on a reroute for Nebraska. I know that when I was one of four senators who met with them, they were very cordial and respectful in the conversations we had. But all along when we asked the question time and time again, would you reroute it, the answer was, no. So there's a lot to be said for persistence. And, you know, I have been working on the pipeline topic actually even before I was elected. I remember going to one of the first meetings that this particular company had with landowners. And from that point we just had the expectation that this is a federal project and we didn't have the authority or the wherewithal to weigh in. Well, we found out that that's different and the persistence on the part of many of us, the citizens and senators alike, that this has paid off and it's going to truly make a difference. Thank you. [LB4]

SENATOR COASH: Thank you, Senator Sullivan. Mr. Clerk. [LB4]

CLERK: Mr. President, your Committee on Natural Resources, chaired by Senator Langemeier, reports LB1 to General File with committee amendments attached. (See also amendments offered to LB4, Legislative Journal pages 78-80.) [LB1 LB4]

And, Mr. President, I have a priority motion. Senator McCoy would move to adjourn the body until Tuesday morning, November 15, at 9:00 a.m.

SENATOR COASH: Members, you've heard the motion to adjourn until November 15 at 9:00 a.m. All those in favor say aye. All those opposed say nay. We are adjourned.