

oppose Senator Schmit's amendment at this time and urge you all to vote in favor of the bill on Final Reading. Our responsibility in this Legislature on an issue of this sort, as grave and as important as we all recognize, and our responsibility is to set policy direction. Our responsibility in unusual times of this sort is to make those hard policy choices that have to be made, have to be made because of the earthquakes, because of the major changes that Senator Johnson referred to that none of us here in Nebraska have had any control over. Now I appreciate the technical problems with this bill that Senator McFarland has raised, and he raised them eloquently, as others have indicated. But I'm not sure that we need to take this bill or this vote in the Nebraska Legislature on April 15th, today, all that seriously because we are not writing a constitutional provision. We are not etching something in stone that can never be changed. I would venture to say that we are going to have more legislation on this issue next session and the session after. And if we find offensive the 60-day provision that Jim refers to, and frankly I think he has a good point, I think that 60-day provision is a pretty short fuse and is mildly offensive and probably ought to be changed, we'll have more than enough opportunity in future years to do that. I'm not saying that I blame the proponents of the bill for putting in such a short fuse. If I were a telephone company in today's age, dealing with the Public Service Commission, I would, I think, want to clamp down pretty hard myself. But I don't think we should be deterred because of a provision like that from making that big policy choice that really has to be made, given the circumstances, if we are to preserve the health of these extremely important corporate organizations to Nebraska. Now I also don't think that we should be deterred by the arguments, the other arguments presented in the Attorney General's Opinion. I don't think we should be deterred by constitutional arguments that can be argued both ways. If you read the Attorney General's Opinion closely, as I've attempted to do, you'll see that the separation of powers argument, the third argument presented in the opinion, relies on 1909 constitutional language interpreted principally by a 1949 case by the Nebraska Supreme Court which deals with airline regulation and the Public Service Commission. Now not one of the individuals that participated in that 1949 decision, interpreting that 1909 language, is still on the Nebraska Supreme Court today. Indeed that 1949 court had language in it that I think is worth recalling and worth reading to the body. And the court then said that a Constitution is intended to meet and be applied to any conditions and circumstances as they arise