

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

Floor Debate  
February 06, 2009

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LB196 LB259 LB299 LB343 LB378 LB394 LB594 LB646 LB675 LR19]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-second day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Gloor. Please rise. []

SENATOR GLOOR: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Senator Gloor. I call to order the twenty-second day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Do you have any items for the record? []

CLERK: Mr. President, a notice of hearing from the Transportation and Telecommunications Committee. Senator Hadley offers LR19. That will be laid over. Report of registered lobbyists for this week; and reports received in the Clerk's Office will be on file and available for member review. That's all that I have. (Legislative Journal pages 383-386.) [LR19]

SPEAKER FLOOD: Are there any corrections for the Journal? []

CLERK: There are no corrections, Mr. President. []

SPEAKER FLOOD: We will now proceed to the first item on the agenda. Mr. Clerk. Members, we are preparing for Final Reading. Please find your seats. Members, we are preparing for Final Reading. Please find your seats. Members, we are now on Final Reading. Please find your seats. Mr. Clerk, the first item on our agenda is LB11. [LB11]

CLERK: (Read LB11 on Final Reading.) [LB11]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB11 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB11]

CLERK: (Record vote read, Legislative Journal page 386.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB11]

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SPEAKER FLOOD: LB11 passes. Mr. Clerk, LB29. [LB11 LB29]

CLERK: (Read LB29 on Final Reading.) [LB29]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB29 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB29]

CLERK: (Record vote read, Legislative Journal page 387.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB29]

SPEAKER FLOOD: LB29 passes. Mr. Clerk, LB30. [LB29 LB30]

CLERK: (Read LB30 on Final Reading.) [LB30]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB30? pass All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB30]

CLERK: (Record vote read, Legislative Journal pages 387-388.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB30]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB30 passes. (Visitor introduced.) Mr. Clerk, we now proceed to LB31. The first vote is to dispense with the at-large reading. All those...before we proceed to the first vote, Mr. Clerk, do you want to read the title? We'll proceed to the first vote to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB30 LB31]

CLERK: 44 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB31]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB31]

CLERK: (Read title of LB31.) [LB31]

SPEAKER FLOOD: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB31 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB31]

CLERK: (Record vote read, Legislative Journal pages 388-389.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President. [LB31]

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SPEAKER FLOOD: Thank you, Mr. Clerk. LB31 passes. Today, by the way, is Senator Wallman's birthday. Pages will be around, as they are right now, with doughnuts to help celebrate his day. We want to wish Senator Wallman happy birthday. Proceeding on Final Reading, the next bill, Mr. Clerk, is LB49. [LB31 LB49]

CLERK: (Read LB49 on Final Reading.) [LB49]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB49 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB49]

CLERK: (Record vote read, Legislative Journal pages 389-390.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB49]

SPEAKER FLOOD: LB49 passes. Mr. Clerk, LB49A. [LB49 LB49A]

CLERK: (Read LB49A on Final Reading.) [LB49A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB49A pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB49A]

CLERK: (Record vote read, Legislative Journal pages 390-391.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB49A]

SPEAKER FLOOD: LB49A passes. Mr. Clerk, we now proceed to LB50. [LB49A LB50]

CLERK: (Read LB50 on Final Reading.) [LB50]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB50 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB50]

CLERK: (Record vote read, Legislative Journal page 391.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB50]

SPEAKER FLOOD: LB50 passes. We now proceed to LB62E. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB50 LB62]

CLERK: 42 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB62]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the

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title. [LB62]

CLERK: (Read title of LB62.) [LB62]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB62E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB62]

CLERK: (Record vote read, Legislative Journal page 392.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB62]

SPEAKER FLOOD: LB62E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB154. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB62 LB154]

CLERK: 43 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB154]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB154]

CLERK: (Read title of LB154.) [LB154]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB154 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB154]

CLERK: (Record vote read, Legislative Journal pages 393-394.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB154]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB154 passes. We now proceed to LB179E. [LB154 LB179]

CLERK: (Read LB179 on Final Reading.) [LB179]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB179E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB179]

CLERK: (Record vote read, Legislative Journal page 394.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB179]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB179 passes with the emergency clause

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attached. We now proceed to LB180. [LB179 LB180]

CLERK: (Read LB180 on Final Reading.) [LB180]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB180 pass? All those in favor vote aye; all those opposed, nay. Have all those voted who care to? Mr. Clerk, please record. [LB180]

CLERK: (Record vote read, Legislative Journal page 395.) 45 ayes, 2 nays, 2 excused and not voting, Mr. President. [LB180]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB180 passes. (Doctor of the day introduced.) Mr. Clerk, we now proceed to LB196. [LB180 LB196]

CLERK: (Read LB196 on Final Reading.) [LB196]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB196 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB196]

CLERK: (Record vote read, Legislative Journal pages 395-396.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB196]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB196 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB11, LB29, LB30, LB31, LB49, LB49A, LB50, LB62E, LB154, LB179E, LB180, and LB196. Mr. Clerk, items for the record. [LB11 LB29 LB30 LB31 LB49 LB49A LB50 LB62 LB154 LB179 LB180 LB196]

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB75, LB123, and LB166 and find those correctly engrossed. Education Committee, chaired by Senator Adams, reports LB299 to General File with committee amendments attached. I have a series of hearing notices from the Education Committee signed by Senator Adams. And a priority bill designation, Mr. President. Senator Schilz has selected LB646 as his priority bill for this session. That's all that I have. (Legislative Journal pages 396-398.) [LB75 LB123 LB166 LB299 LB646]

SPEAKER FLOOD: Thank you, Mr. President (sic). We now proceed on the agenda to Select File. Mr. Clerk, I believe the first bill on Select File is LB80. [LB80]

CLERK: Mr. President, LB80. Senator Nordquist, I have Enrollment and Review amendments, first of all. (ER8008, Legislative Journal page 330.) [LB80]

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SPEAKER FLOOD: Senator Nordquist, you're recognized for a motion. [LB80]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB80. [LB80]

SPEAKER FLOOD: Members, you're heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it. The E&R amendments are adopted. Mr. Clerk. [LB80]

CLERK: Senator Nelson would move to amend with AM79. (Legislative Journal page 322.) [LB80]

SPEAKER FLOOD: Senator Nelson, you are recognized to open on AM79. [LB80]

SENATOR NELSON: Thank you, Mr. President, members of the body. As we discussed on General File, LB80 amends the Nebraska version of the Uniform Principal and Income Act. Section 2 of the bill ensures that certain trusts qualify for the marital deduction in accordance with the decedent's intention and plans. Section 3 clarifies that certain trusts receiving income from pass-through entities will keep enough money to pay the income tax due and distribute the balance of the income to the mandatory income beneficiary. AM79 attaches the emergency clause to LB80. AM79 also changes the year in which the application of LB80 becomes relative to trust from 2010 to 2009. The intent of this amendment is to enact the changes in LB80 more quickly so that Nebraska will harmonize Nebraska's version of the Uniform Principal and Income Act with other states immediately upon the LB's passage by the Legislature and its signing by Governor Heineman. I urge the body's support of AM79 and ask that you vote to forward LB80 as amended to E&R for engrossing. Thank you, Mr. President. [LB80]

SPEAKER FLOOD: Thank you, Senator Nelson. There are no members wishing to speak. Senator Nelson, you are recognized to close. Senator Nelson waives closing. The question for the body is, should AM79 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB80]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Nelson's amendment. [LB80]

SPEAKER FLOOD: AM79 is adopted. Mr. Clerk. [LB80]

CLERK: I have nothing further on the bill, Mr. President. [LB80]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB80]

SENATOR NORDQUIST: Mr. President, I move LB80 to E&R for engrossing. [LB80]

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SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB80 is advanced to E&R for engrossing. Mr. Clerk, LB192. [LB80 LB192]

CLERK: LB192, Mr. President, no Enrollment and Review. Senator Lathrop would move to amend with FA6. (Legislative Journal page 373.) [LB192]

SPEAKER FLOOD: Senator Lathrop, you are recognized to open on FA6. [LB192]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I've put FA6 up to strike Sections 2 and 3 out of LB192. A little background is in order. When we have health insurance policies in this state, the Legislature, from time to time, will mandate what provisions must be in a health insurance plan and what provisions may not be in a health insurance plan. And LB192 is a bill the purports to make some of those requirements for health insurance plans that are issued by...or in the state of Nebraska, rather. Sections 2 and 3 do something different. They delegate rather than dictate what the policy should be and allow us to debate what the policy should be with respect to coordination of benefit provisions in health insurance plans. Section 3 simply says that health insurance plans shall have a coordination of benefit provision as determined by the director of the Department of Insurance. So what Section 3 essentially does is to delegate to the director of the Department of Insurance, which is in the executive branch, the duty to do our job. I believe it's an unconstitutional delegation to the director of the Department of Insurance. I should add two things. One is that I have a high regard for our director of the Department of Insurance. This isn't about our director, our particular director, but it's about the practice of delegating to someone a legislative function. I brought this to the attention of Senator Pahls, who is in agreement, and I think he'll speak in just a moment. We both share the idea, on further review, that Sections 2 and 3 represent an unconstitutional delegation of authority to the director to determine what should be mandatory in health insurance plans when it comes to coordination of benefits. My amendment would take those two sections out. And after we have some input from the director, perhaps next year we can take up the policy on what should or should not be included in a coordination of benefits provision found in a health insurance plan. And with that I would ask for your support of FA6. Thank you. [LB192]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Pahls, you are recognized. [LB192]

SENATOR PAHLS: Mr. President, members of the body, I concur with Senator Lathrop. We do need to take a look at the rules and regulations if we have given too much authority to the director of insurance. So this is something that...I endorse the amendment. And as he has suggested, the commissioner and our office need to take

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this up for future review. Thank you. [LB192]

SPEAKER FLOOD: Thank you, Senator Pahls. There are no other senators wishing to speak. Senator Carlson, you are now recognized. [LB192]

SENATOR CARLSON: Mr. President, members of the Legislature, I'd like to address a question to Senator Pahls, if he would yield. [LB192]

SPEAKER FLOOD: Senator Pahls, will you yield to a question from Senator Carlson? [LB192]

SENATOR PAHLS: Yes. [LB192]

SENATOR CARLSON: Senator Pahls, in your indication of support for this amendment is Director Frohman also in support of this amendment? [LB192]

SENATOR PAHLS: Yes. We have spoken to their office and this is the direction we are going to go. And she is in support...or the office is in support of it. [LB192]

SENATOR CARLSON: Okay, thank you. And let's add I also support the amendment. [LB192]

SPEAKER FLOOD: Thank you, Senator Carlson. Any other members wishing to speak? Seeing none, Senator Lathrop, you're recognized to close. Senator Lathrop waives his right to close. The question for the body is, should FA6 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB192]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB192]

SPEAKER FLOOD: FA6 is adopted. Mr. Clerk. [LB192]

CLERK: I have nothing further on the bill, Mr. President. [LB192]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB192]

SENATOR NORDQUIST: Mr. President, I move LB192 to E&R for engrossing. [LB192]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB192 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB105. [LB192 LB105]

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CLERK: Senator Nordquist, E&R amendments first of all, Senator. (ER8012, Legislative Journal page 354.) [LB105]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB105]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB105. [LB105]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. [LB105]

CLERK: Mr. President, the first amendment, Senator Langemeier, AM175. [LB105]

SPEAKER FLOOD: Senator Langemeier, you're recognized to open on AM175. [LB105]

SENATOR LANGEMEIER: Mr. President, I'd like to withdraw that amendment. [LB105]

SPEAKER FLOOD: So ordered. LB...or your amendment is withdrawn. Mr. Clerk. [LB105]

CLERK: Mr. President, Senator Langemeier would move to amend with AM227. (Legislative Journal page 398.) [LB105]

SPEAKER FLOOD: AM227, okay. Senator Langemeier, you're recognized to open on AM227. [LB105]

SENATOR LANGEMEIER: Mr. President and members of the body, when we came on LB105 the first day as we started floor debate, this came out as introduced by the Natural Resources Committee. Over the past few days this bill and through public accounts in the newspapers and the e-mails I've gotten it's become my bill. And so I've got to be the author, which I'm not the author of LB105, never was, but it's become my bill. So as I sit back and I say, what would I do if it was my bill? Now that it is my bill I'm going to take ownership to it and we're going to take it. If you look at AM227 it's very simple. It basically guts the bill and reinstates the portions of this bill that are penalties and new licenses. It removes all the increases for licenses, park permits, caps, removes them all. So we're going to implement penalties. We're going to implement some new permits we didn't have before. We never had a new lifetime fur-harvesting permit, we're going to put that in. We're going to put in a new buck-only...statewide buck-only permit. We're going to put in a new youth antelope permit and a nonresident elk permit. So that's what this amendment does. It guts the bill. It creates those new permits. Oh, I skipped one. It puts one new youth nonresident permit in as well. So that's what it does. It adds those new permits, it keeps the mandatory minimum penalties in the bill, and that's what we have before you today. And I think this makes sense. As I look at it, what

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would I do? That's what I would do. I think in today's world and today's economy the Game and Parks had not intended to raise their caps until 2012 anyway. And as we look and watch the news every morning I think this is the responsible and the way to do this. And so with that, I would ask for your support for AM227 and then LB105. Thank you, Mr. President. [LB105]

SPEAKER FLOOD: Thank you, Senator Langemeier. You've heard the opening on AM227. (Visitors introduced.) Continuing with discussion on AM227, Senator Harms, you are recognized. [LB105]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Christensen or, excuse me, Senator Langemeier, thank you very much for doing this. I appreciate that very much. Sorry about the name. (Laughter) I had an amendment actually to bracket this bill, which I have pulled, to have this very discussion because, quite frankly, I think it's not the time to do this. It's not the time to increase fees. It simply would eliminate families from participating. And thank you for taking ownership of this bill and thank you for going ahead and taking care of this issue because it's the right decision to make. And I do support this. Thank you. Thank you, Mr. President. [LB105]

SPEAKER FLOOD: Thank you, Senator Harms. Senator Pirsch, you are recognized. [LB105]

SENATOR PIRSCH: Great, thank you, Mr. President, members of the body. I wonder if Senator Langemeier might yield to a quick question or two. [LB105]

SPEAKER FLOOD: Senator Langemeier, will yield to a question from Senator Pirsch? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR PIRSCH: Great. And so we are just going with the concept of penalties, which I applaud, within this bill. And then there are introduction of, what was it, four or five new categories of license? [LB105]

SENATOR LANGEMEIER: Six. [LB105]

SENATOR PIRSCH: Six. What...could you just give me either a rundown or the location of where those are in your amendment. It's kind of a lengthy amendment, I think. [LB105]

SENATOR LANGEMEIER: I'll give you what they are. First of all, there's a new youth permit for nonresidents; there's a new lifetime fur-harvesting permit; there's a replacement of the... [LB105]

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SENATOR PIRSCH: What...what, and I apologize. Could you explain just the youth permit for nonresidents, that's fine. The second one you were explaining the lifetime fur...what was that again? [LB105]

SENATOR LANGEMEIER: Fur-harvesting permit. [LB105]

SENATOR PIRSCH: What does that cover now, lifetime... [LB105]

SENATOR LANGEMEIER: A lifetime of fur-harvesting. [LB105]

SENATOR PIRSCH: Oh, I see. Very good. [LB105]

SENATOR LANGEMEIER: It is...I don't know how to explain it any further. We have a lifetime hunting permit, we have a lifetime fishing permit, we have a lifetime hunting and fishing permit. This would allow those that like to do fur harvesting, for \$229 can buy a lifetime... [LB105]

SENATOR PIRSCH: Very good. [LB105]

SENATOR LANGEMEIER: ...fur permit. [LB105]

SENATOR PIRSCH: Yeah. [LB105]

SENATOR LANGEMEIER: That's all I know. [LB105]

SENATOR PIRSCH: Okay, very good. And the third one then is? [LB105]

SENATOR LANGEMEIER: Back to my list, you're...the next one here is a new statewide buck-only permit. Then you have a new youth antelope permit and a nonresident elk permit. [LB105]

SENATOR PIRSCH: Okay. So it doesn't take...none of these take away the options that were afforded to hunters and harvesters before this date. This is just new opportunities and alternatives that they can take but they don't have to take them. [LB105]

SENATOR LANGEMEIER: These are new categories you can get permits in, correct. [LB105]

SENATOR PIRSCH: I'll tell you, I applaud the approach of this and urge the body to ratify the amendment and to vote on the main underlying bill as well. [LB105]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Hansen, you are recognized.

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[LB105]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I, too, stand to thank Senator Langemeier for bringing this. I know the bill hasn't had a hearing and it's a completely new bill, but at least it was done...something was done to improve the former bill and that was to take out the ability to raise fees. I think at this time the way our economy is going in Nebraska, the way the economy is creeping in from both coasts, there's a lot of uncertainty out there. And I think even by 2012, if Game and Parks still needs a rate or a permit increase, and I'm sure they will by then, come back to us and do it at that time. I think the...I would have a question for Senator Langemeier, if he's...when he gets done with his conversation in the... [LB105]

SPEAKER FLOOD: Senator Langemeier, will you yield to a question from Senator Hansen? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR HANSEN: Thank you. Senator Langemeier, you said that one of the changes was buck-only permit statewide. Are does going to be able to be harvested also? [LB105]

SENATOR LANGEMEIER: I believe there's already a doe permit process. This is just a new permit. [LB105]

SENATOR HANSEN: Does that change that permitting system? [LB105]

SENATOR LANGEMEIER: No. [LB105]

SENATOR HANSEN: Thank you. That was the main thing I wanted to know for that because we need to control and harvest does also. Did you have a further comment, Senator? [LB105]

SENATOR LANGEMEIER: I do. I'm flipping through my list here. There is one...for full disclosure, there is one fee raise and that is for the habitat stamp, from \$16 to \$20. So that was farther down on my list. [LB105]

SENATOR HANSEN: Thank you, Mr. President. That's all I have. [LB105]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Thank you, Senator Hansen. Senator Janssen, you are recognized. [LB105]

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SENATOR JANSSEN: Thank you, Mr. President, members of the body. Would Senator Langemeier please yield to a question? [LB105]

SENATOR ROBERT: Senator Langemeier, will you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR JANSSEN: Senator Langemeier, I'm just reading the amendment and going through it pretty hurriedly. In the original bill I believe there was a call for the raising of fees. And it would allow the Game and Parks to raise the fees 6 percent every year that they didn't raise it, even retroactively. Is that stricken with this amendment? [LB105]

SENATOR LANGEMEIER: That is back in the old statute and so that is gone, right. What we...how we amended it to limit it, when we strike the whole copy that's gone. It goes back to the old statute, the old method. [LB105]

SENATOR JANSSEN: Okay, thank you. [LB105]

SENATOR LANGEMEIER: But they're already at the cap. So if we don't do any legislation, they can't raise it anyway. [LB105]

SENATOR JANSSEN: Okay. Thank you. Yield the balance of my time. [LB105]

SENATOR ROBERT: Thank you, Senator Janssen. Those wishing to speak, Senators Friend, Fulton, and Lautenbaugh. Senator Friend, you are recognized. [LB105]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I actually haven't printed this bill off and I haven't looked for it other than on the computer. And I got a chance to read already about half of it. And I was just in the spot that Senator Langemeier was talking about in regard to the habitat stamps. What I'm trying to figure out...is Senator Heidemann available? I just heard a huge "no." [LB105]

SENATOR ROBERT: Senator Heidemann, will you yield to a question from Senator Friend? [LB105]

SENATOR HEIDEMANN: Yes. [LB105]

SENATOR FRIEND: Thank you. Thank you, Mr. President. Thank you, Senator Heidemann. Senator Heidemann, we were talking off line here briefly. And I'm trying to get a grasp on this. On pages 13, 14, and 15, Senator Langemeier alludes to those aquatic stamp changes...or not the aquatic stamp, the habitat stamp changes. The fiscal...the original fiscal note to the green copy was significant. And I don't have it in front of me. It was going to need an A bill. [LB105]

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SENATOR HEIDEMANN: Correct. [LB105]

SENATOR FRIEND: Okay. Now with these changes here, the question I have, and I don't...I'm not trying to address it to you, because I think Senator Langemeier can answer it, too, either/or. With these...even with these minor changes, my question is, how significantly will it change the fiscal note? And is an A bill still required? [LB105]

SENATOR HEIDEMANN: It will change the fiscal note. For awhile there we thought we wasn't going to need a fiscal note. I wasn't quite aware that this was still left in there. We're working on that right now, whether we will need an A bill or not. [LB105]

SENATOR FRIEND: Okay. And one more question. And thank you, Senator Heidemann. I think that that's it. But I would like to ask Senator Langemeier real quickly because he tried to contact me this morning and I didn't get a chance to talk to him. Will Senator Langemeier yield to a question? [LB105]

SENATOR ROBERT: Senator Langemeier, will you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR FRIEND: Thank you, Mr. President. Thank you, Senator Langemeier. Senator Langemeier, on those pages that I referenced, and I might not be reading it correctly, all of the...the lifetime aquatic stamp, am I wrong, it goes from \$125 to \$200. But is that wrong on page 13? [LB105]

SENATOR LANGEMEIER: That's the equivalent. When you change the base stamp fee, the lifetime then adjusts with it. So yes, the lifetime aquatic habitat stamp is going to go...those two are together. [LB105]

SENATOR FRIEND: Okay. Well, let me...okay, good. [LB105]

SENATOR LANGEMEIER: So when you do an annual habitat stamp, that affects the lifetime habitat stamp that goes with it. And it's an aquatic habitat stamp. [LB105]

SENATOR FRIEND: All right, all right good. And that goes to the conversation that you were having with Senator Hansen. My question is, though, did I understand that right, did I understand it right to say that these are all new items that hadn't been...what am I missing here? These are...I'm not trying to say...I'm not trying to pinpoint us into a situation that says we're still raising fees that already exist out there. The conversation was going on earlier is that we've created new stamps that we need fees for. I mean, I'm losing something in translation here. We are still raising a couple of minor fees, right? [LB105]

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SENATOR ROBERT: One minute. [LB105]

SENATOR FRIEND: I guess that's my question. [LB105]

SENATOR LANGEMEIER: We are raising the annual aquatic habitat stamp. We are adding a new lifetime habitat stamp. [LB105]

SENATOR FRIEND: Okay. [LB105]

SENATOR LANGEMEIER: So that's why you see it in there in that range. That's new. [LB105]

SENATOR FRIEND: Okay. I think I follow, and we can take the rest off line if I need to. Members of the Legislature, this whole thing makes a lot of sense. I wanted to thank Senator Langemeier for going down this road because, if you recall, and I was not trying to be visceral last time around. I had really, really major issues with the direction that we were going here. Senator Langemeier took a Natural Resources Committee bill and he highjacked it (laugh) and that's his job. So all I can say is I appreciate this. I would vote to adopt AM227 and then I think we can move forward with LB105. Thank you, Mr. President. [LB105]

SENATOR ROBERT: Thank you, Senator Friend. Senator Fulton, you are next and recognized. [LB105]

SENATOR FULTON: Thank you, Mr. President. I don't know that Senator Friend has ever been visceral. I'd like to...I rise in support of this amendment and with thanks to Senator Langemeier. Over the course of the past couple of days, since we heard this bill last, I have received some e-mails and I have been forwarded some e-mails from other people, from colleagues here in the body. And there is some concern over the increase of fees. So as a matter of prudence, these economic times, it seems disallowing the increases is a prudent move, and so I thank Senator Langemeier. Something that we should be aware of and we should contemplate as a means of, oh, theory here, but it's something, hopefully, that we'll contemplate between now and 2012. 2012 is when I understand there will be an increase or that's the intention anyway on the part of Game and Parks. We have had a decrease in the number of hunters and fishers. And it has been suggested, I've heard my colleague, Senator Harms, suggest that perhaps that decrease has something to do with the fee or the cost that is incurred by a potential hunter or fisher. And while I'm certain there are those who engage in sport, hunting, fishing, whatnot, who do so and are able to afford what they do and afford it without any hesitancy, I am equally convinced that there are those who enjoy the sport who also do it, oh, out of more a means of necessity who aren't able to afford the fees and whatnot that would be put forward. So as a matter of thought, there is an

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economic theory that says, if you increase the cost, indeed the volume will decrease--the volume of consumption. And so were we to increase the cost, I'm not convinced that we would have a flat participation in the game that's offered and available through Game and Parks but perhaps that the consumption would go down such that we would have to increase fees even more the following year. We would then be on a very slippery slope, actually accomplishing the opposite of what our intention originally was. It's a funny thing, economics. But there's a psychology that's attached to it, and we who delve into tax policy and economic policy, even in this state, need to bear that in mind. And so between now and the time that we do need to increase the fees associated with Game and Parks, we should take into consideration what has occurred in the past and why we are having a decrease in participation. I'm sure there's not just one reason but certainly cost has something to do with it. With that, I will support AM227 and the underlying bill. Thank you, Mr. President. [LB105]

SENATOR ROBERT: Thank you, Senator Fulton. Senator Lautenbaugh, you are next. [LB105]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I'm adding my voice to the chorus. I'm praising Senator Langemeier for his lead on this. And I wonder if he'd yield to a question or two? [LB105]

SENATOR ROBERT: Senator Langemeier, will you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR LAUTENBAUGH: Senator Langemeier, there is one existing permit fee that is going to up, is that correct? [LB105]

SENATOR LANGEMEIER: Right. That is that aquatic habitat stamp. [LB105]

SENATOR LAUTENBAUGH: And what will those proceeds be used for specifically? [LB105]

SENATOR LANGEMEIER: Game and Parks wants to use that for development of fishing areas within the lakes they have and then acquire, through leasing, some opportunities to fish other lakes. They pleaded with me. When I told them what I was going to do they weren't thrilled. That's understandable. But they were like, can I keep this one because we really have some neat plans and some neat development ideas to improve fishing for the fishermen in Nebraska. [LB105]

SENATOR LAUTENBAUGH: So the one existing permit fee that's going up, the increased fees from that are going specifically to expand the fishing opportunities for the people who buy that one permit. [LB105]

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SENATOR LANGEMEIER: Right. That's why I agreed to leave the one there. [LB105]

SENATOR LAUTENBAUGH: Okay, thank you, Senator. I would urge you to vote in favor of this amendment too. I think I, like many of us, were troubled by the increasing fees at this point in time. The one that remains on the existing permits makes sense. And again, I applaud Senator Langemeier for taking ownership of this and taking us in this direction. Thank you. [LB105]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Langemeier, you're next and recognized. [LB105]

SENATOR LANGEMEIER: Mr. President and members of the body, we had a little discussion about the A bill that will follow. We're trying to get some clarity on that. If this advances, I will ask you to at least advance LB105A to keep them together. We may need an amendment. I'm sure it's going to go down. I thought I could kill LB105A, but I'm still waiting for Fiscal to give me the official word. They had brought me LB105A in the first place, so they are going to tell me whether I still need it. So we will hopefully advance it along with this, and then we will amend it to the right number which will be quite a bit less when we get there. Thank you. [LB105 LB105A]

SENATOR ROBERT: Thank you, Senator Langemeier. There are no other lights on. You are recognized to close, if you'd like, on FA...AM227. [LB105]

SENATOR LANGEMEIER: Mr. President, members of the body, I think AM227 is the prudent way to go in today's society and our economic times, and I would ask that you support AM227. [LB105]

SENATOR ROBERT: Thank you, Senator Langemeier. Members, you have heard the closing on AM227 to LB105. Question before the body is, shall AM227 be adopted? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB105]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Langemeier's amendment. [LB105]

SENATOR ROBERT: AM227 is adopted. [LB105]

CLERK: At this time, Mr. President, I have no further amendments to the bill. [LB105]

SENATOR ROBERT: Senator Langemeier, you're recognized to speak on LB105. [LB105]

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SENATOR LANGEMEIER: Mr. President, members of the body, I do ask you...oh, sorry. I'm waiting for LB105A, sorry. [LB105]

SENATOR ROBERT: There are no other lights on, Senator Langemeier. Senator Nordquist for a motion. [LB105]

SENATOR NORDQUIST: Mr. President, I'd move LB105 to E&R for engrossing. [LB105]

SENATOR ROBERT: Members, you've heard the motion, shall LB105 be advanced to E&R for engrossing? All those in favor say aye. Opposed, nay. LB105 does advance. Next item, Mr. Clerk. [LB105]

CLERK: Mr. President, LB105A. At this time I have no amendments to LB105A. []

SENATOR ROBERT: Senator Nordquist for a motion. []

SENATOR NORDQUIST: Mr. President, I move LB105A to E&R for engrossing. []

SENATOR ROBERT: Hold on, Senator Nordquist. []

SENATOR NORDQUIST: Whoa. []

SENATOR ROBERT: Speaker Flood, you are recognized. Senator Nordquist. []

SENATOR NORDQUIST: Mr. President, I withdraw my motion. []

SENATOR ROBERT: Members, pursuant to the Speaker's direction, we are going to pass over LB105A for the time being. Next item, Mr. Clerk. []

CLERK: Mr. President, LB189 is the next bill. Senator Nordquist, I have no amendments to LB189. [LB189]

SENATOR ROBERT: Senator Nordquist for a motion. [LB189]

SENATOR NORDQUIST: Mr. President, I move LB189 to E&R for engrossing. [LB189]

SENATOR ROBERT: Members, you have heard the motion. The question before the body is, shall LB189 be advanced to E&R for engrossing? All those in favor say aye. Opposed, nay. LB189 does advance. Mr. Clerk, next item. [LB189]

CLERK: Mr. President, LB87. Senator Nordquist, I have no amendments to the bill. [LB87]

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SENATOR ROBERT: Senator Nordquist. [LB87]

SENATOR NORDQUIST: Mr. President, I move LB87 to E&R for engrossing. [LB87]

SENATOR ROBERT: Members, you have heard the motion, shall LB87 be advanced to E&R for engrossing? All those in favor say aye. Opposed, nay. LB87 does advance. Mr. Clerk. Are there any items for the record? [LB87]

CLERK: There are, Mr. President, thank you. Your Committee on Enrollment and Review reports LB5 to Select File. Judiciary Committee, chaired by Senator Ashford, reports LB343 to General File. And bills read on Final Reading this morning were presented to the Governor as of 10 a.m. (re LB11, LB29, LB30, LB31, LB49, LB49A, LB50, LB62, LB154, LB179, LB180, and LB196). That's all that I have, Mr. President. (Legislative Journal pages 399-400.) [LB5 LB343 LB11 LB29 LB30 LB31 LB49 LB49A LB50 LB62 LB154 LB179 LB180 LB196]

SENATOR ROBERT: Thank you, Mr. Clerk. Returning to General File, first item on the agenda. []

CLERK: Mr. President, LB53, a bill originally introduced by Senator Fischer. (Read title.) The bill was discussed yesterday, Mr. President. Senator Fischer opened on the bill. There was an amendment presented by Senator Avery, Senator Haar offered it in the absence of Senator Avery. Senator Haar then moved to amend the Avery amendment, Mr. President. So I have pending Senator Avery's AM38 and Senator Haar's AM211 as an amendment to AM38. (Legislative Journal pages 326 and 379.) [LB53]

SENATOR ROBERT: Senator Fischer, you're recognized to reopen on LB53. [LB53]

SENATOR FISCHER: Thank you, Mr. President and members of the body. We began our discussion on LB53 yesterday. If you will remember, this bill is just changing the chartered territories of Nebraska Public Power District. This is to better reflect the customers of NPPD and the fact that they should be the ones to vote and have representation on the NPPD board of directors. The statute was changed in 1986. We are clarifying that and changing it now that in order to vote for the board of directors customers must receive at least 50 percent of their power from NPPD. This bill was brought to me by the board of directors of NPPD. It was voted by them to advance it to me and they do support it. If you look at the committee statement you will see that it is also supported by OPPD, by the Rural Electric Association, and by various rural electric power districts. There was no opposition to the bill in committee and it did come out on a unanimous vote. I would ask that you support the bill. I am opposed to the amendments that have been filed, so I would ask that you also vote red on the amendments and then we will discuss the bill. Thank you very much. [LB53]

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SENATOR ROBERT: Thank you, Senator Fischer. Senator Haar, you're recognized to reopen on AM38. [LB53]

SENATOR HAAR: Mr. President, members of the body, as I explained yesterday, I introduced Senator Avery's amendment and then an amendment to that amendment. And I would like at this time to withdraw the amendment to the amendment. [LB53]

SENATOR ROBERT: Thank you, Senator Haar. Members, we have a request to withdraw AM211, an amendment to AM38. With no objection, the amendment is withdrawn. Mr. Clerk. [LB53]

CLERK: Senator, so we're back to AM38, which was the Avery amendment. [LB53]

SENATOR ROBERT: Senator Haar. [LB53]

SENATOR HAAR: Okay. Mr. President, members of the group, after some discussions yesterday with people from NPPD, we discovered that there are some flaws in the amendment that was submitted by Senator Avery, and I would just like to talk about that for a minute. If you have the bill in front of you, LB53, on page 5, line 16. Okay, line 16 says, "to deliver firm power and energy," and then it goes on in line 17 to talk about the 50 percent. Senator Avery's amendment just changed line 17 to 25 percent. And after discussions with NPPD yesterday, we found that Senator Avery's amendment really wouldn't change anything because of the whole issue in line 16, the "firm power and energy." And I would like to talk about that for just a minute. Right now there...well, there are more than two kinds of contracts. But the contracts we're talking about here, first of all the one mentioned in the bill on line 16, a "firm power" contract, that means that NPPD is bound to deliver power regardless of their output. That means that should NPPD not have enough power to fulfill the "firm power" contracts, that they would have to purchase that power on the market. For example, I live in Norris Public Power District. And in the ice storm that happened last year, if NPPD couldn't get the kind of power they needed because of those lines, transmission lines going down, then NPPD would have to go out on the market and--however they do this. Technically, they have to go out on the market and they have to keep providing that power to Norris Public Power. That's called a "firm power" contract. Now the contract that LES participates in is called a "participation" contract. LES owns a certain percentage of the power generated in two specific power plants run by NPPD. One of those is the Sheldon plant that's not far from here, in Hallam, and I'm not quite sure what the other plant...but they own a percentage of the power. And if one of those power plants goes down...for example, if Sheldon power plant goes down, as happened during the tornado a few years ago, when it was turned off the plants just go down. LES is stuck. So on line 16 in the bill it says "firm power and energy." And even if we changed line 17 to 25 percent, that wouldn't affect LES because LES has a participation contract. So what we've

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discovered is that even with the change proposed that I introduced from Senator Avery, even changing to 25 percent, LES customers are still out of the picture. And so I just wanted to explain that and I'm going to turn my light on for another go. [LB53]

SENATOR ROBERT: Thank you, Senator Haar. Those wishing to speak, Senators Hadley, White, and Haar. Senator Hadley, you are recognized. [LB53]

SENATOR HADLEY: Mr. President, members of the body, I'd like to shift the discussion just a little off of Lincoln and put it to the district that Kearney is in. About three or four years ago we had an election for our NPPD representative and there were two outstanding people running. One was the former mayor of Kearney and the other was the former mayor of Grand Island. And I asked the question at that time...I thought it was kind of unique because Grand Island has municipal power and, in essence, they do not use NPPD. They're not a part of the NPPD network, and Kearney is a big user. So I asked the question, how do you have...how do we have someone who is basically not in the area of NPPD, that has a municipal power plant, that is using city power, making decisions that impact the users in Kearney? And the answer I got was the answer that that is the way the law is written. So I think LB53 goes a long ways to changing that situation. In the Kearney area, we really want a representative for NPPD that is willing to work with our Eatons, our Baldwins, and such as that. Not that somebody from Grand Island wouldn't, but it just seems to me if you kind of have an oar in the water you have a lot more interest in it. With that, I urge the defeat of AM38--I wish I could see from here--and passage of LB53. Thank you. [LB53]

SENATOR ROBERT: Thank you, Senator Hadley. Senator White, you are next and recognized. [LB53]

SENATOR WHITE: Thank you, Mr. President. I am concerned that Lincoln buys a third of its power but, if this amendment is defeated and the bill moves forward, will have no vote whatsoever on the supplier of one-third of their power. The right to vote and have a representative on the board is a completely different right than the right to contract for a different price for power. Where the power comes from, what their employment contracts are like, whether or not they hire Nebraskans to build their power plants, what their service practices are like, all these things aren't normally contracted. If we're going to have public power, it should be public power, and I'm deeply sympathetic to what Senator Hadley has to say and many of the people who say we're not getting a fair representation; that under the current existing structure of the board, Lincoln is overrepresented and various parts of the state are underrepresented. That is not fair and I think that is a legitimate point in this bill that should be corrected. But I don't think you correct that by then divesting Lincoln entirely of any representation. I mean 30 percent of power in the second largest city in the state is a significant economic stake in NPPD. Given that, it seems reasonable Lincoln should have at least one representative so that its voice can be heard, not just in the simple contractual elements of how much

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do we pay for this kilowatt, but all the other aspects. Do we have enough service support? Where are you going to put transmission lines? What is your concern on renewable energy? What are you going to do on pollution that comes into Lincoln from the coal-fired plants? Should we have a nuclear plant? Is the nuclear plant being run safely? These are all legitimate, important, critical public inquiries, that that is the point of public power. Public power's point is that the companies respond to the people, not to capital. And here we have failed western Nebraska because there are areas that, and Senator Fischer made it clear, there are areas that deserve representation that aren't getting it, and it's skewed, no question about it. But let's not correct it by then doing an injustice to the citizens of Lincoln. That is also unreasonable. So I do support the amendment. I think it walks a reasonable middle ground. If someone can articulate to me why Lincoln, buying one-third of its total power needs from NPPD, should not really be represented on the board in these issues, then I will try to hear them, but the same arguments that persuade me that the current status is wrong also persuades me that the bill goes too far. I will yield the rest of my time to Senator Haar. [LB53]

SENATOR ROBERT: Senator Haar, 1:56. [LB53]

SENATOR HAAR: Okay. Well, one of the things I wanted to bring up is, yesterday Senator Carlson mentioned...and with all due respect, he said that there was no opposition in committee hearings, and actually there was a letter of opposition and I would like to pass that out. We had no one testify...you know, come to the floor and testify...or, I'm sorry, come to the committee and testify against, in opposition, but we did have a letter of opposition and I'd like to share that letter with the body. And I guess just to go on to say that, as a new senator, at least so far I haven't actually counted the number of testifiers at each bill. I haven't looked at how many people vote for it, how many people against it, how many people are neutral, and then... [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: ...and then make my decision based on that. And I've just got to say I try my damndest to look at bills and to see the merit of a bill and not simply to count who's...how many people are for it, how many people are against it, how many people are neutral. And I think that's a responsibility I have to my constituents, is to look at the content and not simply count the number of people who come to testify at the committee hearings. Sometimes people can't come. I know, you know, especially people from far away can't come in for a hearing all the time. People who have regular jobs can't always leave their jobs to come to testify. So I would like to just correct the record on that, that we did have some opposition to that particular bill even though the opposition was in the form of a letter. Thank you. [LB53]

SENATOR ROBERT: Time, Senator Haar. Your light is on next if you'd like to continue. [LB53]

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SENATOR HAAR: Okay. We've talked about various kinds of contracts and various kinds of participation and really already there exists various kinds of participation. For example, there are the public power districts, such as mine, and I'm a member of a public power district outside of Lincoln and I get to vote for members of my public power board, but I also get to vote for NPPD because I live in Malcolm and Malcolm is served by one of these, and probably a lot of you other people are. The Loup River Public Power District, Southern Nebraska Public Power District, Norris--that's the one I belong to is the Norris Public Power District, Dawson County, Cornhusker, Perennial, Northeast Nebraska, Elkhorn, McCook, Custer, Southwest, Cedar-Knox County, South Central, Niobrara Valley, Butler County, Polk County, Howard Greeley, North Central, Loup Valleys, Twin Valleys, Burt County, Seward County, Cuming County, KBR, Stanton County, and so on; all of these are public power districts and co-ops. And the point is that I get to vote twice, in a way. I get to vote for the directors for Norris Public Power and I also get to vote for NPPD. Now there are other municipal...and, by the way, all of these at present get 100 percent, is my understanding, from NPPD, although they don't have to. And under the way LB53 is written, for example, Norris Public Power could go somewhere else to buy power. Right now they get 100 percent of it from NPPD, but Norris Public Power could go to NPPD and say, we only want to buy 90 percent or 80 percent or 70 percent or 51 percent. If Norris Public Power bought only 51 percent of its power from NPPD, then under LB53 we could...I could still vote. If Norris dropped to 49 percent of its power coming from NPPD, which they could do, even though they're 100 percent right now and even though they're called firm power contracts which again means that NPPD has to supply a certain percentage of power, right now it's 100 percent, but Norris Public Power could, if it got 51 percent of its power from NPPD, would be allowed...then I'd be allowed to vote. If they drop down to 49 percent, I would no longer be allowed to vote for...I could still vote for Norris Public Power board but I couldn't vote for NPPD board. And then there's another kind, so I get to vote twice, in a way, and what Norris Public Power is doing is buying wholesale power from NPPD. Then my board determines what the retail price would be. And although it's not the lowest in the nation, it's still a very good rate. So there's another kind of public power district called the municipal public power district and there's 52 of those. [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: One minute? And for these municipal utilities, right now all of these on the list, and I'm going to read you the list, get 100 percent of their power from NPPD and they're all on firm power contracts. Again, that means that NPPD has to supply a certain amount of public power; otherwise, NPPD has to go out on the market and buy that power. But in this case, these are municipal public power such that, somewhat like LES, where people in North Platte, for example, get to vote for the North Platte Municipal Public Power, and because they are firm power contracts, and under LB53 since they get more than 50 percent, they would get to vote not only for the North Platte,

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whatever the name of the municipal public power group is... [LB53]

SENATOR ROBERT: Time, Senator. [LB53]

SENATOR HAAR: Thank you. [LB53]

SENATOR ROBERT: Thank you, Senator Haar. Wishing to speak, Senators Fischer and McGill. Senator Fischer, you are recognized. [LB53]

SENATOR FISCHER: Thank you, Mr. President and members of the body. This will be the last time that I rise to speak against this amendment and I will keep it short. I know we have other things to move on to. I just want to remind you that this is a governance issue with NPPD. They did bring me this bill. It does change their territories. I believe it better...it will help them, the board, to better represent the people that they serve. This was an administrative exercise that the board went through, the NPPD board of directors went through. They took a lot of time and a lot of discussion in coming forth with this idea. It was a board vote. As I reminded you yesterday, if you look at the committee statement you'll see that former Senator Dennis Rasmussen, who is chair of that board and is from Lincoln, voted for this knowing full well that, yes, he would lose his seat. I would also point out that this bill is not directed toward Lincoln. There are 90 communities that are affected by it. One of the communities is Broken Bow, Nebraska. That's in my legislative district and I have a gentleman on the NPPD board of directors that will lose his seat because of this. He also voted in favor of the change that's going to take place here. This bill is not directed toward any one community. It is a question of fairness. It is a question of equity. I will ask you to please vote against the amendment and then we will move on to the bill. Thank you. [LB53]

SENATOR ROBERT: Thank you, Senator Fischer. Senator McGill, you are recognized to speak. [LB53]

SENATOR MCGILL: Mr. President, members of the body, NPPD was very gracious and sat down with each of us Lincoln senators individually to explain what they're trying to do with LB53, and I can't disagree with their logic regarding how many seats Lincoln currently has. I think it makes a lot of sense. And, as Senator Fischer was saying, there are issues in other parts of the state as well. I think it's silly that Lincoln would end up with three after the next census and so I completely support the reshuffling that's taking place. But I do think it's still reasonable that Lincoln maintain one seat if we're the second largest customer of NPPD. Thirty percent of our energy comes from them and I just don't think it's completely unreasonable then to maintain a seat. From what I understand, this amendment doesn't accomplish that, so it's actually the next amendment we'll be seeing that I would have my support behind. And with that, I yield the rest of my time to Senator Haar. [LB53]

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SENATOR ROBERT: Senator Haar, 4 minutes and 4 seconds. [LB53]

SENATOR HAAR: Mr. President and members of the body, thank you. First of all, I'd like to tell you that last night my wife and I talked over that e-mail I got from her and we agreed that if I wouldn't tell all she wouldn't tell all, and we...so we're together on that. I would like to explain that I voted this out of committee; however, probably because I'm new and because I thought this would require a discussion on the floor, I voted it out of committee. It's not totally clear to me yet whether the protocol in the Legislature, if you vote for something out of committee, if you vote to vote it out of committee it means you're going to vote for it on the floor, or if you vote against it in committee you're going to vote against it on the floor. So I'll need some education on that point from some of you senior senators. So if I screwed up on protocol, I'm sorry about that. But I had every intention, I knew this would come out of committee so I voted it out of committee knowing that indeed I would not vote for it on the floor, and, in fact, Senator Avery and I and Senator Fischer and I talked about the fact that I would be proposing some amendments. Well, that said, I do agree with Senator Fischer that this is an issue of fairness and equity and equality. I believe that if somebody buys 33 percent of their electricity...I mean, what's magic about 50 percent? Actually, if we set...if this bill, instead of saying 50 percent, would say 33 percent, Lincoln would be included because Lincoln gets 33.4 percent of its electricity from NPPD. In terms of revenue, it's one of...I'm not sure exactly where but it's one of the top revenue producers for NPPD, somewhere in the top five or six, and it's one of the top two or three consumers of megawatts from NPPD. So I certainly agree this is an issue of fairness and equity. I think any percentage, like 50 percent, is simply a number. Fifty percent isn't necessarily equal. In this case, it could be 33 percent or, as Senator Avery suggested, 25 percent. But I want to go back to my list of municipal... [LB53]

SENATOR ROBERT: One minute, Senator. [LB53]

SENATOR HAAR: Thank you. I would like to go back to one of my...excuse me for just a second. Okay. In terms of revenue from electric sales, I just...I'm not sure who handed me this but it looks like the...from other utilities, the top is MidAmerican Energy Corporation, is good for \$55 million in revenue from electric sales; the Energy Authority for \$40 million; Kansas City Power and Light--Aquila, in other words--is good for \$40 million; and Lincoln Electric System for \$32 million. So in terms of what NPPD calls other utilities, Lincoln Electric System is fourth in terms of revenues. Again, in terms of megawatts, it's... [LB53]

SENATOR ROBERT: (Gavel) [LB53]

SENATOR HAAR: Okay. [LB53]

SENATOR ROBERT: Senator Haar, your light is on next and it's your final time to

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speak. [LB53]

SENATOR HAAR: Now is this my closing or my final time? [LB53]

SENATOR ROBERT: Yeah, this will be your last time, so...but there's more lights on. [LB53]

SENATOR HAAR: Yeah. I'm sorry, I'm not understanding. [LB53]

SENATOR ROBERT: Yeah, this is your final time to speak until closing, but there are other lights on. You'll have the opportunity to close. [LB53]

SENATOR HAAR: Okay. Okay. I thought you were hammering at me but it was the rest of the crowd. (Laugh) [LB53]

SENATOR ROBERT: No, I was hammering at the noisemakers. Yes. [LB53]

SENATOR HAAR: Okay. I understand the Legislature is much like herding cats and I'm one of those so I understand. (Laugh) Okay. So in other words, this is my final time to speak and then I get to close. [LB53]

SENATOR ROBERT: That is correct. [LB53]

SENATOR HAAR: Okay. Thank you. Thank you. When I was at the university, I took ten hours of parliamentary procedure. I don't know if that helps here. (Laugh) Thank you. Okay, I started off by telling you that besides these public power districts, such as my own Norris Public Power District that covers a greater area, there's also the municipal public power groups. And all the ones on this list, it's my understanding, have firm power contracts, which means again that if the power goes out, NPPD--like from the ice storm--NPPD has to find more power. They're obligated to find more power. So my understanding is all of these have 100 percent and they're also under firm power contract. Now the point is, though, that according to LB53, for example, North Platte, which is now firm power contract and 100 percent from NPPD, they could get 51 percent of their electricity from NPPD and still have a vote on the NPPD board. The citizens of North Platte could still vote on the NPPD board. Now under LB53, if all of a sudden North Platte dropped to 49.9 percent of its electricity from NPPD, which they can do--even though they are a firm power contract, they can drop below 100 percent--and so if they drop to 49.9 percent, all of a sudden, according to this artificial 50 percent in LB53, then the citizens of North Platte could no longer vote for NPPD. They obviously still get to vote for their North Platte utility. Okay, so North Platte is the biggest municipal power group. Second to that by just a little bit is Lexington, Beatrice, South Sioux City, Holdrege, Seward. Now when you get down to Seward, it's only about a quarter of the revenue from electric sales as North Platte. And again, these are all

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wholesale. In Seward, for example, the Seward utility buys power wholesale from NPPD. Okay, then there's Cozad and Auburn, Gothenburg, Wayne. One minute? Oh, I'm sorry. Wahoo, Valentine, Madison, now Madison actually gets...again, it's a municipal power pool. They have a firm power contract and they're 100 percent of their energy from NPPD. They only get about 10 percent as much electricity as North Platte gets. David City, Wakefield, Central City--I kind of know Central City because my wife came from Polk, Nebraska, and we drove into Central very often--Minden, Ord, Hebron, all of these are municipal power agencies that buy their power wholesale from NPPD. [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: And all of those I've read so far, North Platte, Lexington, Beatrice, South Sioux City, Holdrege, Seward, Cozad, Auburn, Gothenburg, Wayne, Wahoo, Valentine, Madison, David City, Wakefield, Central City, Minden, Ord, and Hebron, these all...and Superior, all generate more than \$1 million in revenue for NPPD, but it's wholesale. It's wholesale. It's not retail. Then they resell to their customers, to their local customers. Well, under \$1 million we have Neligh, DeWitt, Sutton, Wymore, Battle Creek, Scribner, Arapahoe. Now we're down to only a half a million dollars of wholesale sales each year to NPPD, compared to North Platte which is almost \$13 million. And I'm not sure how these smaller utilities operate, but these are actually municipally owned and operated. So, for example, in Friend or... [LB53]

SENATOR ROBERT: Time, Senator. Time. [LB53]

SENATOR HAAR: Okay. Thank you. [LB53]

SENATOR ROBERT: Those wishing to speak: Senators Fulton, Loudon, and Friend. Senator Fulton, you are recognized. [LB53]

SENATOR FULTON: Thank you, Mr. President, members of the body. I thought it was important that I speak on this because I'm a Lincoln senator and I also have had some experience in the public power sector. I actually was employed with NPPD when I was in college and I did some work with the Power Review Board. So I've had some exposure to public power and I have great interest in it. I'm going to oppose AM38 and I will support LB53, and I will give reasons why. The...experientially, as I was campaigning over the course of the past couple of months, I actually had a number of friends and supporters asking me what to do about NPPD. There was a vote on the board of NPPD. And frankly, no one knew what NPPD did, what the NPPD board is responsible for doing, and so there are a lot of people who didn't know who to vote for or what they were voting for...or who to vote for or what they were voting about. That was my experience. I have not had an overwhelming crush of e-mails or calls from individuals saying, hey, wait a minute, we're giving up a seat on the NPPD board, that's

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bad. I've not had that groundswell opposed to LB53. Further, checking LES, LES is that entity which we do elect, not directly but through the appointment process, which represents our ratepayers here. They, LES, has a direct effect on what I pay on my electrical bill. People don't understand what NPPD has to do with LES, that's my experience. But LES, the board, has taken a neutral position on this. That's telling also. Let's look at this from the vantage of public policy now. Rather than looking at this as simply a Lincoln senator, I also look at this as a Nebraska state senator. NPPD produces energy. The amount of energy that LES purchases, that people in Lincoln purchase of that portfolio of NPPD is something south of 5 percent. So for us to tell NPPD we want to have representation on your board though we only represent something south--I don't know what the exact number is but I think it's 4 percent or so--of your overall portfolio to, I would imagine, folks across Nebraska, that would be somewhat insulting. Now LES also gets its power from other places. I understand that we purchase energy from MidAmerican. I was told recently that we purchase...I guess it's 179 megawatts from power production, Laramie River. There are other places where power is produced that LES is able to acquire the energy where we don't have a direct vote in the governance of that body. So while we do have a vested interest in Gerald Gentleman and Cooper Nuclear Station, which are operated by NPPD, understandably, we in Lincoln have a limited say on the overall portfolio of NPPD. So on its face, if I'm looking at this from the vantage of public policy as a Nebraska state senator, this makes complete and perfect sense. If it look at it as a Lincoln senator wanting to represent my constituents, I've not been contacted by anyone. In fact, it's the opposite. I've had about five or six e-mails saying that you should vote for LB53 from people in my district. So as a Lincoln senator, I think it's important that I point this out. I'm not going to support AM38 and I will support LB53. Thank you, Mr. President. [LB53]

SENATOR ROBERT: Thank you, Senator Fulton. Senator Louden, you are next and recognized. [LB53]

SENATOR LOUDEN: Question. [LB53]

SENATOR ROBERT: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB53]

CLERK: 26 ayes, 3 nays, Mr. President, to cease debate. [LB53]

SENATOR ROBERT: Debate does cease. Senator Haar, you're recognized to close on Senator Avery's amendment, AM38. [LB53]

SENATOR HAAR: Thank you very much. It was very interesting when I was going door to door. Not only don't people understand NPPD and LES, they didn't, in many cases, don't even know who their state senator is, which is kind of hurtful because you're

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running for that office and they don't know who you are. And I didn't get a bunch of calls either. But I think that's why they elect us to be public officials, so that we know these kinds of things. I also have gotten e-mails, which by the way is an organized effort, as I understand it, of a lobbying group to get e-mails sent into the districts, and I believe that lobbying group is being paid by public...by, I'm sorry, not...by ratepayers, by ratepayers in these various districts. So I have a real question about that and I hope we can discuss that in the future. So I guess, in closing, I believe it is a matter of fairness. Certainly, three isn't, three is too many, but we buy 30...LES buys 33 percent of its energy and it's only, I understand, \$32 million worth of energy from NPPD, but that still makes us one of their biggest customers. So I guess I would argue that decisions made by NPPD, because we buy 33.4 percent of our electricity and contribute \$32 million towards the revenue of NPPD, that indeed it makes some difference to LES to...and not so much even to the LES board but to my constituents who live in Fallbrook and all the other parts, Autumn Wood and those sorts of things. I think I have a responsibility to see that they're properly represented even if they don't see that responsibility themselves. That's my job. That's what I promised on the campaign trail. So to say that 33 percent of our electricity, we don't have a stake in it, to say that, gee, we only give \$32 million of the revenues to NPPD, I think we do have a stake in it. But we can disagree on that. So I guess, you know, I began this today by saying that even if we pass Avery's amendment, it doesn't change LES's...the citizens' power to vote in the LES district because LES is not a firm power and energy supporter. So I would like to withdraw my motion. Can I do that? [LB53]

SENATOR ROBERT: Yes, you can, Senator. [LB53]

SENATOR HAAR: Okay. [LB53]

SENATOR ROBERT: AM38 is withdrawn. Mr. Clerk. [LB53]

CLERK: Mr. President, the next amendment I have to the bill, Senator Haar, I have AM87. [LB53]

SENATOR ROBERT: Senator Haar, you're recognized to open on AM87. [LB53]

CLERK: Senator, this is the one you'd given me a couple of days early, late January, not the one this morning, just so you know. [LB53]

SENATOR HAAR: Okay, the one this morning I wanted to come in front of this amendment. [LB53]

CLERK: Okay. I... [LB53]

SENATOR HAAR: Make sense? [LB53]

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CLERK: And you told me that and I apologize. [LB53]

SENATOR HAAR: Okay. [LB53]

CLERK: Mr. President, my mistake. Senator Haar would move to amend with AM222. (Legislative Journal pages 401-402.) [LB53]

SENATOR ROBERT: Senator Haar, you're recognized to open on AM222. [LB53]

SENATOR HAAR: Okay. I apologize for the confusion. I'm learning. The amendment, which you'll find on your screens, actually accomplishes what Senator Avery wanted to accomplish, and if you'll look on line 16 of page 1, here's the thing that makes a difference. Here it says, "having one or more participation contracts," and if you remember, I explained that a participation contract is the way LES buys electricity now from NPPD. LES owns a percentage of the power generated, such as the Hallam plant and one other plant in NPPD. And if those plants go down, if Hallam goes down, then LES is just out of luck. They have to go out on the market and buy their own electricity. If you remember, LB53 required that somebody be a firm power contract, again meaning that they make an agreement. Now it doesn't have to be 100 percent of purchase from NPPD. You could have a firm power contract with NPPD even though you aren't 100 percent. But if you have a firm power contract, let's say, for 52 percent of your electricity, NPPD is bound to deliver power regardless of their output. So if the power lines go down in an ice storm, then NPPD should...has got to go out and give you that 52 percent of its power. And I don't know how they do this technically but obviously they go out on some kind of grid market and they buy electricity. The problem being, of course, when you go out and buy on the spot market, that electricity costs a lot more. In LB53, it required a firm power contract, and LES does not have a firm power contract. LES has a participation contract in two facilities. One of the points I'd like to make is that one of the...to see how actually people in Lincoln, some of my constituents, 65 percent of my constituents, to see how they have an interest in what NPPD does, one of the greatest sources of air pollution in Lancaster County--and we have clean air--but one of the greatest sources of pollution is the Hallam plant. And so to say, for example, that Lincoln residents have no stake in what NPPD does, we breathe the pollution from Hallam plant all the time. So I think it is a matter of policy. But getting back to my opening on LB53, again on line 16, it changes where LB53 kept it to firm power contracts. This allows for participation contracts. And then if you go over to page 3, it talks about the requirements. "Pursuant to one or more participation contracts with a public..."--again participation contracts, not firm power contracts--participation requirement "contracts with a public electric utility serving a city of the primary class, which contracts supply twenty-five percent or more of such city's annual energy requirements." Now Lincoln, Nebraska, is the only city of the primary class, as I understand it, and so this combined with allowing participation contracts to count is what

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this amendment would actually accomplish, what Senator Avery had in mind, and it would give Lincoln voters one vote on the NPPD board. I think that was his purpose as he talked to me. I haven't talked to him since he's been in the hospital, although I'm sure I would have heard from Ann if he was having trouble. He's probably up in the halls right now, walking, getting back into shape. But this would accomplish what he has to say or Bill's intent. I have some other amendments, if this doesn't pass, that would give another way to enfranchise my 65 percent of my constituents that live in the LES district. But again, this allows for participation contracts, because it's our feeling that even though it's a participation contract and you're getting only 33 percent of your electricity, that you're depending quite heavily on NPPD and should have the ability to vote for those NPPD board members because they set policy. The point is that the policy set by NPPD board affects 33 percent of our electricity, it gives them \$32 million of their revenue, and it...the policy that they pass has something to do with the air that we breathe in Lincoln, Nebraska, and I think those 65 percent of my constituents would be...would like to be party to the policymaking of NPPD because we get to breathe the air that's a matter of their policy decisions. It's hard for me to buy the idea that my 65 percent of the constituents who live in the LES district have no stake in what NPPD does, and LB53 will, of course, disenfranchise those 65 percent. Thank you. [LB53]

SENATOR ROBERT: Thank you, Senator Haar. You have heard the opening to AM222 to LB53. Those wishing to speak are Senators McGill, White, Friend, Campbell, Loudon, and Haar. Senator McGill, you're recognized to speak. [LB53]

SENATOR MCGILL: Mr. President, members of the body, I rise in support of AM222 and I would like to respond to some of the comments made by my fellow Lincoln senator, Tony Fulton, who talked about how none of his constituents really know what NPPD does or LES does. And I would argue that just because there's confusion about what a particular board does, that doesn't mean that they shouldn't still have at least one vote on that board. As Senator Haar said, few people know what we do. I bet very few people know what the Public Service Commission does. I don't think that argument really holds much weight here. He said he has been contacted, gotten a few e-mails. I've received none. I admit I've received none, but that's why we're here, to monitor these things that the public isn't always aware of. And Senator or Mayor Beutler's letter in opposition to this bill pointed out that the city really only became aware of this in December, and so arguably the city, the constituents of Lincoln, haven't really even had a chance to think about this bill at all, probably until now when the press may be writing about this debate. So they've really basically been in the dark and didn't even know this was coming, so it shouldn't be a surprise that we haven't gotten a lot of e-mails, not to mention on 99 percent of the bills we hear in here we don't get e-mails on those bills. People aren't watching every single thing we do or are engaged enough to e-mail us about many of these issues. He also spoke about how Lincoln only makes up about 5...or LES only makes up about 5 percent of NPPD's portfolio. Well, we're still one of the top consumers of energy from NPPD, and so that only leaves me wondering what even

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smaller percentage, .01, that many communities of the state make up when it comes to the amount of power that they're...or the percentage of the portfolio of NPPD that they are. And with that, I will yield the rest of my time to Senator Haar, if he would like it. [LB53]

SENATOR ROBERT: Senator Haar, 3 minutes. [LB53]

SENATOR HAAR: Thank you, Mr. President and members of the body. Our argument is that I have a responsibility to represent my constituents, and if the only...as I said earlier, if the only thing that counts is how many people vote for or how many people testify for or against or neutral in committee, if that's the only thing that makes a difference, then I'm way off base with what I'm expecting of myself. If all I do is read the e-mails that come to me, then I think I'm not following through on my responsibility. My responsibility is to listen to my constituents but to also be in touch with the issues and to be a leader. That's what they elected me for, is to be a leader. So I read my e-mails and I take them seriously but, as I said, in this case it's very because there is a grass-roots organizing effort that's being financed by ratepayers of the public power districts that's getting out there saying who to send e-mails to, and I'm getting some of those e-mails. It doesn't sound very public to me, but we'll get to that issue with some other amendments. I think it opens up another, as somebody said once, a Pandora's can of worms. And I want to go back to my list of municipalities because, as I was saying earlier, the public power districts, and there are some 20 of them, buy... [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: ...100 percent of their electricity currently...I'm sorry, that's not quite correct. Some of them buy energy from other source. But the reason they're being enfranchised by LB53 is because they have firm power contracts. The municipalities I've been talking about also have firm power contracts, and in each case they could actually, even though they have firm power contracts, they don't need to buy 100 percent of their power from NPPD. According to LB53...for example, North Platte could buy 51 percent of its electricity from NPPD, and because it's a firm power contract then the citizens of North Platte--and I have a cousin there--gets to vote for NPPD. [LB53]

SENATOR ROBERT: Time, Senator. Thank you, Senator McGill and Senator Haar. Senator White, you are next and recognized to speak. [LB53]

SENATOR WHITE: Thank you, Mr. President. I would like to address a couple of issues raised by my esteemed colleague, Senator Fulton. Senator Fulton indicates that because Lincoln only purchases 5 percent of the total output of NPPD's power therefore it doesn't make sense for them to be represented. That is just not how it works in a democracy. We represent according to "one person, one vote"; not from who buys what from someone. We do not cut out people even though they are not an economic

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contributor to our taxes. For example, we don't divvy up votes according to who pays how much taxes, nor do we do that in the case of a public power district or should we. And I want my colleagues from the Panhandle, from the rural areas to recognize that I'm as concerned about Broken Bow, which Senator Fischer points out will lose representation under this bill. I don't think that's right either. I don't think anybody should be disenfranchised. They asked, well, would I expect Omaha and people in Omaha Public Power District to have a vote? I do not. We generate our own power from start to distribution. We sell power. The people in OPPD have representation on that board, and the concern is, it is so much more than economic. It is much more than just how much I pay for electricity. And let me give you a number of really critical issues that can completely affect the life of a community that being able to negotiate a contract on price of the electricity won't ever touch. In Lincoln, the Sheldon power station in south Lincoln is the largest air polluter in the county that exists today. I think the people of Lincoln have a very legitimate interest should they say to NPPD, we insist you put in the latest generation of scrubbers and we'll pay more for our electricity, but we need higher air quality here. It's hurting our children. It's causing asthma. We've had an increase in asthma. We have increased mercury levels in our lakes, like Branched Oak Lake, Wagon Train Lake, the various...Bluestem Lake. We have real pollution problems. If we take away their voice on the board, they will never get an opportunity to articulate that concern. That whole environmental concern disappears because the only thing they negotiate is the price of the power and the times of delivery. That's not the point of public power. A town like Broken Bow...Broken Bow, like so many of our small communities, struggles to stay alive, to find some measure of growth, to do something that is useful and helpful in keeping its young people there. Our public power districts have been absolutely essential in locating, recruiting and locating various important industries, whether that is ethanol plant industries or manufacturing plant industries or other industries. For example, industries that use heavy computer use. The location and the promise to put the supports so that their computers do not have interruptions in power service can be absolutely essential to getting any one of the computer providers, manufacturers, or services, whether it's a PayPal or it's a Google or it's a Yahoo. Those kinds of economic support issues by a public power district can make the difference in the life of a town. And to say that the town of Broken Bow... [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR WHITE: ...no longer has an interest in whether or not NPPD decides to give the support necessary for it to attract a next generation, a twenty-first century industry, in the hopes it can keep its young people there and pay them a living wage, I think misses the entire point of the great inheritance that we have in public power. Public power does more than turn lights on in our houses. Public power helps shape our environmental concerns, our tax concerns, and our very economy. These are legitimate concerns. And to talk about disenfranchising our small towns and the city of Lincoln from key decisions on how power is generated, how pollution is managed, how our

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economy grows, is a serious mistake, in my opinion. Thank you, Mr. President. [LB53]

SENATOR ROBERT: Thank you, Senator White. Those wishing to speak: Senators Friend, Louden, and Haar. Senator Friend, you are recognized. [LB53]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. A lot of people would say, well, senators like Senator White and Senator Friend and some folks from Omaha, folks from other areas of the state where this is going on, it's not really applying to us. I mean, we're not a dog in the fight, whatever the case might be. No, there's a dog in the fight. I think it's appropriate to have this discussion, I mean, not that anybody is looking to me and asking me what I think about this issue. Good enough. I mean, I wasn't planning on talking directly to this amendment or this bill in particular. I don't think there's anything wrong with the legislation. I think Senator Haar's idea is understandable. Just a couple of points. The thought that public power users, there's a huge disenfranchisement or the "one person, one vote" representation is being violated, I mean, look, let's understand something. All around the state there are holes in the system. If we want to go through and reevaluate the way we're providing public power, the way we're providing public utilities, let's go ahead and do that. LB53 doesn't do it. It's as simple as that. I understand Senator Haar's argument, and I'm not sure if I were in his shoes that I wouldn't be doing the same thing. However, life is not fair, it's just not, and let me give you an example. There's some people that are receiving Metropolitan Utilities District services that don't have a vote for that board. Three years ago we had people coming into the Urban Affairs Committee saying "one person, one vote." I'm telling you, this is not an isolated incident and the only other thing that I'm telling you is that this is a lot bigger problem than what we're dealing with...than the way we're trying to deal with it right here. It's all I'm saying. This Legislature is a strange environment for me now because usually about this time of the day, in the last five sessions that I was involved in, I could almost bank on this floor being empty, me or maybe a few others sitting there listening to Ernie, and particularly on a bill like this. If I sound woeful, I am. I'd be talking about George Patton, I'd be talking about Wellington, I'd be talking about Napoleon, and he'd be responding and I'd be aiding him in his devious attempt to slow everything down. Well, the part about this is everybody is here. Everybody is here and they're listening and they're trying to figure out what Senator Haar is doing. I will guarantee you, when the Patton and Napoleon and Wellington discussion was going on, it would just be me and Ernie. Everybody else was in their office doing work, real work. It's sort of refreshing... [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR FRIEND: ...but it's sort of a problem. Let me quickly explain why it's a problem. This amendment is up there. This issue, LB53, is up there. If a guy like Senator Ernie Chambers and some wannabe like Mike Friend is up on the floor talking about irrelevant garbage, everybody else could catch up and figure out exactly what's

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wrong with this problem or what's wrong with this bill or what's wrong with this amendment and what's going on here. I ask you again, a show of hands no? Check yourself. How many people have read this bill? How many people have read this amendment. Nobody on the floor...one, Senator Fischer. Nobody on the floor, remember what I said, nobody on the floor listening to a guy like Senator Chambers, well, they were listening in their office, listening to a guy...everybody is gone. They're reading. They're doing stuff. We've got sort of a problem here, folks. [LB53]

SENATOR ROBERT: Time. [LB53]

SENATOR FRIEND: Thank you, Mr. President. [LB53]

SENATOR ROBERT: Thank you, Senator Friend. Senator Louden, you are recognized to speak. [LB53]

SENATOR LOUDEN: Thank you, Mr. President and members of the Chamber. As I've listened to some of the dialogue go on, they talk about why they have firm contracts and why they have participation contracts. Part of the reason LES has participation contracts with some of them is because they get their power cheaper. If they had a firm contract, it was guaranteed they'd be paying more for their power, and so would everybody else in Lincoln for the most part. And as far as getting 30 percent of their power from NPPD, which is a small percent of their total power, actually LES gets 40 percent of their power from Laramie River. And when you talk about air pollution, that's an old system up there so now you're polluting in a part of the country where I live in. You're worrying about smelling smoke down here. What about the people out there in western Nebraska on the east side of Wheatland that's receiving what you have out of that unit there? Lincoln purchased a piece of that unit. There's three units up there in Laramie River, and Lincoln purchased an interest in the unit that generates power for the east connection. So LES has done whatever they could, like any organization, to buy their power as cheaply as they could wherever it was, and this is the reason they have some of those contracts. So when you have something here where you want to change it to you have firm contracts, you want to be a case where you may not want to wish for something too hard because you may get your wish, and when you do, your price of power will probably go up. Right now, as I listened to Senator Fulton talk about what we do as state senators, Nebraska Public Power probably generates power cheaper than any generation in the United States, maybe the cheapest, for all I know, but it's some of the cheapest ones there are that is generated by Nebraska Public Power. And when you start worrying about who's going to be on the board and who's going to give the directions, Lincoln has a small share of that and they actually contract most of their power from Nebraska Public Power, so it isn't a case like they are a member. When you have these others, as Senator Haar awhile ago named off all of the rural public power districts across Nebraska, those power districts have firm contracts. They rely on Nebraska Public Power. And, of course, when something happens, yes, Nebraska

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Public Power has to go out on the spot market and purchase that power. Now as I've noticed, as Lincoln Electric keeps spreading their territory and as the town keeps moving out, why, they've always been increasing their territory and they always call it their chartered territory. And it's my understanding that you're furnishing power for, like Waverly, and I think your board members on the Lincoln Electric are appointed. They are not voted on as near as I know. I'm not familiar with it but...because we've never tried to interfere with some of the municipalities on how they operated their own business. So with Lincoln Electric, I think you have to look at the whole situation here. Nebraska Public Power is trying to recharter their whole system so they can probably do a better job than they have in the past, which has been very well. If you look on some of the maps they have on their chartered territories, yes, they're doing away with a bunch of it in the part of the country where I come from, and I used to be able to vote for someone on the Nebraska Public Power. But we were never members of it because all of our power came from Tri-State or Basin Electric out of North Dakota, most of it did. We got very little from the west. It was most all come out of South Dakota where they have coal-fired generation, and some of it came off the dams on the Missouri River. [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR LOUDEN: So with the way this is going on, I would certainly support this bill. I think this is something that the public power is trying to do to streamline their operation and I would applaud them for going that route, and I can't see where this talk we've had over whether or not there's going to be a board member, one or two or whatever there has to be, or they consider they're losing representation on the NPPD has anything to do with it. Thank you, Mr. President. [LB53]

SENATOR ROBERT: Thank you, Senator Louden. Senator Haar, you are next and recognized. [LB53]

SENATOR HAAR: Thank you. Thank you, Mr. President and members of the body. Is this my second time talking or... [LB53]

SENATOR ROBERT: This is your second time. [LB53]

SENATOR HAAR: My second time talking. Well, first of all, I would like to explain how the LES board...you bring up a good point, Senator Louden. It's not directly elected by the people. Instead, LES board members are appointed by the mayor and then approved by the Lincoln City Council, and so it is not a direct election as such. I thank Senator Friend, number one, for teaching me through these first days of how policy goes and how policy is made, but he also brings up a really good point. This is an important policy decision for the whole state of Nebraska. There are places...there may be other places, not in my district, but there may be other places where people are not

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adequately represented and where they are affected by NPPD or Omaha Public Power District or Lincoln Electric System, and it may just be time to study the whole issue of how we look at public power in this state. I certainly don't agree with former Senator Kermit Brashear, we ought to sell the system. I am absolutely proud that we have public power in this state. But I think it is a larger policy issue, and I think LB53 is, in some form, in perhaps some amended form, is part of that solution. But it certainly, LB53 doesn't look at the larger policy issues and how, in fact, we can enfranchise all the people of Nebraska in our public power system, not only in terms of how we charge rates but also in terms of how it affects all of us. And I would submit that what NPPD does not only affects the air that we breathe in Lincoln, and that's 65 percent of my constituents, but it also affects many other decisions across the state. It affects in-stream flow in some streams where power plants use water for cooling purposes. It could...people who are disenfranchised by this could find NPPD building power transmission lines through their county, even though they have no voting ability over NPPD. So I think that this whole area really deserves much greater study. What NPPD does in Nebraska usually affects much more than just those people who pay rates and who pay firm power contracts. If firm power contracts are the only issue here, then I think we need to look at some kind of policymaking body that looks what happens when transmission lines are built across a part of the state that doesn't have participation on the NPPD board. If having firm power contracts is the only issue, then I think again we need to look at why is 50 percent a magic number. How come North Platte, if it buys 51 percent of its firm power from NPPD, should get a vote, whereas if they buy 49 percent they shouldn't get a vote? It makes no sense whatsoever. Fifty percent is a very arbitrary number. Senator Friend also raised the question, how many people have really read and understand LB53? [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: We each got a visit from NPPD with a bunch of PowerPoint presentations on how things were laid out in 1986, and I tried very hard to understand that and I think I understood...I understand most of it. But this is a huge public power decision. It defines not only who pays rates in the state of Nebraska but who's affected by those decisions, and certainly the decisions that NPPD make affect all of us in this state. And I think if we're going to tinker with the board representation at this point, then we need to look at the overall picture and say, how does Nebraska Public Power District policy affect people, not just their rates, not just their electric rates. [LB53]

SENATOR ROBERT: Thank you, Senator. [LB53]

SENATOR HAAR: Thank you. [LB53]

SENATOR ROBERT: Senator McGill, you are next and recognized to speak. [LB53]

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SENATOR MCGILL: I yield my time to Senator Haar. [LB53]

SENATOR ROBERT: Senator Haar, 5 minutes. [LB53]

SENATOR HAAR: Mr. President, members of the body, thank you. LB53, it seems to me, relies way too heavily on one concept: firm power contracts. It says nothing about what happens to the rest of the state as a result of their decisions. And certainly every senator in here, whether or not their voters, particular voters in their districts would be enfranchised or disenfranchised by LB53, need to think of the other consequences of this--again, where transmission lines are built, where water is taken out of streams for cooling purposes, where wind farms are located. It's going to be an enormous thing. Well, if NPPD puts a wind farm in a county that has no vote, it's very difficult to say that that county...that those people have no stake in the policy of NPPD. So if the only thing that gives people a right to vote is the wholesale power that they pay for, if it has nothing to do with the air they breathe, with the water they use, where they put wind turbines, where they put transmission lines, then I think LB53 is not...is for you, frankly, if you have that feeling. However, if you feel that what NPPD does affects all Nebraskans, as it does, in terms of water, transmission, alternative energy, then I think LB53 either has to be amended or, after hearing Senator Friend talk about thinking about this a great deal, I think there needs to be a major study that looks at the NPPD, how its representation is determined, not only in terms of rates but also in terms of all the other kinds of impacts that NPPD has on Nebraska. LB53, the current policy that gives, just distributes a vote, "one person, one vote" across the state, is not fair. I agree to that. One point is that, according to a Supreme Court decision, voting for NPPD board, a group such as NPPD board, does not have to be "one person, one vote," by the way. In this instance, we're not...we're not restricted to that and the Supreme Court has said that. So I think if we were to study this issue in greater detail, not just try to fix it in a big hurry, that we might find that there's some way to do proportional voting. Some of the amendments that I have coming up after this amendment would, in fact, suggest that maybe we give proportional voting based on what percent of electricity someone gets from NPPD. Now speaking to Senator Loudon, I got the opportunity when I was on the Lincoln City Council to actually go to Wyoming and view that huge power plant out there, and it's an enormous sight to see. And LES has a part in that. But to say that only 33 percent of our interest...our electricity represents a minor interest is just not the case. Thirty-three percent, that's a third of all our electricity that my constituents in District 21, that live in LES district,... [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: ...that it affects those people. Thirty-three percent of that electricity is purchased from NPPD. It makes a difference. It makes a difference in the air we breathe. It makes a difference in where transmission lines are run. And to say that if I buy 33 percent of your product that I have no interest in your board, in your authority, in

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your policy, I think...oh, I simply can't agree with that. So again, I would...I would...oh, one...just I guess one other thing. Sort of a rumor was going around that Senator Avery doesn't care about this amendment. Senator Avery does care. He and I talked at length about this. He asked me...I was going to introduce my legislation... [LB53]

SENATOR ROBERT: Time, Senator. Time. Senator Karpisek, you are next and recognized. [LB53]

SENATOR KARPISEK: Thank you, Mr. President. Senator Haar was just talking about NPPD being good for the whole state. Omaha is not part of NPPD. The Panhandle is not part of NPPD. Lincoln has had two seats on the board for quite a long time. Was that fair? I don't feel that that was fair. Now they're going to get three, and I think everyone finally said, enough, and now trying to take it all away. So if we want to talk about fairness and that it affects the whole state, I don't think that's the case. LES is not in here...or outside fighting against this bill. I even heard one of them said, don't they get it, we're not here, we're not fighting this. I'm a very strong believer in NPPD. They've helped me out with wind power starting up back home in Saline County. They have been nothing but great to work with. If they think this is going to help them, I agree. Senator Fischer had told me in the statute that Lincoln was the one that made sure that it said 50 percent of the power had to be bought, because they had 50 percent. Now they only have 33.4 percent, I think is what Senator Haar said, so now they want to change that, change it down to 33 point...33 percent, just want to keep moving the bar. We make the rules in here and I think they have been not playing fair. So, in my opinion, give them back a little bit of what they've been giving out. This is not a whole state issue. Senator Haar, I apologize for calling that, but let's call it what it is. I think I am in...I know I am in favor of the bill as it is, without amendments. We can talk on it, that's fine. Senator Friend likes to do that. I finally got tired of it. I thought I'd hope up and say something too. I think Lincoln is trying to make...I shouldn't even say Lincoln is trying to make the rules here because, again, they're not here. Trying to change the rate percentage and all those things? No, I don't think so. We don't make the rules just so they can fit in. Again, they're not here. I think the bill is fine. I think it's about fairness, that what we outstate have been dealing with for years. So I think the bill is fine, no amendments. I hope everyone is listening. Like Senator Friend said, we have a lot more bodies on the floor than we've had the last two years. It's kind of fun. I'm sure that I'll have some more questions to answer, so thank you, Mr. President. [LB53]

SENATOR ROBERT: Thank you, Senator Karpisek. Those wishing to speak: Senators White, Haar, McGill. Senator White, you're recognized. [LB53]

SENATOR WHITE: Thank you, Mr. President. And I so appreciate Senator Karpisek's perspective because he is talking about people who feel they've been disenfranchised, who have been underrepresented, who haven't been treated fairly by the system apportioning representation under public power. I get that. I think if those are legitimate

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complaints we need to address those. But unlike Senator Karpisek, I do not think the answer to that then is to disenfranchise anybody else from representation. And I would say to Senator Karpisek and anyone else, there is so much more than just the amount you pay for electricity at issue in these things. I mean the pollution impact alone, if you look at what coal-fired power plants may have in their relationship to childhood asthma, you are talking about one of the most serious childhood diseases on the increase in the United States. And a lot of serious people, believe it or not, tie that to the fact that we got the bigger, sootier particles out of the air, leaving the smaller microparticles; that that may, in fact, be tied to the increase in childhood asthma. Well, where that power plant is may be decided to be located in a community that doesn't buy 51 percent of its power from NPPD. I don't think they lose the right or should lose the right to have a voice on how that power plant is still managed, on things like what kind of coal they buy, what happens to the fly ash, is it being managed properly. How about the lakes in the area? Are they showing an increase in mercury from the firing of coal? All those are legitimate political issues that are not tied to the price or amount of electricity. I do agree deeply with Senator Karpisek that western Nebraska, rural areas, if they have been unfairly treated in this process, need to be brought in and treated fairly. There's no question they deserve representation. I think the only thing I disagree with is that we're going to achieve that representation at the expense of other people. I don't believe in giving people some of their own back like this. I believe what we should strive for is a fair and equitable system that all people who have a legitimate stake in NPPD also have the opportunity to vote for someone to sit on the board and represent their interests. I mean, to me, that's the essence of public power. I yield the rest of my time to Senator Haar. [LB53]

SENATOR ROBERT: Senator Haar, 2:20. [LB53]

SENATOR HAAR: Mr. President and members of the body, first of all, I would suggest that somebody from LES is here. It's me. Sixty-five percent of my constituents live in Lincoln and LES is here. I'm representing those 65 percent. I'm also sorry if this has now become the idea...well, first of all, let me say that LB53 very clearly sends a message and I hear that message. The message is that the current system of representation on LES board is not fair; two members on the LES board is not fair. And the fear is that it won't be long until there are, because of population, "one person, one vote," there will be three people from LES district on the board. Again, I would point out that "one person, one vote" is not required, even if the census counts would...according to "one person, one vote," if the census counts would dictate three delegates or three board members from LES,... [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: ...from Lincoln, basically, on the board, the NPPD board is not bound to districting by "one person, one vote." It can be done in a proportional way. The

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Supreme Court has told us that. I'm also very disappointed if we make law by saying, okay, I've been hurt in the past, now I want to hurt you. And I appreciate that being said because I think that's part of what's going on here. I think that's part of what's going on in the body and I suggest that that's not a proper way to make laws. And if at some point in the future somebody catches me taking revenge by the laws I pass, I hope they're going to take me aside and give me a good lecture. What we're responsible for is setting policy, setting good policy for the future. [LB53]

SENATOR ROBERT: Time, Senator. (Visitors introduced.) Returning to discussion, we have Senators Haar, McGill, and Karpisek. Senator Haar, you're recognized and this is your third time. [LB53]

SENATOR HAAR: Okay. Thank you very much. First of all, I'd like to tell you I just talked to Senator Avery on the phone and he didn't sound any different, so I suspect he's healing just fine. And the message he had is that he does care about this amendment, and I told him we had to fix it so it really worked and he said, great. Senator Avery does care about this amendment and hopes to be back as soon as possible. I would like to just pick up on what I was talking about a minute ago and that's...the message is clear. And one of the good points of LB53, it gets the message across that representation has not been fair in the past. And the worst thing that could happen coming out of here is if anybody votes for LB...if the amendment is defeated and LB53 goes down, if anybody votes to get back at Lincoln then I think it's a huge mistake and I would really question the motive of trying to get back in the kind of legislation we make. Our duty is to look at problems. Sometimes problems simply haven't been solved because nobody has brought them up before. So my goal is to look at problems and solve them, not to take revenge but to heal. One of the things that's disturbed me about the whole campaign process is that it almost seems nowadays that we get elected by throwing dirt at each other. And yet, when we see people coming into the Legislature, into public office, we want people to be healers. We want leaders to be healers. So I hope that however you vote on LB53 and my amendment, AM222, that there's not the element of revenge. What we need is a fair...a fair and equitable way to set...to elect a board for NPPD that reflects the best public power policy, not NPPD policy but the best public power policy for the state of Nebraska. One of the things that's impressed me about getting here is that we talk about equity. We talk about equality. TEEOSA--I'm on the Education Committee--TEEOSA basically said that we're all in this together; we're one state. It's not Lincoln against the rest of the state, or Omaha or Lincoln or whatever, urban against rural. We're all working together and this comes across in many, many places in our legislation. TEEOSA is the best example. Another example of equity, recognizing the equity of all of us, is the formula that we use for funding public colleges or community colleges across this state. Again, the message that we have given with that funding is that we're all one state. So I really hope that whatever the outcome of this LB53, it's communicated a problem and that we find the best policy solution, and I think that's what this Legislature is about--finding problems

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and then identifying problems, carrying those through a committee process where we listen to our constituents, and then we come up with the best solution. So please, however you vote on these things, don't make revenge against LES or Lincoln or Omaha or whatever the motive for doing this. I would be very disappointed if that's the outcome. [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: So again, I'm beginning, as I talk and listen...I'd refer back to what Senator Friend said. LB53, even with my amendment, even with Bill Avery's amendment, does not solve the problem of inequality in terms of the public power systems in Nebraska. It doesn't solve the problem of transmission lines, of all those other good things that we need to be working on. Probably what's most appropriate, if there needs to be a change, and I hear there needs to be a change, we need to study this, we need to look at it carefully so that what comes out of this is the best public policy. And we're talking about public power, public power that would serve the state of Nebraska in the best possible way. [LB53]

SENATOR ROBERT: Time. Senator McGill, you are next and recognized. [LB53]

SENATOR MCGILL: I yield my time to Senator Haar. [LB53]

SENATOR ROBERT: Senator Haar, 4:56. [LB53]

SENATOR HAAR: Again, same...you know, again recognizing the wisdom of some of my colleagues who have been here longer, a bill like LB53 raises an issue. It raises an issue that we have to be aware of and we've heard that. Everybody has heard that two representatives, 18 percent of the board vote for NPPD by people who are residents in the LES district, and that includes some of my constituents, that's too much. Certainly, if the census shows that LES, according to "one person, one vote," if that shows that LES would get three votes, obviously that's out of place. We recognize that. What we're saying, it's a matter of fairness and equality that we look at the policy so that public power truly serves all the power needs of the state. And I think that's...that this bill really doesn't address that whole issue. All it addresses, it basically says, as unamended, it says unless you're a firm power contractor with NPPD, you don't count. Now I guess it doesn't make any difference that a place like North Platte, which gets only...which only provides a third of the revenue to NPPD, yet they're firm, they have a firm contract, that they would get the vote. And yet constituents, my constituents in the LES district, get no votes simply because one is contract power...I'm sorry, let me...one is participation contract and the other is firm power. It makes no difference because...and maybe it has something to do with rates. I would even give it to do that. But the NPPD board is much broader than rates. It has to do with the policy, policy issues and how public power, it's the 90 pound gorilla in Nebraska. It's how public power functions in Nebraska. And to

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cut out the LES people, the constituents who live in the LES district simply because they have participation contracts instead of firm power contracts makes no sense whatsoever. Again, LES is one of the big purchasers of public power, among the top purchasers of NPPD. They are also up there near the top in terms of revenues for NPPD. So to say that LES with only 33.4 percent has no place...has no place at the table when policy is made, is just inconceivable to me. I can't imagine anybody who's got a customer that represents 33 percent of its business would say that that customer's opinion doesn't count. And so again I argue that there are sins of the past...or maybe not sins. It's simply that this hasn't come up, at least while I've been in the Legislature. I need to know the history, I suppose. But what happened in 1986 was a very complex agreement and I guess I would refer you back to the piece that I...the policy that I passed out the other day. [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: Time? [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: Oh, one minute. And I'm going to read that to you again and this was also passed in 1986, LB941, and it says, as part...first of all, again it says that what happens, the importance of electrical energy has a great deal to do with present and future development. I totally agree. Second is that the effect of the operation of public power districts on both its citizens and economy, it recognizes what a great impact public power has on this state. And then it says the significant impact of the action or inaction of a public power district not only on its direct and indirect residential ratepayers but also on the population and economy of areas in proximity, that recognizes in 1986, and I wonder what's changed? [LB53]

SENATOR ROBERT: Time, Senator. [LB53]

SENATOR HAAR: That's a policy statement,... [LB53]

SENATOR ROBERT: Time. [LB53]

SENATOR HAAR: ...and I would... [LB53]

SENATOR ROBERT: Senator Karpisek, you are recognized. [LB53]

SENATOR KARPISEK: (Microphone malfunction) Question (inaudible). [LB53]

SENATOR ROBERT: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; all opposed

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vote nay. Record, Mr. Clerk. [LB53]

CLERK: 29 ayes, 3 nays, Mr. President, to cease debate. [LB53]

SENATOR ROBERT: Debate does cease. Senator Haar, you're recognized to close on AM222 to LB53. [LB53]

SENATOR HAAR: Okay. Again, I would like to close on what I see as a...the present system, which is not only unfair but it's also enormously complex. Yet the policy that was passed in 1986, at the same time as this convoluted way of assigning board members, recognizes that whatever happens in a public power district not only affects its direct ratepayers but also has an indirect effect on other people close to it. NPPD is close to everybody in this state. There are places in Nebraska it's just a town at a time, but everybody in Nebraska is close to NPPD and I would suggest that everything, every policy of NPPD does have an effect on the whole state. And then it closes by saying in this public policy that was passed in '86, the public policy of this state is to provide for and encourage a broad-based representation of the citizens of this state on the boards and directors of public power districts. The public power policy should be to encourage a broad base of representation, and I submit that with Lincoln buying 33 percent of its energy, providing \$32 million of NPPD's resource, that, in fact, we, LES, those 65 percent of my constituents who live in LES, have a right to help elect the board of NPPD. We agree, I think everybody agrees, it's a matter of fairness and equity. I suggest that LB53, in its original form without my amendment--and my amendment is a band-aid, there's no question about it--my amendment...LB53 without my amendment is going from one bad phase, which is too much representation, to the other bad pole which is no representation. So on that, with fairness and equality in mind...equity in mind, I would certainly encourage you to vote for L...to the amendment to LB53 that changes that convoluted formula in such a way that it would leave in place one vote for the citizens of Lincoln. Again, I submit that every citizen of Lincoln is influenced by NPPD, and the fact that I live out near Malcolm and I get to vote for NPPD, I breathe just about the same air as my 65 percent of constituents in Lincoln. Again, "one person, one vote" is not the standard that the Supreme Court sets for apportionment of board of directors, so if we're going to tweak this just a little bit there's no reason why the board couldn't come back and give appropriate representation using proportional voting, something that we see all over in our society. Again, I believe that LB53 is taking an axe to a policy that needs changing. And unfortunately, while improving the overrepresentation of LES, it underrepresents my constituents who live in the LES district. [LB53]

SENATOR ROBERT: One minute. [LB53]

SENATOR HAAR: So the argument that we have to, you know, it's been bad in the past, well, kind of that's our problem here. We're the Legislature. Perhaps the

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Legislature should have addressed it in the past. It's our fault that it hasn't been addressed in the past. But now we are addressing it and so I think we have to use reason and good judgment and the idea of healing to pass a policy that's fair and equitable. That policy will certainly not give my constituents two votes on the LES board or, I'm sorry, on the NPPD board, the way it currently is, nor would it give them three votes, which is the fear of "one person, one vote" and what's happening with population. Instead, it would give the residents, the citizens of the LES districts, which are not only mine but Senator McGill's and so on, would give them... [LB53]

SENATOR ROBERT: Time, Senator. [LB53]

SENATOR HAAR: ...the (inaudible)...okay. [LB53]

SENATOR ROBERT: Members, you have heard the closing on AM222 to LB53. The question shall be, shall the amendment be adopted? All those in favor vote aye; opposed vote nay. Senator Haar, for what purpose do you rise? [LB53]

SENATOR HAAR: Yes, I would like a roll call vote, please, and a call of the house. [LB53]

SENATOR ROBERT: Members, there has been a request to place the house under call. Question is, shall the house go under call? All those in favor vote aye; opposed vote nay. Mr. Clerk, please record. [LB53]

CLERK: 7 ayes, 29 nays to place the house under call. [LB53]

SENATOR ROBERT: Members, notwithstanding the motion to place the house under call has failed, Senator Haar is entitled to a roll call vote. Mr. Clerk, will you please call the roll. [LB53]

CLERK: (Roll call vote taken, Legislative Journal page 402.) 3 ayes, 34 nays, Mr. President, on the amendment. [LB53]

SENATOR ROBERT: AM222 is not adopted. Mr. Clerk, items for the record. [LB53]

CLERK: Your Committee on Health and Human Services, chaired by Senator Gay, reports LB84, LB195, LB394 to General File, and LB132 to General File with amendments. Hearing notice from the Agriculture Committee. Amendments to be printed: Senator Haar to LB53, Senator Utter to LB259. I have name adds: Senator McCoy to LB141; Senator Howard to LB378; Senator McCoy, LB594; to LB675, Senators McCoy, Friend, Janssen, Flood, Lautenbaugh. (Legislative Journal pages 403-407.) [LB84 LB195 LB394 LB132 LB53 LB259 LB141 LB378 LB594 LB675]

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And I have a priority motion. Senator Adams would move to adjourn until Monday morning, February 9, at 10 a.m. []

SENATOR ROBERT: Members, you have heard the motion to adjourn till Monday morning, February 9, at 10 a.m. All those in favor signify by saying aye. Opposed, nay. We are adjourned. []