

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

Floor Debate  
April 29, 2013

---

[LB6 LB23 LB42 LB59 LB66 LB82 LB93 LB97 LB103 LB104 LB107 LB141 LB154  
LB166 LB169 LB172 LB192 LB208 LB222 LB223 LB243 LB269A LB277 LB303 LB329  
LB332 LB341 LB344 LB345 LB349 LB361 LB377 LB378 LB383 LB386 LB402 LB410  
LB420 LB435 LB442 LB458 LB459 LB477 LB483A LB493 LB500 LB501 LB517A  
LB517 LB531 LB538 LB549 LB561 LB579A LB596 LB613 LB625 LB643 LB647 LR154]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-eighth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Pastor David Smith of the Zion Lutheran Church here in Lincoln, Nebraska, Senator Wallman's district. Please rise.

PASTOR SMITH: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Smith. I call to order the sixty-eighth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

SENATOR GLOOR: Are there any messages, reports or announcements?

CLERK: Your Committee on Enrollment and Review reports LB42, LB59, LB154, LB166, LB172, LB192, LB208, LB243, LB345, LB361, LB377, LB386, LB420, LB435, LB458, LB459, LB549, LB643, all correctly engrossed. That's all that I have, Mr. President. (Legislative Journal pages 1157-1158.) [LB42 LB59 LB154 LB166 LB172 LB192 LB208 LB243 LB345 LB361 LB377 LB386 LB420 LB435 LB458 LB459 LB549 LB643]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda, Select File. Mr. Clerk.

CLERK: Mr. President, LB517. Senator Murante, I have Enrollment and Review amendments first of all, Senator. (ER35, Legislative Journal page 877.) [LB517]

SENATOR GLOOR: Senator Murante. [LB517]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB517]

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

Floor Debate  
April 29, 2013

---

SENATOR GLOOR: Question is the adoption of the E&R amendments to LB517. All those in favor say aye. All opposed say nay. The amendments are adopted. [LB517]

CLERK: Mr. President, Senator Carlson would move to amend with AM1048. (Legislative Journal page 1117.) [LB517]

SENATOR GLOOR: Senator Carlson, you're recognized to open on your amendment. [LB517]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I want to summarize LB517 before covering AM1048. LB517 creates the Water Funding Task Force to function from June 1, 2013, to December 31, 2013, with two important goals: first of all, to develop and recommend a 20-year strategic plan to achieve and maintain water sustainability in Nebraska. This means that on average we use no more water than our supply will allow. This should assure future generations have an adequate water supply. And secondly, present a recommended plan of sustainability that will have the needed funds over a 20-year period to carry out the goals of the plan. This will come in a bill to hopefully be debated next session in 2014. As you may recall, there were a couple of concerns raised during General File debate about the bill that we have addressed with AM1048. I promised to address those on Select File, hence we have AM1048. There were concerns about the fiscal note. The language has been revised and these have been addressed through Senator Mello and the Appropriations Committee. And so it is clear that the task force is not being asked to provide an in-depth technical analysis of each project. The task force will be asked to provide recommendations for a strategic plan for water priorities, recommendations for ranking criteria, recommendations for dedicated water-funding legislation, and recommendations for an annual funding amount and start date and recommendations for statutory changes to current regulatory authorities, programs, and funds. The fiscal note thus has been reduced from \$3 million to \$1 million. Along those same lines we added a new section to the bill that requires the Department of Natural Resources to notify the Legislature on behalf of the task force the projected unexpended and uncommitted funds remaining after this work is done. This will inform the Legislature of the funds that will be returned and on which they can expect to use elsewhere. The work will terminate on December 31, 2013, rather than the original bill of January 31, 2014. Second, there were concerns about not enough legislative participation on the task force. I want to thank Senator Lathrop for his input and advice on this issue because I agree with him. We do need to have legislative members understand fully the work from the beginning to end because we're the ones who will adopt or reject any proposed plan next session, so we need to understand how the task force got to its recommendations. The Executive Board will select five legislative members who, along with me, will serve ex officio on the task force. It will be important to have interested members completely informed on the policy direction of the task force's

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

Floor Debate  
April 29, 2013

---

recommendation. And third, the task force will be asked to make recommendations on statutory changes relating to regulatory authorities and to funds and programs administered by the department. We want to make it clear that the intent of this bill is to offer recommendations for a long-term strategic management plan of our precious water resources. Thus I would ask for your support on AM1048. Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Carlson. (Visitors introduced.) Members, you've heard the opening on LB517 and the committee amendment or the amendment. We now turn to floor debate. Senator Burke Harr, you are recognized. [LB517]

SENATOR HARR: Thank you, Mr. President. And thank you, Senator Carlson and Senator Mello, for your hard work on working on amendment. As we know, when we voted on this on General File, there was agreement that there would still be some negotiating that would occur between General and Select File. And as a heads up, I do have an amendment coming after having read what is going on. I do believe that there is some negotiation that still is worthy of debate on this issue. But I would ask if Senator Carlson would yield to some questions. [LB517]

SENATOR GLOOR: Senator Carlson, would you yield? [LB517]

SENATOR CARLSON: Yes, I would. [LB517]

SENATOR HARR: Thank you. One of the original concerns was the fiscal note, and you stated you lowered the fiscal note, is that correct? [LB517]

SENATOR CARLSON: Yes. [LB517]

SENATOR HARR: Okay, and that is now to approximately a million dollars? [LB517]

SENATOR CARLSON: Correct. [LB517]

SENATOR HARR: Okay. Can you explain to me how we're spending that million dollars? [LB517]

SENATOR CARLSON: How we're spending a million dollars? [LB517]

SENATOR HARR: Well, I guess what...a breakdown. [LB517]

SENATOR CARLSON: Okay. [LB517]

SENATOR HARR: Since we don't have a fiscal note can you give me a breakdown of the bill? [LB517]

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

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: And I'll try not to take too much of your time, but it takes a little time to explain this. [LB517]

SENATOR HARR: Well, I think it's important we create a record, so. [LB517]

SENATOR CARLSON: As I indicated, the task force will function from June 1 to December 31 which is seven months. In order to get something done in seven months that's meaningful, that task force is going to have to be dedicated to quite a few meetings. And I anticipate one full day a week average for 28 weeks. We're going to bring task force people in from all over the state; that's going to involve some expenses. We're going to ask some experts to come in and help educate and inform this task force on water issues and priorities. That may take some funds. We're going to hire a facilitator to facilitate the process; that will take funds. And so not exactly knowing the extent to which these funds would be used, I'm convinced and confident that a million dollars is adequate and that we will have some funds to return to the state. But this is an important concept and we need to be able to do those things to bring in the experts that we need to help this task force come to a good plan. [LB517]

SENATOR HARR: Okay. So some of this money will be going to pay for experts, is that correct? [LB517]

SENATOR CARLSON: Correct. [LB517]

SENATOR HARR: And do you have a ballpark of how much of this money is going to pay for experts? [LB517]

SENATOR CARLSON: I don't, because the first thing would be to decide what kind of experts do we want to bring in to speak to this committee and it's going to be a group with the senators of 30-some people. And so that's going to be a part of the ongoing plan, but I'm comfortable that a million dollars is more than adequate. To what extent, I can't tell you. [LB517]

SENATOR HARR: Okay. I'm more than confident that that is enough; \$110,000 a month is a lot of money and I'm just trying to figure out where...what \$110,000 a month is going to pay for. Is it...are we going to have any new full-time employees for this time? Is there going to be staff apportioned to this? How are we spending this \$110,000 a month? [LB517]

SENATOR CARLSON: Okay, do you want a further explanation? [LB517]

SENATOR HARR: Yeah. [LB517]

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

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: Okay. [LB517]

SENATOR HARR: If I could. [LB517]

SENATOR CARLSON: Certainly a facilitator and the staff of a facilitator, those will probably involve some significant dollars. And then if we put two days' worth of meetings together so we're not driving from all over the state every seven days, we're going to have to have some expense money for motel and meals and mileage. And that adds up faster than you think when you have 30-some people that you're accommodating on this. [LB517]

SENATOR HARR: Okay. [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR HARR: Thank you. Thank you for your time. It's a lot of money, ladies and gentlemen, folks, but I think it's a worthy cause. You heard Senator Carlson talked that this is a 20-year plan we're trying to implement or come up with a strategy in seven months. This is going to be very, very difficult to do. And it is going to take a lot of time. And I think it's important that the members...the people we have on this committee represent the cross-section of Nebraska. If we are really setting up a 20-year policy and if we're really going to spend this much money, we better be sure that everyone is represented because the last thing we want is for us to spend a million dollars, create a 20-year plan and then at the end find out a whole large sector of the state that has an interest in water is not represented. Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Harr. Senators in the queue, Johnson, Burke Harr, Lathrop, Dubas, Christensen, and Krist. Senator Johnson, you are recognized. [LB517]

SENATOR JOHNSON: Thank you, Mr. President and members of the body and to the students visiting the Capitol today. This is my first year, of course, in the Legislature and sitting on the Natural Resource Committee. I've attended several meetings that we've had with different organizations dealing with water and there are a lot of studies out there that we're going to be able to utilize. And I think this helps in our fiscal note so we don't have to re-create some of these studies that have gone on for years. It kind of puts everything into one perspective if we can get this committee together. And to address Senator Harr's comment on the size of the committee, we wanted to try and make it smaller, but we had trouble because so many entities and so many interests when you talk about agriculture, you talk about municipalities whether it's storage, whether it's groundwater, whether it's surface water, whether it's recreation, industry, manufacturing, there's a lot of them out there, environmental concerns. So the committee probably has to be this large. I think it's important that there are five from the Legislature sitting on this

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

Floor Debate  
April 29, 2013

---

committee and whether I'm one of those or not, I hope to be on the committee as long as I'm in the Legislature. But I think that fiscal note will be monitored by the members of the legislative body that sits on this committee. So I truly believe that the fiscal note is a cap at this point. It is noted in there that if there is money left over, it will not be wasted. But hopefully we can complete this study in the time period. But if we don't, we might need to extend that a little bit. So I appreciate the work that Senator Carlson did on LB517, especially refining it now to AM1048, Senator Mello working with that and getting it down to the million dollars. And I assume Senator Mello is supportive of that number. So with that, I'm in total support of AM1048 as it refines things a little better. I know when you're trying to work on projects and you don't know what your final outlook is going to look like, it's hard to put exact costs down on these things. So it's going to be hard to pin the committee down and say we're going to spend this much on expertise and this much on mileage and those types of things. So I do look at the million dollars as a cap and not that we'll probably spend the whole thing, especially if I'm on the committee. So thank you for your time. [LB517]

SENATOR GLOOR: Thank you, Senator Johnson. (Doctor of the day introduced.)  
Senator Burke Harr, you are recognized. [LB517]

SENATOR HARR: I'll waive my time. [LB517]

SENATOR GLOOR: Senator Lathrop, you are recognized. [LB517]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I want to begin by talking about what I agree with and that is...and then talk about some concerns I have. First, about LB517 and Senator Carlson's effort, I couldn't agree more. If you look at the fact that our economy weathered the Great Recession better than almost any other state, better than most states, it wasn't policy that did that, it was agriculture. When you look at what we had for the price of commodities and, in particular, corn and the importance of irrigation to the production it is what is driving our economy; it is what kept our economy from sinking into the recession as deeply as you saw other economies on either coast. And so I appreciate Senator Carlson bringing this being at the front on water and its importance to agriculture which in turn is important, critical to our state's economy. I agree with that much. I've expressed some concern about the composition of the task force. And if I have any time left, I'm going to let Senator Carlson use the balance of it to respond, but here's the concern I have: I see that the Executive Board is going to appoint nonvoting members of the Legislature to serve on this task force. And that would suggest to me that after these members, who include nonsenators, and people appointed by the executive branch, after they do their work there is apparently going to be some kind of a vote. And I'm not sure I'm comfortable with nonsenators voting and then senators who are serving being nonvoting members. Ultimately what we need to do, I believe, is to ensure sustainability of our water supply. So we have public power using water, we have surface irrigators, groundwater irrigators, and we have the

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

Floor Debate  
April 29, 2013

---

cities using water for drinking water and whatever purposes the cities need water for. Ultimately, our north star has to be sustainability. Right? When we get done, this has to produce a plan that recognizes sustainability, whatever it takes to maintain a sustainable water supply because we do not want to find ourselves a generation from now where those folks who are in the basins can't irrigate any longer because we didn't put our eye on sustainability today and make that our purpose. Beyond that, that is our central theme. Beyond that it's how do we get there and that's what the task force is intended to do. Now, shall we have a task force created by the Legislature appoint people, have it housed in the Department of Natural Resources, which this bill does or this amendment does? That's the executive branch and that makes me uncomfortable. If...the Department of Natural Resources, colleagues, they could fix this; they could do exactly what this task force is going to do if they had a mind to, and they haven't. So now the Legislature, like so many issues that have come before us in the last seven years that I've been here, now we're going to do something. And I'm a little uncomfortable involving the executive branch in that process because they could have done something if they were of a mind to. And beyond that I have a concern about a task force that would have nonsenators voting on the direction of our water policy and senators who serve on that very task force being nonvoting members. [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR LATHROP: And with the minute that I have left, I'll permit Senator Carlson the balance of my time if he'd like it to respond to those concerns. Thank you. [LB517]

SENATOR GLOOR: Senator Carlson, 45 seconds. [LB517]

SENATOR CARLSON: Thank you, Mr. President and Senator Lathrop. Senator Lathrop and I are in agreement on a lot of things, but we do have a difference of opinion on some of the ways this is to move forward. Department of Natural Resources has great responsibility in this state for water issues. And whatever this group comes up with as a recommendation and if it goes through as a bill next session and you vote for it and you vote to fund it, they're going to carry it out. And it's important, I think, for them to be involved all the way through. They're good at administering task forces. I've had experiences on two of them. They're good at identifying facilitators and other people that make the process work more smoothly. And I think that's about all I have time to respond here. But I'll respond more later. Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Carlson. Mr. Clerk for an amendment. [LB517]

CLERK: Mr. President, Senator Burke Harr would move to amend Senator Carlson's amendment with AM1180. (Legislative Journal page 1158.) [LB517]

SENATOR GLOOR: Senator Harr, you're recognized to open on your amendment.

Floor Debate  
April 29, 2013

---

[LB517]

SENATOR HARR: Thank you, Mr. Chairman, members of the body. The amendment language is simple; the ramifications may not be. All I do, as I state, is take and eliminate on page 2, line 15, public power and irrigation districts and add a metropolitan utility district. You heard Senator Johnson talk about earlier that there are 37 members, and maybe this is too large, maybe this is too small. So what I saw when I went through the list of membership is Metropolitan Utilities District, which represents the city of Omaha, Bellevue--85 percent of Bellevue--Bennington, La Vista, Ralston, Waterloo, and the Pappio-Missouri Natural Resource District. It's a large portion of our state's population, a very large portion. Now it may not be the largest percentage-wise of water users, however it is a population. And this is, as I said to Senator Schilz earlier, a yin and a yang. Ag has carried us through this recession, as Senator Lathrop said. Ag is very important to this state. But so is the area around Omaha, Omaha and the surrounding area. And so what we need to do is to make sure that there is water policy that is advantageous; that a MUD is at the table. The goal of this study is to look at water policy for 20 years. That's a long time, ladies and gentlemen, that's a generation. And for us not to have the largest...or the supplier of the largest portion of our population included, I believe, is a mistake. Now you go through there you'll see we have public power, we have public power and irrigation districts, and we have irrigation districts. Well, that seems duplicative because public power and irrigation districts could be represented through the irrigation districts, or they could be represented through public power. There are two places they could be represented. There is no place for a metropolitan utility district. Municipalities are represented, but they don't come with the same level and knowledge of the industry as a utility district. The MUD is a political subdivision; their mission is to provide customers high-quality and safe drinking water at a cost consistent with sound management practices. They know the sound management practices. A municipality may say, we want to make sure our cities, towns, and villages get water; but they may not know the sound water management practices. They may not understand the nuances of how water pressure works. I live in a low-water pressure district area, a town. And so while it may look like we're given a lot of water, at the end of the day, due to water pressure issues, a city might say, oh, yeah, look, we got enough per person; this is more than enough on average. But you got to have a little more to get that water pressure so I can have that hot shower in the morning, very important to me; or so I can water my lawn. Last summer there were parts of my lawn that went dry because there wasn't enough water pressure. Now that on a scale of 1 to 10, 10 being the lowest, is probably a 13. But it is a concern, water pressure. And so we need someone with technicality and know-how of the issues that affect our urban area. So what I've done again is I've taken where there is duplicity and I've added a very important member, somebody who, as I see, represents close to a third of the state's population. I look forward to the debate and I would be willing to entertain any questions anyone may have. Thank you. [LB517]

Floor Debate  
April 29, 2013

---

SENATOR GLOOR: Thank you, Senator Harr. Members, you've heard the opening on the amendment to the amendment to LB517. We return to floor discussion. Senator Dubas, you are recognized. [LB517]

SENATOR DUBAS: Thank you very much, Mr. President. Good morning, colleagues. I'm not sure exactly where I'm at yet on Senator Harr's amendment. I want to have the opportunity to listen to some more discussion. But I think the point needs to be made that what Senator Harr is bringing into this discussion is what Senator Carlson and the Natural Resources Committee has grappled with. We've spent a lot of time talking about the importance of water to agriculture and how that has impacted our state's economy in the past and going into the future. But what LB517 really is looking at doing is looking at water policy from one end of the state to the other, from rural to urban, and everything in between. It only underscores the importance of what this task force will be assigned to do. As we move forward, we're putting together water policy and a water plan that will address and take into consideration all of those interests. And that's where we struggled is how do we put together that kind of a task force and it just kept getting bigger and bigger because there are so many varied interests all with equal importance, all, you know, looking at, you know, without water how do they exist, how do they move forward. So, again, I think what Senator Harr is putting forward here is very worthy of discussion and our consideration. There was just an article in the paper last week, in the Lincoln paper, dealing with a gathering which talked about...they were talking about water issues and looking at the aquifer in an eight-state region and how that aquifer has been impacted over the recent past due to the drought, due to agriculture, due to all of those things that draw on that aquifer. The article talked about in the Southern High Plains, which is down in the Texas, Oklahoma area, that aquifer has fallen 150 feet. Yet in Nebraska in the High Plains our levels are virtually, I mean, it's going to be different in different parts of the states, but our levels are virtually unchanged since preirrigation times. So that just goes to show how significant the aquifer is, under Nebraska in particular, but in the High Plains area and why it is so important again that we put this task force together so that we are going to be able to manage that resource whether you're in agriculture or whether you're in the city or whether you're in power or wherever you are at, your reliance on water is critical. Right now something that we're talking about a lot is dealing more with surface water than with groundwater, but those two certainly have an interconnection. We're having significant issues with stream flows. We talked about Senator Christensen's bill last week dealing with surface water irrigators and how they are being impacted. And again, I reference the importance of this study in regards to that particular issue. It's how are we going to manage these resources so that those farmers and those communities that rely on agriculture as their source for support for their schools, etcetera, are going to be able to continue to do what they need to do. The study that is being looked at in this eight-state region, they're going to be doing groundwater modeling and that's going to be very, very important. But it comes down to managing and knowing how we are going to have to manage and making those difficult choices that we will be forced to make. We need to make those. We need to

Floor Debate  
April 29, 2013

---

have a very good, solid indication of where we are going to go forward from here as far as how we use our water, how we manage our water, how we ensure that everyone is receiving the resources that they need to conduct their business, to live in their homes, to receive their power, whatever it is, again, water is just that string that holds it all together. [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR DUBAS: Thank you, Mr. President. It is certainly what drives a large portion of our economy in the state. But while we do talk about agriculture and ag's dependence on water, very, very important, as a surface water irrigator, I certainly do relate to that; I hope that we keep in mind as we continue to discuss LB517 that this is a plan for an entire state no matter where you live, no matter what you rely on for your water, and that we do put something together that will be of service. I appreciate Senator Carlson's amendment. I think the more involvement that the Legislature can have in this study, the better off we'll all be because, ultimately, we're the ones that will be coming back and making these decisions. And we're going to have to be able to be comfortable with them, as well as be able to go out and explain these to our constituents as to why this is important and why we put it together in the fashion that we have. So, I certainly am supportive of Senator Carlson's amendment right now and would be interested in looking at possibly... [LB517]

SENATOR GLOOR: Time, Senator. [LB517]

SENATOR DUBAS: Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Christensen, you are recognized. [LB517]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Harr yield to a question, please? [LB517]

SENATOR GLOOR: Senator Harr, would you yield? [LB517]

SENATOR HARR: Yes. [LB517]

SENATOR CHRISTENSEN: Senator, on your amendment, you're trying to add the municipal...Metropolitan Utilities District, why don't you just put the utilities district behind the municipalities instead of the metro or change municipalities into metro if that's what you want because I guess I would assume that's the person that would get designated out of that department and stuff. I guess I don't like striking Central Public Power and Irrigation, but I understand why you want your utilities district in there. Is there a reason why you didn't go that direction? [LB517]

Floor Debate  
April 29, 2013

---

SENATOR HARR: Yeah, and thank you for asking that question. Well, the first reason is, is because I...it is somewhat duplicative because you have "public power" right after it, then you have irrigation districts...excuse me, "public power" right before what I struck, and you have "irrigation districts" right after, and what I've struck is that that is both, irrigation and public power. So I think there's enough representation of that district or the ability for that to be represented. And why I didn't do it after municipalities is because the interest of a municipality may be different than that of an MUD. I mean, municipalities has got to look at a 10,000-foot level. They got to look at what's right for their whole area. And the interests of Kearney, Hastings, North Platte may be different than the interests of Omaha, which may be different than the interests of Lincoln. You got to look at a...a municipality is going to be looking at the effects on manufacturing, the effects on its outlying areas that come into the cities, which is, obviously, agriculture, it's going to be looking at the effects...political effects; whereas a metropolitan utility district is looking at what sound management and practices are for its customers and ratepayers who are, in fact, their owners. So that's why I put it where I did and why I put it on there. I'm open to adding another member if that is the concern that we're striking public power and irrigation districts. But again, I wanted to make sure that we kept in...we kept the membership manageable. [LB517]

SENATOR CHRISTENSEN: Senator Harr, you made one comment that really concerned me. And that was the municipalities do the political side of things, that scared me. We need to get the politics out of this and do what's right. And I think that's been part of the water policy problems and when you bring the political side of that makes me really want to strike that and add the MUD. But the reason I'm supporting leaving public power and irrigation in there is there is a difference in this state where we have...for one, you got Central Public Power and Irrigation in Holdrege; you've got NPPD has irrigation; and you've got several different entities where you have only power, then you have power and water, different entities. I think that's why that's in there. I don't object adding another one other than I think it's too large anyway. I understand your concern there, but I...I will let you respond to the part of being a little political concerns me. [LB517]

SENATOR HARR: Thank you. As long as there's been water issues, there's been politics. That goes back to the Front Range days. And as much as I would love to take the politics out of this, I'm not sure if we can do it completely. But I guess maybe I was a little imprecise; what I should say is, a municipality...and leave it at this... [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR HARR: Thank you. North Platte is different than maybe Omaha, than Lincoln, than Kearney. It's more the intent I had in there. Taking politics out of water is like taking politics out of gun rights. It seems like a good idea, but if you can do it, you

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

Floor Debate  
April 29, 2013

---

will be the statesman of the year. Thank you. [LB517]

SENATOR CHRISTENSEN: Well, I think all we got to do there is just give a gun to everybody and then we get the politics out of it, see. Thank you, Mr. Chairman. [LB517]

SENATOR GLOOR: Thank you, Senator Christensen and Harr. Senator Campbell, you are recognized. [LB517]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I certainly support Senator Carlson's efforts in putting the task force together and wonder if he would entertain a question or two. [LB517]

SENATOR GLOOR: Senator Harr, would you yield? [LB517]

SENATOR CAMPBELL: Oh, no, I'm sorry, Senator Carlson. [LB517]

SENATOR GLOOR: Senator Carlson, would you yield? [LB517]

SENATOR CARLSON: Yes, I would. [LB517]

SENATOR CAMPBELL: Senator Carlson, I have noted in your amendment that the Exec Board will appoint a number of senators, and then the Governor will appoint the rest of it. When this amendment was put together, was there any concern that we have two bodies, the legislative and the executive branch, two branches appointing a task force? [LB517]

SENATOR CARLSON: There's been some suggestions, some discussion about this. [LB517]

SENATOR CAMPBELL: The reason I raise the issue, Senator Carlson, is that when we tried to put some of the work together for the Children's Commission, the Speaker's Office was very concerned at having a point where there's both branches of government are appointing and that we either had to be a task force of the Legislature or a task force of the Governor. And I just wondered whether there had been any question about the constitutionality of that. [LB517]

SENATOR CARLSON: We've had a discussion about that. I personally don't think it should be an issue, but then I'm not the Attorney General and I'm not an attorney. But I think that when there is a concern that we need more input from the Legislature, I agree with that. Now my experience on task forces thus far have not been in conflict with the Governor's appointments. He listens, and I would say cooperates. But here I'm trying to satisfy a concern that was brought up on General File. And you bring another one that may, in fact, be something that needs to be dealt with. And I guess I'll say publicly that

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

Floor Debate  
April 29, 2013

---

if, in fact, this is an issue it's going to have to be something that we address on Final Reading. And if I have a letter from the Attorney General's Office that that needs to be dealt with, we will. I think there's a rather simple fix to it, but it's not in this amendment. [LB517]

SENATOR CAMPBELL: I would have to say that in the Children's Commission, Senator, what we did is, it became an appointment by the Governor. We designated, by virtue of the office, some senators. But in the end it was a Governor appointed. And the Governor did a great job in terms of following what we had laid out in the statute. So that's not my consternation; it has to be with both branches. And I'll let you work on that with the Attorney General. Thank you, Senator Carlson. Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Campbell and Senator Carlson. Senator Carlson, you are next in the queue. [LB517]

SENATOR CARLSON: Thank you, Mr. President. I'll try and finish my response to Senator Lathrop and his concerns that I didn't really have time to go into much detail on. But Senator Campbell has brought this out in her questions to me. I think it really is important that the Legislature be involved in this whole process. Now I think it's more important for the Legislature to be involved so that we have educated people that once there is a plan that fully understand the plan and how we got to that plan because if it's going to go anywhere it's going to have to have funding and we have to come back to the Legislature next session and ask for the funding to carry out the plan. If we don't have any funding, the plan will just sit there. And so it is very important that members of the Legislature that are in key positions understand what's happening here and approve it. Now, I've been told, and I've had enough experience on two other task forces that if you have voting members from the Legislature on a task force, and some of you will chuckle about this, but it is a fact, that if we're in a group with other people, whether we mean to be or not, we're kind of intimidating. And I really believe the people, for the most part, that are going to be on this task force have a better understanding of water issues in the state of Nebraska than I do. And I have some understanding because I've learned quite a bit in seven years. But I don't have a complete understanding of water issues in the state of Nebraska. There are some other members of the Legislature that have some degree of understanding of water issues, and I don't want to hurt anybody's feelings, but I don't think we have an expert in the Legislature. I'm not an expert. But I think I've learned enough to know who to go to, to find answers to questions that we have, and who to go to, to bring together in a group that can look in more depth at a challenge that we have in the state that I think is one of the most important challenges that we face because we have got to be good stewards of the water that we have in the state so that for future generations, for drinking and for crops, we've got adequate water. It's absolutely vital. And so I want the people in the Legislature to be a part of this group to learn something, to be educated. And then if those of us that are nonvoting

Floor Debate  
April 29, 2013

---

members, because I'd be one also, that we carry out our responsibilities on that task force in such a way that we're not inhibiting others from putting in their ideas and doing the job of trying to bring together the best plan. We're there to help; we're there to support; we're there to learn. And we can do this even if the members are nonvoting. Now I don't know that that satisfies Senator Lathrop and so it may not. But as Senator Campbell has brought up, there could be a question of constitutionality. I hope there isn't. And I don't like a habit of having things come back off of Final Reading, but this issue is too important to not get it right. And if that's what it takes, then that's what we'll need to do. Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Carlson. Senators in the queue: Chambers, Johnson, Davis, Burke Harr, Pirsch, Harms, and Lathrop. Senator Chambers, you are recognized. [LB517]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I had similar concerns to those of Senator Lathrop. I still have them. And Senator Campbell raised a very relevant issue as to whether you can have both legislative and executive department appointees and officials from the branch being voting members. But that again is a legal issue that can be hashed out. I had told Senator Carlson in a conversation I had last week that since he was working with Senator Lathrop, and Senator Lathrop had my confidence, I would go along with what satisfied Senator Lathrop. As I listen to the discussion this morning, it's clear that not all issues have been worked out. I certainly still have the same concerns I had initially, even if Senator Lathrop had decided that he's gotten around to an agreement that is the best that can be obtained under the circumstances I might would go along, but I still have doubts about it. The framework is extremely important. If you're setting up a judicial system, you might be inclined to look way down the line to consider the kind of cases that will be brought, but that's premature. You have to establish a system which is going to be fair, just, impartial, and will function in the way that a court ought to function. And once you have that proper framework, the types of cases that come before it will be handled in an appropriate manner. So I think what is very important in this instance is to create an entity that first of all is constitutional, one that is not going to be structured in such a way that the Legislature will be steamrollered or road graded flat and assume that inferior role that Senator Carlson hinted at which legislators tend to assume when they're around other people who are not legislators and, therefore, presume to be more knowledgeable about the subject. Because the framework is being worked on, I am not going to participate in discussion of the issues that will be dealt with. But at a later point I certainly will. And if, as Senator Carlson mentioned, and Senator Lathrop suggested to me, it may be necessary to pull this bill back from Final Reading, there will be time enough at that point to go into these other matters. But I do not intend to hinder this bill at this point. But because I take that posture, I do not want to be misunderstood; I'm not satisfied with the bill the way it stands now and I will see what does work out. As I say, time tells a better tale than any man or woman...other than yours truly. Thank you.

Floor Debate  
April 29, 2013

---

[LB517]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Johnson, you are recognized. [LB517]

SENATOR JOHNSON: Thank you again, Mr. President. I wonder if...I'm going to make a couple of comments on the amendment, AM1180, and then I'd like to direct one question to Senator Carlson and give him the remainder of the time. The amendment, I'm still looking in from the outside on that. I do see the value and probably the need to have the metropolitan, or Omaha, in this. Again, I mentioned earlier the size of the committee. We tried to make it smaller. We got to make sure that we've got everybody represented. I don't have a real problem with putting that in there somehow. But what I'd like for Senator Carlson to address would be the statement where he took out...struck "public power and irrigation districts." I believe that is one entity, when you talk about Central Nebraska Public Power and Irrigation, and there's others, and then later on we talk about the irrigation districts which are...every acre is in an irrigation district somehow. I'd like for Senator Carlson to talk to that a little bit. And then he...allow him the rest of the time. Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Johnson. Senator Carlson, 3 minutes, 44 seconds. [LB517]

SENATOR CARLSON: Thank you, Mr. President and Senator Johnson. And as I'm speaking here, we're talking about the amendment that's been produced and trying to see if we can't come up with an agreement that would probably take the concern of Senator Harr's amendment into account without creating a...I'm going to call it a special category. And I'm a little concerned about increasing the number from 10 to 11. And so if we can do this another way, then I'm not trying to get in the way of this idea. I don't like taking public power and irrigation out of the wording in the amendment because they are an important part of water issues in Nebraska. And it's not singling a certain public power and irrigation company or a public power and irrigation organization. But Metropolitan Utilities District is, that's a one and only. And if we can get at this without making it that specific, that's what I hope we can do. Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Burke Harr. [LB517]

SENATOR HARR: Thank you, Mr. President, members of the body. I don't deny that public power and irrigation districts are important. Every person on here or entity is important. As Senator Dubas says, we're making difficult choices here, folks. It's how we move and manage water. That's what we're looking to do for the next 20 years. We're trying to develop a white paper that says this is what we want to do. And if we're going to exclude one-third of the state's population and a problem arises and one-third of that state's population is denied or it finds out that they weren't a member or allowed

Floor Debate  
April 29, 2013

---

to be a member, we're going to have a real problem. And we as a body, we're going to have egg on our face. That's what this is. Now if someone else has a better idea on how to get a metropolitan utility district on here, I am open to that idea. Maybe we just add another member. But that didn't seem to me to be well received either, but maybe that is what we have to do. But where we are now is, we have a large population base, and this isn't just Omaha, this is metropolitan Omaha, this is Papillion, La Vista, this is Bellevue, that need to be at the table. That's what this does. It provides sound management. And let's not forget, they also have experts and knowledge and know-how. That's what a utility district is of a metropolitan class. They're going to know the problems. They are huge in comparison to many of the other utility districts. And they, as a result, have the ability to have experts on staff. And so for us to not use them probably is a mistake. I haven't heard any good reasons against having a member of a utility district on there. I think it's important that we do have one on here and if Senator...oh, never mind, with that I will yield the remainder of my time. Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Harr. Senator Pirsch, you are next in the queue. [LB517]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if...let's see, is Senator Carlson...I see that he is currently engaged in a conversation so I'll not interrupt that. I wonder if...I'll just address, generally, my questions I have with respect to AM1048. And with respect to that, I wonder if...and specifically to the product that this task force is expected to complete on page 5, on line 17, it indicates recommendations for legislations. And maybe I will ask Senator Carlson if he is now available if he would yield to a question or two? [LB517]

SENATOR GLOOR: Senator Carlson, would you yield to a question from Senator Pirsch? [LB517]

SENATOR CARLSON: Yes, I will. [LB517]

SENATOR PIRSCH: Thank you, Senator Carlson. I just had to...some clarification needed with respect to your intent on AM1048 that's on page 5 of that document there is...under (c) it says, recommendation...one of the things that this task force is expected to produce, recommendations for legislation on a permanent structure and process through which the program's projects or activities described in this section will be provided with funding including, and then there is four subsections here: (i) a permanent governing board structure and membership. What does that refer to? Could you comment on that, do you know? [LB517]

SENATOR CARLSON: I will, Senator Pirsch. And if we go back to (c), the section itself, the first word is "recommendation." So that would be all this is. And it may involve...if in

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

Floor Debate  
April 29, 2013

---

asking for funding which would be a significant amount of funding, even if it's not all coming from General Funds, but we put it all together it will be a significant amount of money. And if we have a plan that the Legislature likes, that means we want this plan carried out and it may take...it may take some kind of a governing board structure and membership in order to facilitate the carrying out of this recommended plan. But remember, we're just talking about recommendations now. [LB517]

SENATOR PIRSCH: Sure. [LB517]

SENATOR CARLSON: And maybe there will be one and maybe there won't. [LB517]

SENATOR PIRSCH: Oh, okay, I see, that helps. And then with respect to (ii), it says, an application process, does that refer to...what...who is applying? [LB517]

SENATOR CARLSON: I think that the application process there refers to a group, an area, an entity that wants to apply for dollars from this funding in order to carry out a project. [LB517]

SENATOR PIRSCH: Okay. [LB517]

SENATOR CARLSON: There's got to be some kind of an application process. [LB517]

SENATOR PIRSCH: Okay, that helps to give me a little insight into what you're getting at. I yield the balance of my time to Senator Carlson should he desire to use it. [LB517]

SENATOR GLOOR: One minute, 40 seconds, Senator Carlson. [LB517]

SENATOR CARLSON: Thank you, Mr. President and Senator Pirsch. And I think we are making progress here this morning on some concerns that have been registered. And there will be another amendment that is brought forth and we can look at that and discuss it at that time. Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Lathrop, you are recognized. [LB517]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I would like to ask Senator Carlson some questions if I can. [LB517]

SENATOR GLOOR: Senator Carlson, would you yield? [LB517]

SENATOR CARLSON: Yes, I would. [LB517]

SENATOR LATHROP: Senator Carlson, once the...as I read your amendment, the task

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

Floor Debate  
April 29, 2013

---

force will include you, members of the Natural Resources and five additional senators who will be nonvoting, is that right? [LB517]

SENATOR CARLSON: No. [LB517]

SENATOR LATHROP: Tell me the composition of the task force as it relates to senators. [LB517]

SENATOR CARLSON: Okay, on page 2, and I don't know if you're looking at it there, but as ex officio, nonvoting members, it includes the Chair of the Natural Resource Committee and the director of the Department of Natural Resources, those two nonvoting positions. In addition to that, five more members of the Legislature. [LB517]

SENATOR LATHROP: And the balance of the task force will be nonsenators. [LB517]

SENATOR CARLSON: Correct. [LB517]

SENATOR LATHROP: The senators that are on the task force are ex officio, nonvoting members, is that true? [LB517]

SENATOR CARLSON: Correct. [LB517]

SENATOR LATHROP: And that would suggest to me that there's some vote that will take place after or as these...as this task force does its work, is that true? [LB517]

SENATOR CARLSON: Yes, because I think it will be...I've lost the terminology now...consensus, I think it will operate on a consensus basis going forward with various ideas that come in and that's the way the task force will proceed. [LB517]

SENATOR LATHROP: I understand that you are hopeful that you will have consensus or that that's the expectation, but if there is not consensus, then eventually the nonlegislators will be voting and trying to set the course for water policy long term, would that be true? [LB517]

SENATOR CARLSON: I'm not disagreeing with you. I'd like to make a statement back to the water sustainability task force and we operated on that basis when there was a minority opinion that couldn't agree with consensus, there was a separate section in the report that dealt with their position. [LB517]

SENATOR LATHROP: Okay. And here is the, colleagues, here is the concern I have and that is, if after they do all this work, and it is, as Senator Carlson said, going to be an awful lot of work; it might be 28 Mondays from now until December 31 that this group would meet. But imagine if you will that the members of the Legislature who are on this

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

Floor Debate  
April 29, 2013

---

task force see that water policy should go in one direction, okay, whatever that might be, one direction. If the laypersons or the nonsenators believe it should go in a different direction or they come to some consensus and they say, let's go left, while the other side says, we need to go right, they vote and then what do we do? Now we have the Department of Natural Resources and the Chair of the Natural Resources Committee writing a report that reflects the consensus of nonlegislators, even if it is not the same direction the legislators would take us in. That's the concern I have, that's the concern I have. I appreciate Senator Carlson said, and it generally is bad form to pull a bill back on Final Reading to add an amendment, but...and I will be very candid with you, the last time I talked I got pulled aside by the Attorney General's Office and they said, hey, you need to stand down on this water stuff because we don't want to...we don't want to upset where we are at with Kansas in the process of trying to come to some kind of a resolution with our a disagreement with Kansas. That's fine, now they can meet with me to tell me and explain all this to me so that I can understand how legislation that we pass in this body can affect something going on with litigation with Kansas, but they're not able to do that until sometime after today. If I had the benefit of that conversation and that information then I'd know, kind of, where I need to be or not be or what I should or shouldn't do on LB517, but that's not the way the timing of it works. And I will just prepare you for the fact that...and I would work with Senator Carlson, I don't mean to jump on his bill... [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR LATHROP: ...and dictate how it should be done, but I do have grave concerns about a task force where the senators are nonvoting and the public becomes voting and we are going to have them set the direction for water policy when that's really our job when the Department of Natural Resources in the executive branch fails to do what needs to be done. And in the end, colleagues, that's why we're here. Everything this task force is doing, the department could be doing if they were motivated and funded to do. That's what we have them there for. And in the absence of action, we are going to take action. And for us to have the legislative branch put this together, oversee it, and then not be voting members after all in this process... [LB517]

SENATOR GLOOR: Time, Senator. [LB517]

SENATOR LATHROP: Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Schilz, you are recognized. [LB517]

SENATOR SCHILZ: Thank you, Mr. President and members of the body, good morning. Having sat and listened to the debate this morning and having looked and experienced and witnessed everything that's come over the last 20 years in the water world to get to

Floor Debate  
April 29, 2013

---

this point, it is exactly crucial that we make sure we have the proper representation upon this board. Now that being said, we also have to be extremely careful that the floodgates don't open and everybody wants on this board. People wonder why it's been so hard to get anything done in the water world as far as paying for projects or looking at priorities or things like that. Well, in the water world, whether we like it or not, there's conflicts. There's conflicts between surface water and groundwater; there's conflicts between surface water and surface water, groundwater and groundwater, between states and users, between municipalities, so there's a lot of dynamics that play into this. I commend Senator Carlson for stepping up and working to make sure that we are moving forward with what we said we would do. And I hope that doesn't get lost in all this. When we negotiated LB229, part of that was to make sure that this process moved forward. And I know I for one, I'm not going to break that promise to the people that negotiated that deal because it's important. You know, with all the conflicts that are out there, you almost wonder, would it be better, and I'm just saying this because I think about it sometimes, and we've discussed this, would it be better to just have legislators on this committee and then bring in the expertise that we think we need to make the right decisions? Now there would be some things to that, that would be beneficial for us including then you wouldn't have to try mete out some of these conflicts as they're out there right now and you could just move forward trying to keep the whole state and everything in perspective as you move forward. I'm not sure that's the right way either. But that's another way to do it just like we talked about on the tax plan. There are water experts across this state. Every one of us, every citizen of the state of Nebraska is a stakeholder when it comes to what we're talking about here today. It is so vitally important that we get this right. And it is so vitally important that the members of this Legislature understand the importance of what we do. So with that I would ask that we move this forward. I would ask that we take into consideration what's going on with these two amendments. And I would say that we make sure that we get the right representation on board. And with that I'd yield the rest of my time to Senator Harr, Burke Harr. [LB517]

SENATOR GLOOR: Senator Harr, 1 minute, 36 seconds. [LB517]

SENATOR HARR: Thank you, Mr. President, members of the body. And thank you, Senator Schilz, for the time. That was a very eloquent speech and very Winston "Churchillesque." I want to also thank Senator Carlson for all the hard work that he has done on this bill. There is a lot of politics involved and there is a lot of soothing of egos and other extremities on this. And so with that I would move to withdraw AM1048...no, excuse me, AM1180. [LB517]

SENATOR GLOOR: Seeing no objection, so ordered. Mr. Clerk. [LB517]

CLERK: Mr. President, Senator Mello would move to amend Senator Carlson's amendment with AM1176. (Legislative Journal page 1158.) [LB517]

Floor Debate  
April 29, 2013

---

SENATOR GLOOR: Senator Mello, you're recognized to open on AM1176 to AM1048. [LB517]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM1176 does something similar to what Senator Harr had done. And I apologize, the Appropriations Committee had an Executive Session this morning that lasted longer, thus I was unable to get my amendment put on to Senator Carlson's amendment before Senator Harr did. But we were thinking on the same idea here. And Senator Harr's amendment, ultimately, would reduce a board member and put MUD on, which I appreciate his foresight and vision on this issue since neither one of us had really talked about this in advance. What my amendment does, essentially, is not delete a member or take a member off of the existing commission, it simply adds a member. So it would go from 10 members to 11, and that 11th member is a member from the Metropolitan Utilities District. In discussing it, ultimately, with Senator Carlson, Senator Harr, and Senator Smith, ultimately, the reality is, the Metropolitan Utility District is the largest water utility in the state of Nebraska and it, ultimately, represents the largest metropolitan area in the state of Nebraska in providing water and dealing with water infrastructure. I think the underlying purpose of why Senator Harr and myself would like to see MUD as a specific member of this commission is their uniqueness in the state, primarily in regards to water infrastructure. No doubt the returning members of this body are well aware of the \$2 billion sewer separation project that the city of Omaha has to do in regards to meet their federal EPA mandate for the Combined Sewer Overflow Project. Something that we hadn't probably discussed as much though is roughly the \$2 billion infrastructure project that the Metropolitan Utilities District also is undergoing at the same time to upgrade their water piping and water infrastructure, as well as their natural gas infrastructure. So the reality is, is a billion-dollar water infrastructure project that MUD is currently working on far exceeds anything that we're seeing right now across any other municipal water utility in the state, which I believe warrants, I think, a unique distinction from the other municipal water utilities. And I think that's the point that Senator Harr was also making is the uniqueness of MUD and the uniqueness not only of their organization, not only are they created in statute by the Legislature, but also they are the only entity that has a \$1 billion water infrastructure project currently underway. And for us not to consider that large, if not the largest water infrastructure water project in the state as part of a grander water study, I think we would be doing a disservice to the entire state of Nebraska, not just to the water users in MUD's service area. I spoke with Senator Carlson and I think we've come to some kind of agreement. Ultimately, I appreciate and applaud Senator Harr for bringing the same issue forward. We just are going about it a little bit different way, but, ultimately, it warrants the need to have, I think, a specific representative from the Metropolitan Utilities District as part of this, knowing the size and scope that they cover statewide and the water users in the metropolitan area that are currently being asked to help finance and undergo a \$1 billion water infrastructure project. With that I urge the body to adopt AM1176. Thank you, Mr.

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

Floor Debate  
April 29, 2013

---

President. [LB517]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on the amendment. We return to discussion on the amendment, other amendments, and the bill. Senator Wallman, you are recognized. Senator Dubas, you are recognized. [LB517]

SENATOR DUBAS: Thank you, Mr. President. I'd kind of like to pick up on the comments where Senator Schilz left off. We cannot lose our focus and recognition of the importance of LB517, that is a part of what we passed through LB229 and that continued funding from the Environmental Trust relies on the fact that we put together this statewide plan and we look at what our needs are going into the future and how we are going to fund those needs. So it's absolutely critical that we keep talking about this bill and that we come to an agreement on what we need to put forward. Would Senator Carlson yield to some questions, please? [LB517]

SENATOR GLOOR: Senator Carlson, would you yield? [LB517]

SENATOR CARLSON: Yes, I would. [LB517]

SENATOR DUBAS: Thank you very much, Senator Carlson, and I do appreciate all the work that you've done on this and you've been inclusive of the Natural Resources Committee so I'm appreciative of that. I just have a couple of points I want to clarify with you. And I think Senator Lathrop asked you this question earlier. So as you look at members from the Legislature who would become a part of this task force, would any of them have a vote on this at all? [LB517]

SENATOR CARLSON: No. [LB517]

SENATOR DUBAS: Okay, that's what I thought. Just wanted to make sure I was clear on that. And then earlier you stated that even though we didn't intend it, that there are times when we're a part of groups or a task force or committees we can be intimidating. I guess I would agree with you on that to a point, but do you...I guess I'm going to ask for some clarification; as far as the people that we're working with on this particular issue, I mean these are the experts of the experts that we're bringing together here; these people certainly understand what they're talking about. I guess I don't feel that if we gave senators a vote on this issue that we would intimidate them. But you continue to feel the same way that by giving senators a vote we would influence or sway a decision made by this task force one way or another? [LB517]

SENATOR CARLSON: Senator Dubas, it gets back into the separation of powers issue. And I think that whoever ends up from the Legislature on this task force will make a good contribution. And I've listened to you; you can make your ideas known and you're

Floor Debate  
April 29, 2013

---

not intimidating when you do it and you don't try and take over a conversation. And that's the way I think that this should function. So whether or not I have a vote doesn't necessarily mean that I don't have any influence, but whatever influence I have I don't want it to be threatening influence. I want it to be because I've got some good ideas. And there will be opportunity for those in the Legislature that are involved in this group to share their ideas. [LB517]

SENATOR DUBAS: I appreciate that. And I agree with you, but I also feel, just as I've continued to look into this issue and have met with varied water interests, water is...I mean it's very emotional, it's something that people have extremely strong feelings about. You know, as we bring all these varied interests together trying to find that consensus, I do agree that senators would be able to interject their thoughts into the conversation, but by not having a vote, I think could potentially generate some issues. I know that you're continuing to look into this, as far as the separation of powers, and how we may move forward. I certainly would be willing to help in any respect because, at the end of the day, again, I appreciate the work that you've done on LB517 and recognize just how critical this bill is for us to move forward and I don't want us to lose sight of the important work that LB517 would ultimately do. So as we work to find out what that silver bullet is as far as... [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR DUBAS: Thank you, Mr. President...what this committee looks like, the composition, and who gets to vote and who doesn't I think are important components, but we need to be able to find that...that...what we can agree on so that we are able to move LB517 forward to its final passage. Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Dubas. (Visitors introduced.) Returning to discussion, senators in the queue: Carlson, Kolowski, Brasch, Price, and Christensen. Senator Carlson, you are recognized. [LB517]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I do stand in support of Senator Mello's amendment which increases the number of people that are appointed from 10 to 11, so that's adding a person. But I don't have a big problem with it being Metropolitan Utilities District that is represented. I would caution...I hope there aren't any other amendments because then we start to get into this group and that group and for the most part I believe that groups that have a vital interest in water in Nebraska have an opportunity to be a part of this task force with the way that it is written. But I do...I will support AM1176. I want to talk a little bit about another issue that Senator Lathrop has referred to. And this is not disagreeing with him, but I look at it this way. If we have a task force that is made up of elected senators instead of this bill, we have great people that would be on that task force, but by and large they're not experts in water. And there's two ways of looking at this, on the task

Floor Debate  
April 29, 2013

---

force that's a part of this bill I believe that we will have a group of experts. Now we can view them as experts or we can view them as nonelected amateurs. But they are experts in what we ask of them for this task force. And let me say this because Senator Lathrop has kind of referred to it in this way, if this task force comes up with a plan that the senators who are part of the task force don't like and really can't agree with it, where is that plan going to go? Nowhere. Now, if the senators have a plan that they like and the task force doesn't agree with it, is that the best plan for the state of Nebraska? I think it probably isn't, because I view the people that are going to be on this task force as experts in their area and most of them are related to water issues. But if we have a group that doesn't buy in to a plan that the senators like, and we have a debate next year on whether to fund this plan or not, we're going to have opposition from the other side of the glass, and I don't think that that plan is probably going to go where it needs to go. So it's got to be a cooperative thing. And I still believe that we can do that with the structure that's included in LB517 and AM1048. Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Kolowski, you are recognized. [LB517]

SENATOR KOLOWSKI: Thank you, Mr. President; and fellow senators, good morning. I'm standing in support of the amendments as well as LB517 that you see before us this morning. I want to take a second as a member of the Natural Resources Committee to thank our Chair, Senator Carlson, for his dedication and his courage and his leadership and foresight to bring this forward. We had a lot of discussion in the committee as to the direction and what we should do or could do, putting this task force idea together. And it's no small feat what Senator Carlson has put together to make this proposal to where we are today. It's extremely important. Coming from the last eight years of work that I had an opportunity to be a part of the Papio-Missouri River NRD work, we have an excess of water in that particular area from South Sioux City down to the Omaha area; and we have to deal with a lot of excess of water, not a shortage of water most of the time. I hope as the membership gets decided on this task force or commission, that the one thing we keep in mind is selecting and having people of good will that will work together and keep in mind the maintaining a 20- to 30-year vision of what we want to have happen in Nebraska for the future of our water resources that are so important to us. I know in northern Illinois at the current time, talking to family back in that area, the Illinois River, the Fox River, the Rock River, the Vermillion River are all out of their banks, they've had so much rain in that area. And the Mississippi which was almost rock bottom without water last year is now at flood stage in most of the areas as that goes downstream. So we find ourselves in this give-and-take on a constant basis depending on where rains are and what happens. I would like to yield the rest of my time to Senator Krist at this time, please. [LB517]

SENATOR GLOOR: Senator Krist, 2 minutes 43 seconds. [LB517]

Floor Debate  
April 29, 2013

---

SENATOR KRIST: Thank you for your courtesy, Senator Kolowski. And good morning, colleagues and Nebraska. Just a word of support across the board for the amendments and obviously the underlying bill that is there, because we all, 36 of us, supported it to begin with. Senator Carlson and I had several discussions over the last couple of months about technical things that I am aware of because of my full-time occupation. Let me give you an example of that. And, Senator Kolowski, thank you for the example you gave, because it's perfect--a perfect lead-in for what I'm about to say. There are states in this country that use a process or recharging which we are not allowed to do constitutionally in this state. The state of Colorado recharges all of its wells and reservoirs and its aquifers at times of high water. We will be at times of high water again this year. We may not have the opportunity to do that because this study is going to be a day late and a dollar short, but that's just one of the things that experts have explored throughout the states in water management. Why not recharge? Why not put that water back where it needs to be at times of high water? They have a definition in the state of Colorado. When water gets to be this plentiful and there's a definite definition, put it back in the place where we can use it when we need it,... [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR KRIST: ...and that's aboveground and underground. And you heard an excellent description of what those two are from Senator Lathrop the last time we had this discussion. Save it for a rainy day, right? That's what we try to do. In this case, it's save it for the dry day. Thank you, Mr. President, and thank you, Senator Kolowski. [LB517]

SENATOR GLOOR: Thank you, Senator Krist. Senator Brasch, you are recognized. [LB517]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues. As I am listening to the very thorough and thoughtful debate, where the number of people on this task force keeps growing apparently, we all need water. We have water laws. We have water policy in place according to our laws, but what we're looking at here because of the ongoing changes: too much water, flooding; not enough water, drought; climate. We are looking to create a task force, a manageable number of people that can come together collectively and share their expertise, look at data, look at experience, research, where a think tank can basically become an effective task force. But this task force does not replace the legislative process. This task force will not create law. When they find data, information, something that will affect or change law or create law, it must come back to this body. It must go through the process. It will be submitted the first ten days in January. It will have a public hearing. And at the public hearing, that's where everyone with our second house with any thoughts can come forward and talk about water needs. What this task force does is basically bring us the question to the table, and it will still come before this body. I would hesitate adding more and more

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

Floor Debate  
April 29, 2013

---

people and expense to the task force. Keep it a smaller number realizing that they will not make law; this body will make law. We make changes to law and this will be the bottom line moving forward, and it is a process that we have a responsibility to carry through. The task force is very critical to look at every aspect, but the task force itself does not create law or does not make the policy. It will be collective input, and this input will come before the Natural Resources Committee, every branch affected, whether it's the ground user, the water user, domestic use, agricultural use, manufacturing use, all of that does have law in place. But we know we need to plan--plan forward. We need to look at present needs, future needs, and experience of the past. So I do encourage you to vote for LB517, and keep in mind that the more members we have does not necessarily mean that it will be a better task force, because there will be public hearings on any changes or modifications to our laws. Thank you. I can remain...give the balance of my time to Senator Price. [LB517]

SENATOR GLOOR: Senator Price, 1 minute 30 seconds. And you're next in the queue and I'll tell you when you're on your time, Senator. [LB517]

SENATOR PRICE: Thank you, Mr. President and members of the body. In listening to the debate this morning, I'm mindful of the water shortages that we went through recently. And I know...if I recall correctly, Lincoln had some issues and water restrictions. That's because the water fields and the wells are in the Platte River. It's not like they're out in the middle of a farmer's field somewhere or some field and they're just drilling. It's in the river. If the river runs out of water, Lincoln runs out of water. It's a rather thin veneer that our civilization operates on, because take away electricity or water and pretty soon you'll have a mess on your hands. So I believe the conversation for the MUD being involved, I would submit I did see in the original bill the word "municipalities." So with that, I'd like to ask Senator Carlson some questions if he would yield. [LB517]

SENATOR GLOOR: Senator Carlson, would you yield? [LB517]

SENATOR CARLSON: Yes, I would. [LB517]

SENATOR PRICE: Thank you, Senator Carlson. Would you surmise that, by the inclusion of the word "municipalities," that's inclusive of the MUD? [LB517]

SENATOR CARLSON: In my mind probably so. But I heard some good reasoning from Senator Mello and Senator Harr as to why that is not necessarily the case, and so I agreed to support AM1176. I think that takes any question out of it. [LB517]

SENATOR PRICE: Great. [LB517]

SENATOR GLOOR: Your time, Senator Price. [LB517]

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

Floor Debate  
April 29, 2013

---

SENATOR PRICE: Thank you very much, Mr. President. And, Senator Carlson, one more thing. I was reading through the bill and I know, I was trying to do something awesome and actually read the bill, and on page 1, Section 1, line 19, paragraph 4, it begins to talk about, "To facilitate the creation of a funding process." And my question is, if when we have this august group of individuals meeting to decide a funding mechanism, what do you see the Legislature's role is in fulfilling that funding mechanism? [LB517]

SENATOR CARLSON: I think that there will be a subcommittee on this task force that has their main responsibility to look at all possible sources of funding and come up with a plan that will meet that, and then certainly the Legislature would have to buy into that. I don't think the Legislature right now wants to take that and move forward and identify all the sources of funding and say this should fund so much and this other one, an addition to that. I think experts off this task force can address that problem and bring a plan, and then you as a member of the Legislature will decide whether that plan makes sense. [LB517]

SENATOR PRICE: Well, I appreciate that, Senator Carlson. I just, notwithstanding the constitutional questions that were raised, I have some trepidation when considering that an outside entity, and not having seen it before--not that it hasn't happened but I haven't seen it--that an outside entity would create a process, and that without having a voting presence somehow we'll have to bridge that gap to make sure that we don't get saddled with something that is untenable or unbalanced. And if you don't have a vote, that's my question. Senator Carlson, how would you bridge that inability to have a vote to shape something in the final analysis that will then be shifted over to you that you must act on? [LB517]

SENATOR CARLSON: Well, this whole process and the task force is going to move along on a consensus basis. If there is a minority difference, that will be a part of the report. But all this comes as a recommendation to the Legislature. It's not a shall. It's a may. It's simply a recommendation. And if you and I were talking one-on-one, I'd say, Senator Price, here's an idea about how we might do this funding, what do you think; and you're the one that has the power to say yes or no. But I think that is headed in the right direction where we put together a group of experts to try and come up with a plan and then present it to the Legislature. And then we decide, does it make sense or doesn't it and are we going to fund it or aren't we going to fund it. [LB517]

SENATOR PRICE: Okay. Well, thank you very much, Senator Carlson. And I agree with what Senator Carlson had to say there. But again it still rises...or raises, I should say, the question on for there being division within the body on how we support the recommendations. I guess there is no panacea, silver bullet, that will answer it in one fell swoop. But it does seem to be concerning when we try to take all these

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

Floor Debate  
April 29, 2013

---

considerations in, and I will be supporting the amendments and the underlying bill.  
Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Price and Senator Carlson. Senator Christensen, you are recognized. [LB517]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Carlson yield to a couple questions? [LB517]

SENATOR GLOOR: Senator Carlson, would you yield? [LB517]

SENATOR CARLSON: Yes, I would. [LB517]

SENATOR CHRISTENSEN: Senator Carlson, how are we going to work around the...I guess I think Senator Lathrop said it well earlier, that part of the problems we're fighting, you and I, in the Republican River district is some of the statute limitations that was put in from the last water task force. How would you address that? [LB517]

SENATOR CARLSON: Well, the Water Policy Task Force met over a period of years, put a lot of time and a lot of effort in coming up with a policy for the state. It actually became law. But there was not a funding mechanism. There was not a plan to provide the funds to carry out LB962. And so if the funds aren't there, it doesn't get carried out. And that I see as a difference between the intent of LB517. We're going to come together with a plan and that will be presented. And if it's a good plan, then let's fund it. If it's not, it won't be funded. But nothing happens till something is funded. [LB517]

SENATOR CHRISTENSEN: But don't you agree that part of the fight that we have now is cleaning up what they messed up. And how do we prevent this same group of stakeholders coming in and either supporting the current policy that I think is messed up or creating something that's even worse? Because they're going to try and protect their own interests, where we as senators try and set up a policy that's fair and equal to everyone. [LB517]

SENATOR CARLSON: Well, I'm not going to agree that LB962 was a poor piece of legislation or a bad plan; but it just did not have funding. And I think that the difference...I don't know what the original intent as far as once the work was done on LB962, where do we go from there. But I know where we're going to go from here. If we have a decent plan, we're going to come to the Legislature and say, here's the way we think it ought to be funded; will you fund it? [LB517]

SENATOR CHRISTENSEN: Well, I appreciate that, Senator. And, you know, as far as AM1176, I don't have a problem adding another one to it. I understand having diverse views and people involved in it. If I've got concerns, it's with some of the other things

Floor Debate  
April 29, 2013

---

that people have agreed to. So at this time I'd just ask you to support LB517. [LB517]

SENATOR GLOOR: Thank you, Senator Christensen and Senator Carlson. Senator Nelson, you are recognized. [LB517]

SENATOR NELSON: Thank you, Mr. President and members of the Legislature. I stand in support of AM1176. I think it's a good idea to...a very good idea to have MUD on there as a member of that broad-ranging resource, and I won't add to anything that's already been said on that. I do have a question or two of Senator Carlson if he would yield. [LB517]

SENATOR GLOOR: Senator Carlson, would you yield? [LB517]

SENATOR CARLSON: Yes, I will. [LB517]

SENATOR NELSON: Thank you very much, Senator Carlson. I don't remember our discussion on...previously. But you provide in here that members of the Nebraska Natural Resources Commission would be members. Is that correct? [LB517]

SENATOR CARLSON: Correct. They are a part of the task force. [LB517]

SENATOR NELSON: Part of the task force. How many members are on that commission? [LB517]

SENATOR CARLSON: There are 16 members, 13 of which are elected by areas of the state; so it covers the state pretty well. And then there's three that are appointed by the Governor. [LB517]

SENATOR NELSON: I guess what's the criteria for just total representation around the state? Do they have any particular expertise in natural resources--the elected members and the appointees? [LB517]

SENATOR CARLSON: The Natural Resources Commission, as I understand it, was with these elected members had a heavy influence of the NRDs across the state, of which there are 23. So when there's 13, some of them had to be combined in order to have an area. But they do cover the state and they were elected to be on this commission to deal with natural resources issues. [LB517]

SENATOR NELSON: Do they work with the Department of Natural Resources then? Are they an independent group? An advisory group, is that what they are? [LB517]

SENATOR CARLSON: They work with the Department of Natural Resources. [LB517]

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

Floor Debate  
April 29, 2013

---

SENATOR NELSON: Okay. Sixteen members there, I believe, and then we're adding another 11 now, which is 27. Is there going to be some duplication of expertise, in your viewpoint, with all of the members of the Resources Commission and then these additional appointees? [LB517]

SENATOR CARLSON: Well, there could be. But I think if there's any mistake made, it would be to make sure that we've got representation from all the groups across the state that do have a vital interest in water, and I think that we will accomplish that with this task force. And if we have two or three that happen to have the same interests, I don't know that that's all bad. I am concerned about the number, but I've dealt with big task forces before and we did good work. [LB517]

SENATOR NELSON: Now, from your previous answers, my understanding is that the task force is going to do recommendations and also funding policy, but that's still going to have to be presented to the Legislature in the way of a bill. [LB517]

SENATOR CARLSON: Absolutely. [LB517]

SENATOR NELSON: Okay, fine. Is there any reason why we have to have five members of the Legislature on this task force? [LB517]

SENATOR CARLSON: Well, let me put it this way: If I was the only member from the Legislature as a part of this task force, and we do good work and we come up with a good plan--and now I need to sell you on this plan. And if you've had no input or no knowledge or no education as to what's gone on in the process of reaching the plan that we want to present, it's more difficult for you to buy in on it. And I think by having senators available that understand the process, they know what's going on, they'll be in a position to provide comment and advice. And I hope they're sold on what we want to do and then they'll be better able to educate the rest of the Legislature. [LB517]

SENATOR NELSON: If the Chairman of the Natural Resources Committee were on there and also the director of Natural Resources as nonvoting members, would that be insufficient as far as you're concerned? [LB517]

SENATOR CARLSON I think it would... [LB517]

SENATOR NELSON: (Inaudible) of five other members. I...are you thinking of the five other members as coming from the Natural Resources Committee? [LB517]

SENATOR CARLSON: No,... [LB517]

SENATOR NELSON: No. [LB517]

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

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: ...from the entire Legislature. [LB517]

SENATOR NELSON: I guess the thing that puzzles me... [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR NELSON: Was that time? [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR CARLSON: No, 1 minute. [LB517]

SENATOR NELSON: Oh, thank you. Thank you, Mr. President. The thing that puzzles me is, how much good is it going to do to have five members of the Legislature on there when we have 49 altogether, that matters are still going to have to be explained to in the form of a bill? [LB517]

SENATOR CARLSON: Well, I think you and I have both experienced in the seven years that we've been here, if we have seven evangelists on a bill we've got a lot better chance of passing it than if we have one. [LB517]

SENATOR NELSON: Okay. All right, thank you. I appreciate your answers to the questions, Senator Carlson. I'll continue to listen here and to see where we go. Thank you, Mr. President. [LB517]

SENATOR GLOOR: Thank you, Senator Nelson. Are there other senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close on AM1176. [LB517]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And thank you, Senator Carlson, for working with me and Senator Harr on this amendment. AM1176 simply adds one more member to the Water Task Force in the sense of it adding a representative of a metropolitan utilities district, which is listed in statute as the metropolitan utilities district, or MUD. As we discussed earlier on the floor through Senator Harr's amendment and ultimately through AM1176, MUD is a very unique political subdivision created by the state, which it is the largest municipal water utility in the state of Nebraska that spans a number of counties outside of just the city of Omaha boundaries. It provides I think a very unique not only urban perspective but also a rural perspective in regards to where they're drilling wells and where they're taking water from ultimately a variety of different areas surrounding the greater metropolitan area. But as I mentioned on the opening, they are also in an extremely unique position of undergoing a billion-dollar water infrastructure project right now in conjunction with the city of Omaha's sewer separation project. For us not to incorporate the largest water

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

Floor Debate  
April 29, 2013

---

utility in the state, who also is undergoing the largest water infrastructure project in the state, I think would be doing a disservice to what I think Senator Carlson and the members of his committee have been advocating for, which is a comprehensive water study of not just groundwater and surface water users, but also the water infrastructure that we know is going to be costly moving forward, and it would be wise to someone right now who is in the process of undergoing this very costly water infrastructure upgrade to be part of this process. With that, I'd urge the body to adopt AM1176. [LB517]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the closing on AM1176. The question before the body is, shall that amendment to the amendment to LB517 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB517]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of the amendment to the amendment. [LB517]

SENATOR GLOOR: The amendment is adopted. Members, we return to discussion on AM1048 and LB517. Senator Lathrop, you are recognized. [LB517]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I promise this is the last time I'm going to talk about this bill before we vote on it, but I do want to...I want to talk about two things. One is the separation of powers, okay? We're blurring that line right now. We are a separate branch of government. There is a Department of Natural Resources, okay, a Department of Natural Resources that could do all of the things that we are going to ask this task force to do. They could be doing that right now. They could have been doing it for the last ten years. They could have been setting the direction and bringing bills to the Legislature to effect a long-term strategy--and it hasn't happened. Okay? That's the executive branch of government had an opportunity to act and they haven't. So now, like we have so many times since I've been here, we are going to act. And the solution that's being proposed is a mixture of the executive branch and the legislative branch--and it's more problematic than that. We're giving them the right to vote. We're housing this in the very branch of government that has failed to act and we are making the legislators nonvoting members--and the rationale is, this is going to be too complex for the senators. Okay? I want to tell you about my other life. When we try a jury trial...when you try a jury trial in this case, we try complex cases to juries and we have to educate them, and by the time a juror votes on a complex case--and I'll give you medical malpractice; it could be a big, hairy construction contract dispute--but by the time those people vote, they become experts, right? So the lawyer becomes an expert before he presents the case. The jury becomes an expert before they decide the case. And then you get a decision. I'm going to tell you, I have more faith in the legislators in this body and their ability in a committee that is focused on educating the members of the Legislature--after all, we're the ones voted into office--to learn, to understand, and

Floor Debate  
April 29, 2013

---

then to come to the floor. And I can tell you, if they can't learn, understand, and arrive at a solution, we'll never get a bill passed. I think it's a mistake to blur the lines between the executive and the legislative branch, and LB517 does that. Now, I'm going to suggest that we move the amendment and the bill, and Senator Carlson and I will keep talking before we get to Final Reading. As I told you, I have conversations coming up this week with people in Natural Resources and with the Attorney General's Office to determine to what extent is there a problem or are we interfering with a process in the Kansas negotiations. Okay? And I don't want to interfere with that; I'm not trying to. But, colleagues, we're a separate branch of government. This is...if we're going to take this problem inside this body, we should be the committee. It should be composed of senators. These people who are from the outside should be educating our jury, our committee, our senators. And the senators, if we don't learn all there is to know about water between now and December 31, we're not going to be able to set the course, and that's the whole point of this. And that's where Senator Carlson and I disagree. It is not on the importance. He is right and he has been a leader and I commend Senator Carlson for his leadership. [LB517]

SENATOR GLOOR: One minute. [LB517]

SENATOR LATHROP: This is about the separation, the separation of the executive branch from the legislative branch. And when we take one of their problems and bring it in here, it should be us. It should be legislators being educated by all of the experts and then us developing policy, setting a course, and bringing the bills here next session. And that's the difference I have with Senator Carlson, not on the importance. It is critical. And I'll work with Senator Carlson after I have these conversations, and if we can agree, we agree; if not, I will just tell you I may very well file a motion to pull it back off of Final Reading for the purpose of an amendment I'll put together, and then you can decide whether you want to share this responsibility, give all of the power to the executive branch that could have done this already and none of it to us, so that we can come up with a solution next year. And that's...it's that fundamental. Thank you. [LB517]

SENATOR GLOOR: Time, Senator. Thank you, Senator Lathrop. Seeing no additional senators wishing to speak, Senator Carlson, you're recognized to close on AM1048. [LB517]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And thank you for a good hour and 40 minutes of debate that we've had this morning on an issue that is very, very important. Senator Lathrop and I are a little bit on different pages in the approach on this bill. And again, it's not because I'm upset with him or he's upset with me. We just have different ideas. One of the things that I would say is that...and I've said this before, but it fits right in what we're talking about now. Twenty-some years ago there was no need felt to do a whole lot about controlling and regulating and managing the water in the state of Nebraska. We had an unlimited supply, we thought, and now

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

Floor Debate  
April 29, 2013

---

we know better. And so over these last 20-some years, there have been efforts on the part of the irrigation districts and on the part of the NRDs to pull back on the amount of water that they're using. They didn't ignore it. It's probably not gone quickly enough, but it's hard to break old habits. I said this the other day in a group, that I think a sustainable amount of water for the state of Nebraska might be about 8 inches. If you have been, in the past, where you used between 20 and 30 inches, going down to 8 seems absolutely impossible. But some of those areas have worked from an unlimited supply and unlimited allocation to 22 to 18 to 13, they'll be at 11 in a couple years and they're getting closer to 8. We can do that if we have the will to do it because our farmers are smart enough, our irrigators are smart enough, they know how to get along if they know what they've got. And this effort on this task force is to bring these people together and let's strive for a 20-year strategic plan which not only takes in the views of the irrigators across the state but all those that have an interest in water, whether it be municipalities, whether it be outdoor recreation, whether it be game and...fish and wildlife, whatever it might be. And whether it be people that just need to turn on the tap and have good, clean, cold water, we have to include all of this. Getting a diverse group together and hashing things out is not an easy thing, and I'm telling you, I can lead this task force and we will get something done and we will come back with a plan that's meaningful and hopefully a plan that you can endorse. So I ask for your support on AM1048 and LB517. Thank you. [LB517]

SENATOR GLOOR: Thank you, Senator Carlson. The question is, shall the amendment to LB517 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB517]

CLERK: 38 ayes, 0 nays on the adoption of the amendment. [LB517]

SENATOR GLOOR: The amendment is adopted. [LB517]

CLERK: I have nothing further on the bill, Mr. President. [LB517]

SENATOR GLOOR: Seeing no senators in the queue, Senator Carlson waives closure on LB517. The question is, shall LB517...Senator Murante for a motion. [LB517]

SENATOR MURANTE: Mr. President, I move to advance LB517 to E&R for engrossing. [LB517]

SENATOR GLOOR: You've heard the motion. All those in favor say aye. All those opposed say nay. LB517 is advanced. Continuing with the agenda, Mr. Clerk, LB517A. [LB517 LB517A]

CLERK: LB517A, Mr. President. No E&Rs. Senator Carlson would move to amend with AM1068. (Legislative Journal page 1120.) [LB517A]

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

Floor Debate  
April 29, 2013

---

SENATOR GLOOR: Senator Carlson, you're recognized to open on your amendment. [LB517A]

SENATOR CARLSON: Thank you, Mr. President. And I think that you can tell from the discussion that's taken place this morning and the part that Senator Mello has had in it, members of the Appropriations Committee that have talked to me about it when we took the bill from \$3 million to \$1 million, that's what the A bill is now. I think that's a sufficient amount of money. I think that we'll be able to do what we need to do and still have money left over, but I would appreciate your approval of LB517A with the fiscal note at \$1 million. Thank you. [LB517A]

SENATOR GLOOR: Thank you, Senator Carlson. Members, you've heard the opening on the amendment to LB517A. There are no senators in the queue. Senator Carlson, you're recognized to close. Senator Carlson waives. The question is, shall the amendment to LB517A be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB517A]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Carlson's amendment. [LB517A]

SENATOR GLOOR: The amendment is adopted. [LB517A]

CLERK: I have nothing further on the bill, Mr. President. [LB517A]

SENATOR GLOOR: Senator Murante for a motion. [LB517A]

SENATOR MURANTE: Mr. President, I move to advance LB517A to E&R for engrossing. [LB517A]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. LB517A is advanced. Items for the record, Mr. Clerk. [LB517A]

CLERK: Mr. President, a new A bill. (Read LB483A by title for the first time.) Senator Hadley, an amendment to LB23 to be printed; Senator Krist to LB6. Senator Schilz would like to add his name to LB402. (Legislative Journal pages 1159-1162.) [LB483A LB23 LB6 LB402]

And Senator Hadley would move to recess the body until 1:30 p.m., Mr. President.

SENATOR GLOOR: Members, you've heard the motion to recess. Those in favor say aye. Those opposed, nay. We stand recessed.

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

Floor Debate  
April 29, 2013

---

RECESS

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER ADAMS: Mr. Clerk, do you have items for the record?

CLERK: An amendment: Senator Wightman to LB341. Health and Human Services reports LB625 to General File with amendments attached. That's all that I have, Mr. President. (Legislative Journal pages 1163-1164.) [LB341 LB625]

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR154. Proceed to the first item on the afternoon's agenda, Mr. Clerk. [LR154]

CLERK: Mr. President, LB66, a bill by Senator Schilz. (Read title.) Bill was introduced on January 10, referred to Urban Affairs, advanced to General File. There are committee amendments pending. (AM784, Legislative Journal page 963.) [LB66]

SPEAKER ADAMS: Thank you, Mr. Clerk. Senator Schilz, you are recognized to open on LB66. [LB66]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good afternoon. I would like to take this opportunity first to thank Senator McGill, Senator Krist, Senator Murante, and all the members of the Urban Affairs Committee for prioritizing LB66. LB66 would allow communities to utilize tax increment financing in order to redevelop formerly used federal defense sites. Rebuilding our declining population in rural Nebraska is one of my highest priorities. We need greater diversification in our rural economies and the economic development tools necessary to enhance those opportunities to attract new business and industry to rural parts of the state. Tax increment financing has been one of the most-effective economic development tools we have seen through the Nebraska community development law. As many of you know, TIF is used throughout the United States. And for our state to be competitive, we simply need the ability to compete for major projects. One of the projects that could benefit from LB66 is the Sioux Army Depot near Sidney. This previously owned federal government facility operated from 1942 to 1967. It now almost entirely has been transferred into private ownership, but many of the properties remain negatively impacted from that era. Since its transition to the private sector, those who have tried to

Floor Debate  
April 29, 2013

---

develop have struggled to create a handful of success stories, but many other efforts have failed and numerous dwellings continue to erode away. Infrastructure has also eroded or been abandoned with the passing of time. The handful of success stories, such as Cabela's distribution center, Adams Industries, Commercial Resins, Progress Rail, has come at an enormous expense for rehabilitation purposes and remains a deterrent for these or other projects. Many environmental challenges still remain and were left behind by the federal government for the private sector to deal with. This site is unique in that a short line rail connects both the Burlington Northern and Union Pacific Railroads, and both railroads, thus, serve a majority of the nation. Visionaries like Don Adams and Adams Industries saw its potential. With his leadership, Adams built a national reputation in the trucking industry and now has added these facilities, including a logistics company, to cater to those that place their warehousing or manufacturing on that campus. Adams then worked to get the site qualified as a port of the United States, through the Port of Houston. All of these improvements have created a huge opportunity for this area of the state. This is a state-of-the-art logistics model and we are fortunate to have folks like Don Adams and his company to do this. In neighboring states of Wyoming, Colorado, and South Dakota, they are working to create the same types of models. Adams Industries has lost projects to these other states because of those states' willingness to support and enhance these types of logistical models. Nebraska's inability to allow for these redevelopment projects in rural areas is impacting our ability in rural Nebraska to create and foster this kind of necessary growth. Mr. Adams testified at the hearing and explained some of those challenges. LB66 would help level the playing field for economic development projects, assist with costly environmental cleanup efforts, and continue to repair infrastructure and build new roads. From there, Adams Industries will then have the opportunity to win some of these competitive battles for new industry and jobs. The bill, through the committee amendment, has seen some big change in the vehicle for the communities to redevelop formerly used defense sites, but the committee, the committee legal counsel, interested party, Bill Drafters, and my staff have worked very hard to arrive at a better solution which utilizes the sanitary and improvement district process. This is laid out in the committee amendment, AM784. And once again, I would like to thank Senator Krist, McGill, and Senator Murante and all of the members of the Urban Affairs Committee for all of the work they have done, including legal counsel, the interested parties, and Bill Drafters, for the work they have put into LB66. And with that, I ask for your adoption of LB66 with the committee amendment attached. Thank you, Mr. President. [LB66]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Schilz. As the Clerk has stated, there is an amendment from the Urban Affairs Committee. Senator Murante, as Vice Chair of the committee, you're recognized to open on the committee amendment. [LB66]

SENATOR MURANTE: Thank you, Mr. President and members. And before I begin on

Floor Debate  
April 29, 2013

---

the committee amendments, I'd like to make a note that Senator McGill can't be with us today because she is with her mother, who is sick, and I hope that we can all speak that Senator McGill and her family are in our thoughts and prayers right now. AM784 replaces LB66 and creates a process to allow cities to use tax increment financing outside of the city boundaries only in the limited instance of a formerly used federal defense site that is outside of the city but inside the same county that the city is in. The process is fairly simple. It requires a sanitary and improvement district to be formed around the area that is to be developed. Once the SID is formed, the city must file an ordinance declaring its intent to annex the formed SID. The city can then use TIF and create a redevelopment project on the formerly used federal defense site. There is also a provision in the amendment that requires consent of any city that has the formerly used defense site in its extraterritorial jurisdiction when another city is seeking to create a redevelopment project there. The amendment further preserves the currently existing service areas of electric utilities, natural gas utilities, and communication companies. A formerly used federal defense site is defined in the amendment as real property that was formerly owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense. It specifically does not include missile silos. Finally, cities and counties are encouraged to enter into interlocal agreements to pay for services the city may provide to the developed area after the approval of the project begins to move forward. I believe praise has been earned by Senator Schilz, Senator McGill, and Senator Krist, who worked very hard to turn this bill into one which the committee supported unanimously. I believe it is a good approach to solve the problem that Senator Schilz has identified. I encourage you to vote green on AM784 and on LB66. Thank you, Mr. President. [LB66]

SENATOR COASH: Thank you, Senator Murante. Members, you've heard the opening of LB66 and the committee amendment. Floor is now open for debate. Senator Krist, you are recognized. [LB66]

SENATOR KRIST: Thank you, Mr. President, and good afternoon, colleagues and Nebraska. This is a classic example of how an idea can be brought to a committee, an idea that is worthwhile to look at. But unfortunately, LB66 was dead on arrival when it arrived at the committee because, and I will state this for legislative intent, anytime you extend...you wish to extend TIF beyond the scope of the city or municipality, it's my hope that future legislators, as well as this group, will not ever support the expansion of TIF beyond the city or local municipality. So the dilemma was, how do we allow TIF financing or some kind of financial investment structure to be put in place? Well, here's how. Those former military installations already have infrastructure. They have gas, they have water, and in some cases the plumbing necessary to build up the kind of industrial sites that Senator Schilz has already very appropriately described at the Sidney site. With that in place, the traditional SID is formed so that we can build and build an infrastructure, and then at some point that infrastructure and buildings would be annexed by the city, and that's why it's so important that the municipality establish the

Floor Debate  
April 29, 2013

---

intent to annex in this particular case. Another critical part of this agreement, as we sculpted through it, and legal counsel was excellent at this, both LA and legal counsel, at making sure that we put into place the opportunity for a city and a county to reach a financial agreement through either an MOA or LOA or some other vehicle, some other process. Why is that critical? Because at some point taxes will start to come out of the investment that the city has put forward, and to some extent the citizens of the town or city, political subdivision should reap the benefits of their investment in the actual project. Senator McGill and her staff were instrumental in bringing this about. Senator Schilz and his staff sat down and talked with the folks who are interested. And it may interest you that, you know, we just had a discussion about education funding. Our education, our school districts are very important to consider anytime you consider TIF projects, because at some point you're taking money potentially out of the school district for a period of time while the investment is made. This does not do that, interestingly enough. In fact, what it does is create down the road revenue for the city in part and parcel, for the county in part and parcel, and for the school districts that are involved. Without this kind of financing, those buildings, those facilities will sit there and do nothing unless somebody, as clairvoyant as Mr. Johnson (sic--Adams) comes forward and invests the money in future development in that particular part of the country. Uniquely, Senator Schilz asked me to fly some folks out there last year to show them the facility. I had the opportunity myself on a flight to fly over the area, and I can tell you this. A better connection to the rail system does not exist anyplace else in this state. The draw to have a facility in this particular location will mean main line rail in all directions. [LB66]

SENATOR COASH: One minute. [LB66]

SENATOR KRIST: Thank you, Mr. President. I thank Senator Schilz for bringing the bill forward and for his understanding to our restrictions and what we thought were sensible restrictions in the state of Nebraska. Thanks to my committee members for putting it out as a priority. It's a good piece of legislation and all avenues were heard in committee. We did discuss this possibility in committee, so there was a public hearing on the basis, LB66, as well as AM784. That's how we arrived at the bill that we are at right now. I ask for your support of AM784 and for your support of LB66. [LB66]

SENATOR COASH: Thank you, Senator Krist. Senator Schilz, you're recognized. [LB66]

SENATOR SCHILZ: Thank you, Mr. President. And I would, once again, Senator Krist has done a lot of the work on this amendment and I really do commend him for all of his help. And I can't disagree with him at all. I agree 100 percent that when you go out and you look at the opportunities that are there...and this is just one of the sites. There are 69 of these sites across the state of Nebraska so there could be more opportunities out there than we know. I think it's important, once again, that even though the bill started

Floor Debate  
April 29, 2013

---

out as looking to be able to annex different properties outside of the city limits, it should be noted, and Senator Krist brought this up, that that just wasn't going to fly. But the great thing about this bill and the great thing about the people with the Urban Affairs Committee is that they understood the opportunity. They understood that there needs to be some way to get this done. And lo and behold, a sanitary and improvement district serves for this purpose and can serve rural Nebraska, where we may have opportunities outside of city limits, more than the "extrajurisdictional" zone, that we need to take advantage of. I think it's also important that we look at this and understand that you need buy-in from the counties, the cities, and everybody else around to make this work. Without this, without that buy-in from those subdivisions, I would think that this process becomes extremely hard. We do have to understand that as a city moves out beyond that jurisdictional zone that there are other considerations in the county, other utilities, things like that. That's, once again, why the SID works so well. No city will annex anything when it comes to this. The sanitary and improvement district is created and then you can use the TIF inside of that. But in order for the city to actually expand and annex anything, they would have to actually and physically annex to this SID before they could start to annex outside of that. And so that's what makes this work. The utilities don't change where they are. Political subdivisions don't change where they are, because there is no annexation going on at this time. In the future, there could be. And if we are fortunate enough to have communities like Sidney be able to get this far and get this done, that would be a great opportunity and we need to do that. I want to tell you just another little story about this. Adams Industries just had their first manufacturer come into their facility there. Bell industries, who makes power poles, basically, they are building a \$25 million facility at this point. This is the first manufacturer that has come in. There's about 1,000 acres that this could be done with. And I look at this project, I look at the visionary...the vision of Don Adams and what he did, and I look at this and say, okay, this is the type of project, this is the type of development that could take a city from 6,000 to 7,000 to 8,000 people to 15,000 to 20,000 people because of the opportunities of this. That short line railroad is crucial, being named as a port of the United States is crucial. And the opportunities that they get with the logistical company, as well as the ability to take that product that last mile to where their trucking firm is not competing with the railroads but working with the railroads, all of a sudden cheapens all the transportation up for all of those companies that use that. This state... [LB66]

SENATOR COASH: One minute. [LB66]

SENATOR SCHILZ: ...needs this project. This state needs to be able to do more of these projects. And this bill, LB66, is the vehicle to get us partway. Thank you very much, Mr. President. [LB66]

SENATOR COASH: Thank you, Senator Schilz. Senator Dubas, you're recognized. [LB66]

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

Floor Debate  
April 29, 2013

---

SENATOR DUBAS: Thank you very much, Mr. President. Good afternoon, colleagues. I certainly understand, appreciate, and support what Senator Schilz is trying to do with this bill and what it means for rural Nebraska, so I don't want any of my comments to be construed as being against this bill. But I do have some concerns in relation to how this could potentially impact some school districts. And I know there were school districts that came in and testified in opposition to this bill and I would just like to ask Senator Schilz a few questions to see if those particular concerns were taken into consideration. [LB66]

SENATOR COASH: Senator Schilz, will you yield? [LB66]

SENATOR SCHILZ: Absolutely. [LB66]

SENATOR DUBAS: Thank you, Senator Schilz. As I said, I know there were some school districts that testified in opposition to this bill. One of those school districts resides in my district, so I want to make sure that their concerns were taken into consideration. And I see that there were exceptions made for utilities, but there is nothing in there that deals with school districts. So can you kind of give me a little history there? [LB66]

SENATOR SCHILZ: Sure. Well, I'll do the best I can, and that is the beauty of how we're doing this now. Instead of annexation that could have changed everything that you're talking about as it goes to school districts, with the sanitary and improvement district, and folks can correct me if I'm wrong, with that in place and no annexation going on, none of the political subdivision lines that are out there will change because there's nothing to change. And that was one of the major points of moving in this direction, was that it will not adversely affect any of the school districts that are out there, as well as the utilities and things like that. [LB66]

SENATOR DUBAS: So based on just the formation of these SIDs, that should not impact any school district any differently than what's already going on right now. Their valuations shouldn't change, none of those, nothing should change in that regard. [LB66]

SENATOR SCHILZ: Well, I think that as you look at that and as you see what goes on, obviously, obviously we've heard that there can be some issues with tax increment financing and how valuations occur. That process is not going to change. The question that I have for folks that are worried about that is, you know, here we are and there...and almost every community in Nebraska is losing population. We need tools to turn that around. Yes, TIF does provide some challenges for school districts as we move forward but so does population decline. And we can fight it one way or the other. I look at growth and development as the solution to it, not necessarily the antithesis of it. So as we look at this, yes, there are some trade-offs there and I can understand to

Floor Debate  
April 29, 2013

---

where that would be an issue or where it could be an issue. But I think...but I think that overall it's a positive step forward. And I think that everybody is going to have to look at this, just like we do in municipalities, and say, you know, if there's an opportunity for development over time, that's a good thing for the state. [LB66]

SENATOR DUBAS: And I, again, I would agree with you. TIF brings some very positive tools to the toolbox, so to speak, as far as development and addressing the very real concerns you've just outlined, Senator Schilz, as far as the loss of population and our ability to build the economy in rural Nebraska. It also brings those same types of challenges as far as looking at how it impacts state aid to schools. I introduced legislation this year, not because I'm opposed to TIF but because of some concerns that were raised as to how many projects are actually being TIFed... [LB66]

SENATOR COASH: One minute. [LB66]

SENATOR DUBAS: ...in a county or a locality and how that impacts state aid to education. So we certainly need to be cognizant of what TIF, positive as well as negative, can bring into the discussion. Again, I didn't introduce the TIF legislation because I'm opposed to TIF and recognize its value, but also when you look at school districts who have a significant amount of TIF projects in their district, it does impact their state aid to education. So it's...there are those trade-offs, you know, those cost-benefit analyses. I just didn't want this discussion to go forward without bringing the concerns of the schools into the discussion and the potential negative impacts, along with the positive impacts that we're dealing with here. Thank you, Mr. President. [LB66]

SENATOR COASH: Thank you, Senator Dubas. Senator Wallman, you are recognized. [LB66]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Schilz answer to a question, please? [LB66]

SENATOR COASH: Senator Schilz, will you yield? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR WALLMAN: Thank you, Senator. And what did Source One (sic--Gas) and Black Hills Energy, what was their concerns? [LB66]

SENATOR SCHILZ: Well, I think that what happens is in the original bill, in the green copy, if a municipality would actually annex this property that possibly could have been under another contract and then all of a sudden it's annexed into a city that may be under another contract, I think the concern was that they could lose out...these utilities could lose out on what they have in place now, and we wanted to make sure that didn't

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

Floor Debate  
April 29, 2013

---

happen. And that's why moving to the direction of the sanitary and improvement district and that process takes all of that concern away. And we addressed that with both Black Hills and the other group that you talked about, and I think in the end, when we were all done, everybody was comfortable with that. [LB66]

SENATOR WALLMAN: Well, thank you. I haven't talked them but...and what is...how many years is this? [LB66]

SENATOR SCHILZ: Well, if the law passes, the law will be in perpetuity. Just like any other TIF project right now, you would have 15 years to take advantage of that sales tax opportunity. [LB66]

SENATOR WALLMAN: Okay. Thank you. Thank you, Mr. President. [LB66]

SENATOR COASH: Thank you, Senator Wallman. Senator Nelson, you are recognized. [LB66]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a couple questions for Senator Schilz, if he will yield. [LB66]

SENATOR COASH: Senator Schilz, will you yield? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR NELSON: Thank you, Senator. I'm not all that familiar with SIDs, but as the name implies, it's for development of sanitary and improvements, mainly, in my understanding, is for residential developments. Now has this been checked out to see if this...this is an industrial site. Is that what the proposal is? [LB66]

SENATOR SCHILZ: That is correct, yes. [LB66]

SENATOR NELSON: Okay. Has that been checked out if an SID is formulated so it will cover this sort of thing? [LB66]

SENATOR SCHILZ: Yes, and my understanding that it can be used for this sort of thing, yes. [LB66]

SENATOR NELSON: Okay. I know there have been lawsuits in Sarpy County, for instance, of cities trying to annex and establish a line going way out afield. So you're avoiding that sort of situation here, right? [LB66]

SENATOR SCHILZ: Absolutely. [LB66]

Floor Debate  
April 29, 2013

---

SENATOR NELSON: Is this former defense site owned by an individual or the county?  
[LB66]

SENATOR SCHILZ: The one that I have the experience with, it is owned by a number of private interests. And the biggest one, though, is this Adams Industries, that I explained.  
[LB66]

SENATOR NELSON: So this park maybe in part of that former defense plant has been purchased and has been ceded to them. Is that correct? The county doesn't have any interest in it anymore? [LB66]

SENATOR SCHILZ: That is correct, yes. [LB66]

SENATOR NELSON: All right. Then this is kind of not getting the cart before the horse, but there has to be an agreement of what's going to happen here. Somebody has to form the SID, is that right? [LB66]

SENATOR SCHILZ: That is correct, yes. [LB66]

SENATOR NELSON: Okay. [LB66]

SENATOR SCHILZ: And that's...and I think, just to...not to interrupt you there, but I think that's why it's so important that the counties and the cities and everybody understand, through this memorandum of understanding or memorandum of agreement, to be able to move forward together to make this happen. [LB66]

SENATOR NELSON: Do the people that form the SID have to be residents of that particular parcel of property? [LB66]

SENATOR SCHILZ: I don't believe so, but there's other folks that understand. I'm like you, Senator Nelson. I'm not as schooled on the SID process as some. [LB66]

SENATOR NELSON: Well, I know the SIDs, that they were started in Douglas County years ago and have been very successful and have served their purpose, but I know you have to read all the fine print and the law there to make sure that you conform with a lot of things there. You have to have...it has to be formed. There has to be a board of trustees, a lot of other things. I haven't looked at it for a long time. But I would say that before we take this to final passage here, if that's the way it goes, I would encourage you to be certain that this, an SID, can be used for this particular purpose and can comply with all the present requirements of the SID law. So I have no objection to this. It sounds like a good idea. But I wouldn't want to run into legal problems down the road if we haven't thoroughly examined this as far as the use of the SID is concerned. [LB66]

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

Floor Debate  
April 29, 2013

---

SENATOR SCHILZ: And, Senator Nelson, I don't disagree. And I would suspect that in all the work that the Urban Affairs Committee did with legal counsel and everything else to make sure that this is a project that this can be used for, otherwise the bill probably would not have made it out of committee. [LB66]

SENATOR NELSON: One final question: Can the county surrounding the city, do they have any basis for objection to this, the formulation of an SID, if they... [LB66]

SENATOR SCHILZ: I would say, yes, they do. And if nothing else... [LB66]

SENATOR COASH: One minute. [LB66]

SENATOR SCHILZ: ...if nothing else, as they negotiate to make those costs and things that they have to incur work, that gives them the opportunity to make their position known and to be able to veto that. I would guess that they could do that, yes. [LB66]

SENATOR NELSON: And one other thought that occurs to me is that all of the utilities and things of that sort and sanitary are already in place, aren't they? [LB66]

SENATOR SCHILZ: Yeah, pretty much, yes. [LB66]

SENATOR NELSON: See, that's another question I have about the use of the SID. So I'll leave it up to you and the committee to assure the body here that this type of device will work for us here. Thank you, Senator Schilz. [LB66]

SENATOR SCHILZ: Thank you. [LB66]

SENATOR NELSON: Thank you, Mr. President. [LB66]

SENATOR COASH: Thank you, Senator Nelson. Senator Krist, you're recognized. [LB66]

SENATOR KRIST: Thank you, Mr. President and colleagues, again. And, Nebraska, good afternoon. I'd like to just answer a few questions of my colleagues that have brought it to Senator Schilz's attention. Senator Dubas, your question is affecting the actual school districts. Within the structure of collaboration that we used, after LB66 was brought to us...and remember I said LB66 was dead on arrival. It did not have a chance of getting out because it violated a couple of standard principles and standing statutes. The reason that it does not affect the school districts is that it does not violate the property valuation within the city or the municipality, and it does not allow skip annexation. The skip annexation is what occasionally, more than occasionally, is our big concern with the TIF process because, and Omaha is a classic example of how not to do this or how to mess it up, because you skip annex and you start going out there and

Floor Debate  
April 29, 2013

---

you grab an Elkhorn and you disturb the property valuation as you get there. And then the school districts were affected incredibly, so the formula and state aid is messed up. This will not do that. The existing tax base that exists in these industrial areas that are privately owned at this point, or potentially not in other sites, will continue to produce tax revenue. Those that are not existing, they will be able to utilize another section of statute which allows the city to TIF and to extend the funding in that area. So hopefully that helps you with your question. Senator Nelson, your question about SID, these are two separate statutes, sections of law. In the statutes that would cover SID, the sanitary and improvement district is established by either a private investor or can be a collaborative with the local municipality. An SID is formed and registered by the county, not the municipality. So in the case of Lake Waconda, down in near Union, they are SID 1 of Cass County. They're registered as a sanitary and improvement district. They have to have a board. They have to have all kinds of things that happen. They have to have public meetings and do all that. So what we're doing is we're taking the SID and we're saying, okay, little Union, if you wanted to do something and develop another area or even an industrial area next to it, you could use your TIF authority as long as you and Cass County can agree on what that payback and payoff would be. And we went through that process as well. I'd be happy to talk to you off mike or, better yet, have you talk to Laurie, our legal counsel in the Urban Affairs Committee, because she is on top of both the SID and the TIF at this point. Senator Wallman, you asked about the utilities, the first...also the first group of people we brought to the table, was to make sure, because the concern in the committee was that, in the hearing, was that we were not properly providing for the stabilization of the existing utilities that were being provided, and then they'd have to go back to the commission and we'd end up with, you know, a bag of worms. So we brought them all in, and that's what initially the bill, LB66, said: If you provide electricity, you will continue to provide electricity. We had to make sure that it said, for you public utilities coming into it, you will continue to do that. And the commission was brought in, in terms of where we are. There's one other thank you that probably should be made and that's to the League of Municipalities. They understand the subject matter. They were the one who taught me five years ago. And I am by no means an expert, but I can at least talk to the issue here on the floor and help you answer your questions. If there are any other questions that I can answer, I'd be happy to do that. This is a good move in the right direction. We'll have some time now, between now and Select, to answer everyone's questions and make them more...  
[LB66]

SENATOR COASH: One minute. [LB66]

SENATOR KRIST: ...comfortable. Thank you, Mr. President. [LB66]

SENATOR COASH: Thank you, Senator Krist. Senator Price, you're recognized. [LB66]

SENATOR PRICE: Thank you, Mr. President, members of the body. I just rise to say I'm

Floor Debate  
April 29, 2013

---

in support of what we're doing here. The federal government spent a lot of money making installations across the state. The state made investments. These are good properties. They had great specs for how they were built. And I'm always shocked, since my time in the service, when we have base realignments and closures, the BRACs, when I go by and I see towns that are heavily impacted by changes in the utilization of these properties. And it always struck me as painful when I would see, in one case in Illinois, Chanute Air Force Base was closed, and that was where I did my training. And when they closed it, the time between closing and the time when the city could use it, right before they closed it they had put in a brand new elementary school. And they closed it and part of the closing involved decommissioning the ability for people to hurt themselves, things like electricity. Anyway, the city couldn't move quick enough to utilize the property. The time frame was long. All those tax dollars were invested, sat emptied and not used, and then it costs more to restart those facilities than it would have just to raise them down. I think it's prudent and good stewardship to utilize the investments that are made. As long as all the structures and things that are being used in the infrastructure are still of quality, it only makes sense to do that. And I'll be supporting this as we move forward to be good stewards of the tax dollars we've already expended on this. There may be some points along the way that are going to need to be dealt with, but I'm sure that all that could happen. And with that, I would yield my time back to the Chair. Thank you. [LB66]

SENATOR COASH: Thank you, Senator Price. Senator Schilz, you're recognized.  
[LB66]

SENATOR SCHILZ: Thank you, Mr. President. I think that as we look around, and I would just like to say thank you once again to everybody that helped do this. I know that it's thinking a little bit outside of the box. I know that in the past we moved forward with second-class cities and villages to be able to do some of this stuff as far as ag production and the ethanol plants. And I watched that process go forward. And I know a lot of folks were like, well, how come, how come this is just for first-class cities? And I will say this, that this is nothing against a second-class city or a village. It's just that when I watched what happened with the ethanol plants and how those came into being...and I look at the community of Madrid and the ethanol plant that they put in there. I remembered that when that came along and people were looking at how to do the skip annexing down there, which is a little different situation than we have here with this bill, but what was interesting is that in almost all of those cases when it came down to those villages and things, the first-class cities around them worked very diligently with them to make sure that they had everything in place and they could qualify for this. And so I think that as we look at this, it is just...it's natural that we give this ability to the first-class cities, because not only do they have the expertise but they are able to take something like this, as sophisticated as this, and be able to do that. To me, this is just a first step. And I believe the second-class cities and villages should be able to be possibly a part of this process. But it takes a lot of energy and it takes a lot of resources

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

Floor Debate  
April 29, 2013

---

to do this. And so I don't want to step out there too quickly and cause harm to some folks out there that albeit may have great ideas for opportunities at some of these defense sites, we need to make sure that as we move forward those communities that are involved in this have the expertise and can make this stuff happen. So I think I look at this as just a first step as we move forward to the rehabilitation and the revitalization of rural Nebraska. Thank you very much. [LB66]

SENATOR COASH: Thank you, Senator Schilz. Senator Johnson, you're recognized. [LB66]

SENATOR JOHNSON: Thank you, Mr. President. I have a couple questions for Senator Schilz, if he will yield. [LB66]

SENATOR COASH: Senator Schilz, will you yield? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR JOHNSON: Looking at the map that you presented to us with all of the defense sites out there, I know you've worked on the one for Sidney, and I appreciate that. I've driven by it when I was working with economic development. But there's a lot of the rest of them in other parts of the state and a lot of these are...don't have probably a class one city in their area. So I guess my question is, is this tweaked so much that it's only going to be a Sidney project now, or do you feel eventually we won't have to do a lot of changing in order to incorporate the rest of, I'll say, the center part of Nebraska? [LB66]

SENATOR SCHILZ: Sure, Senator Johnson, thank you for the question. And I share your concerns. I share your questions as well. But as I look at this, this is not just a Sidney project. If you look at Hastings, you look at Grand Island, you look at a bunch of these areas, there are opportunities there. And I look at this bill in the same kind of fashion as we saw LB97 from Senator Mello on the land bank question, the land bank issue. And I think it's good to walk before we run. It's good to crawl to make sure that we understand what we're doing before we open it up to everything. And so, yeah, at first this may be a bit limited, but let's let some people get through the process so that we can learn the pitfalls, so that we can learn the benefits and the challenges that come along with it, and then let's look to expand this out to all those communities that can benefit from this. But I don't disagree with you. There should be opportunities for other municipalities to be able to move forward and take advantage of what's going on here. [LB66 LB97]

SENATOR JOHNSON: Thank you, Senator Schilz, and that does help me on my support for this. And I will continue, as I continue to be in the Legislature, to strive for that expansion. And I would yield the rest of my time to Senator Price. [LB66]

Floor Debate  
April 29, 2013

---

SENATOR COASH: Senator Price, 2 minutes 45 seconds. [LB66]

SENATOR PRICE: Thank you, Mr. President. Thank you, Senator Johnson. I appreciate that. In my haste on my last commentary, I neglected to reflect back on another benefit. As you all know, I'm a very green fellow and I'm a big supporter of green projects. But...okay, that was a little tongue in cheek. I guess it's after lunch. But the important part here also is that by reutilizing these areas, it will help in the green process, if you would. Many times these motor pools and everything are built with heavily reinforced concrete pads and things of that nature. And this, by utilizing these things we won't be having those materials end up in landfills and fall in disrepair, and I think that helps the state. I think that helps also with guarding some funding for different projects because we are and will be reutilizing things instead of just throwing them away. And I think that's an added benefit any time we can reutilize these facilities. And with that, I appreciate the time, Senator Johnson. Thank you. [LB66]

SENATOR COASH: Thank you, Senator Price. Senator Dubas, you're recognized. [LB66]

SENATOR DUBAS: Thank you, Mr. President. Again, I appreciate Senator Schilz and the work that he and the committee have done on this issue, because I do recognize its importance. If Senator Krist would yield to some questions, I would appreciate that. [LB66]

SENATOR COASH: Senator Krist, will you yield? [LB66]

SENATOR KRIST: Absolutely. [LB66]

SENATOR DUBAS: Thank you, Senator Krist. And you went into, your last time at the mike, a little bit about SIDs. And I've had a little bit of experience with SIDs and actually came before your committee a few years back with an interim study because of some concerns that were brought to my attention regarding SIDs. I guess for the record and maybe for other members of the Legislature just to kind of understand, you talked about how an SID is formed. Could you give a few more details about an SID's taxing authority and how that works? [LB66]

SENATOR KRIST: Sure. Once you've establish the hierarchy or the infrastructure and you've registered your SID with the county, you'll establish...and that will give you bonding authority as well as taxing authority within the SID, there is a tax base that goes to the county, but obviously there's no city involved. So the democracy that exists within the SID decides how much it will spend, what it will tax itself, what kind of bond...what level of bonding that it will go into. For example, if it's a lake development area, you may have to dredge the lake, you may have to improve. All that is spread out, if there's 300

Floor Debate  
April 29, 2013

---

homes around, spread out between. If you have to put infrastructure in, plumbing, utilities, you have to supply the line from the main line to your SID in order to get it there, all that would have to be paid for. Sometimes it's the developer who will put up his money initially and secure the property and secure the initial design and register, and then once the residents start to move in then he turns over that authority to the SID. So they inherently become their own taxing authority and their vote decides at what level they will go into indebtedness. There's also a restriction from each county in terms of what the tax base or what the indebtedness can be, and some of that comes from the bonding company, some of it comes from the county itself. [LB66]

SENATOR DUBAS: Do any of those taxes, are they assigned to like school districts or NRDs or any other entities such as that? [LB66]

SENATOR KRIST: Through the county they can be assigned to a school district. And once that is established, as I talked about last time on the mike, once that's established between...in the county itself, as in the Sidney project, all the money that is going out will continue to go out just exactly the way it is. Any money that is to be made in the future would have to be a contract or an LOA or a memorandum of agreement between the county and the city and the school district about the additional funds that would come in. And the theory there is it's not going to grow unless we incentivize it. Once we incentivize it and it grows, then the money then is distributed between the school districts through the county and through the city. [LB66]

SENATOR DUBAS: Okay. Thank you, Senator Krist. Another question I have is I see that in the amended...in the amendment we're requiring cities to state their intention to annex... [LB66]

SENATOR KRIST: Right. [LB66]

SENATOR DUBAS: ...this very early in the process. The thought process behind that requirement...? [LB66]

SENATOR KRIST: It is simply this. When you have a project in one of these sites and you would have one or two or three cities around the area, it would be disastrous, in my opinion, to have Sidney enter into that agreement and then the city of "Acme," which is close enough, then come in and annex it, to move up to annex. So once you establish the intent to annex then that's your...you have the first option to annex or not. It's kind of like a well, first in, first out, yeah. [LB66]

SENATOR DUBAS: So does the city have to begin its annexation to move out towards that... [LB66]

SENATOR COASH: One minute. [LB66]

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

Floor Debate  
April 29, 2013

---

SENATOR DUBAS: ...development or will that be like skip annexing? I mean if they're stating... [LB66]

SENATOR KRIST: No. No. [LB66]

SENATOR DUBAS: ...their intention, are they... [LB66]

SENATOR KRIST: They could...there's no time limit involved so they could never actually get to that point. But their goal or their intent would be to annex if it actually arrived there. And there are plenty of these sites that have something in between them, the city and the site. I believe there's a pretty good substantial feedlot in between one of these and the city of Grand Island, so it may be years before they would actually move in that direction and annex. So we don't hold them to a time line, but we do hold them to the intent to annex. [LB66]

SENATOR DUBAS: So that would mean then, I think you stated, since they're stating their intention early on, no other community from another direction could come in and say, oh, we want to annex then them first? [LB66]

SENATOR KRIST: That would be the reasonable approach to it as well, yes, ma'am. [LB66]

SENATOR DUBAS: Okay. Thank you, Senator Krist. [LB66]

SENATOR KRIST: You bet. [LB66]

SENATOR COASH: Thank you, Senators. Senator Pirsch, you're recognized. [LB66]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Schilz would yield to a quick question. [LB66]

SENATOR COASH: Senator Schilz, will you yield? [LB66]

SENATOR SCHILZ: Yes, I will. [LB66]

SENATOR PIRSCH: Okay. So this...after the amendment, AM784, is applied, this ability to be effected here under your bill, that would take place only in federally owned former base...how is that defined again, the...? [LB66]

SENATOR SCHILZ: We've defined it as formerly used defense sites, and that is all that is covered under this bill. [LB66]

Floor Debate  
April 29, 2013

---

SENATOR PIRSCH: And that's pretty clear by using that terminology what is and what is not? That's a pretty clear line? [LB66]

SENATOR SCHILZ: Yes. Yes. There is a definition for that and that's why that term is used. [LB66]

SENATOR PIRSCH: Okay. And it's not necessarily, as I think Senator Krist pointed out, contiguous land then that the city can reach through this? [LB66]

SENATOR SCHILZ: In almost every... [LB66]

SENATOR PIRSCH: It cannot be...it doesn't have to be touching a municipality. Is that right? [LB66]

SENATOR SCHILZ: Correct. [LB66]

SENATOR PIRSCH: Okay. Is there a limitation, other than it has to be in the same county, in terms of where that base or former base was? [LB66]

SENATOR SCHILZ: You know, right now, as far as, you know, spatial considerations, yeah, it has to be within the same county and that's the only one that's there. Now the other stipulations that are on it as to how you form the SID, getting the county to go along, making sure that all these negotiations happen, that's still there as well. But as far as just where this can be in space, it has to be within the same county as the community that's doing it. [LB66]

SENATOR PIRSCH: Yeah. The same county, and some of our counties are big, especially ones like Cherry County. What would be some of the other limitations you said other than being present in the same county as the city that wanted to annex this area? [LB66]

SENATOR SCHILZ: Right. And I think that Senator Krist talked about that a little bit, about the SID process, how to go within that. We talked about the memorandum of agreement between counties and the municipalities that are going to do that, and Senator Dubas and Senator Krist also talked about the same sorts of considerations that comes in with school districts and how to handle that as you move forward. [LB66]

SENATOR PIRSCH: So the county would have to sign off on this type of an arrangement with a city that may, at least in theory, be hundreds of miles away from the target? [LB66]

SENATOR SCHILZ: I would say that that would be more like at most tens of miles,... [LB66]

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

Floor Debate  
April 29, 2013

---

SENATOR PIRSCH: Yeah. [LB66]

SENATOR SCHILZ: ...but, yeah, under...yes, you're right. [LB66]

SENATOR PIRSCH: Okay. Well, thank you. That gives me some degree of comfort then. So... [LB66]

SENATOR SCHILZ: Thank you. [LB66]

SENATOR PIRSCH: ...I'd yield the balance of my time to Senator Schilz, should he desire to use it, but... [LB66]

SENATOR COASH: Senator Schilz, 2 minutes. [LB66]

SENATOR SCHILZ: Thank you, Mr. President. Thank you, Senator Pirsch. There is one thing that I need to come back around and circle back around with, and I think that just to make this clear, and Senator Johnson asked the question of me before and I have misstated one thing. In the green copy we talked about cities of the first class being the only ones able to use this. As Laurie over here just told me, in the amendment we have broadened that out so that it can be any community that's out there: village, second-class city, first-class city. And I think that's right, but I do think that we need to move forward slowly on this. And I think that as these come out that we will see a slow movement forward. But it will be available to all communities and I think that's probably the equitable thing to do. [LB66]

SENATOR COASH: Thank you, Senator Schilz. Seeing no other members wishing to speak, Senator Murante, you're recognized to close on the committee amendment. [LB66]

SENATOR MURANTE: Thank you, Mr. President, members. I think we've had a good discussion this afternoon. AM784 is a reasonable, it's a responsible approach to addressing the concerns that Senator Schilz brought to the Urban Affairs Committee. As was mentioned, the green copy of LB66 was very controversial, but I believe AM784 accomplishes what Senator Schilz intended to do and does so in a way that is reasonable and appropriate. And I encourage your support. Thank you, Mr. President. [LB66]

SENATOR COASH: Thank you, Senator Murante. Members, you've heard the closing to AM784. The question before the body is, shall AM784 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB66]

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

Floor Debate  
April 29, 2013

---

CLERK: 34 ayes, 0 nays on adoption of committee amendments. [LB66]

SENATOR COASH: The committee amendment is adopted. We return to discussion on LB66. Seeing no members wishing to speak, Senator Schilz, you're recognized to close on the advancement of LB66. [LB66]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Appreciate the vote on the Urban Affairs amendment. I know...I appreciate the discussion today. I want to thank everybody for their questions. I would like to...one of the things that we talked about over here on the side is we were talking about what if there's multiple cities within a jurisdictional zone that maybe one of these sites is within. And you know, we don't like to think about it, but let's talk about Offutt Air Force Base. And in the law, the way that it's set up, if this bill passes, what will happen to happen is that those cities that all have that base within their "extrajurisdictional" zone will all have to agree to be able to move forward with any one of these communities doing that. Now I'm not saying that we should be looking for Offutt to, you know, disappear or anything like that, but it is good to know that there could be a tool in place to where all of these communities that surround that are able to work and able to move forward to create something or to fix a situation, if that should occur. Senator Krist was telling me, I think, of an Air Force base that was in Michigan and they were shut down, you know, through the BRACs formula, and they went out and they devised a program. They don't call it TIF necessarily, but they gave some support for it. And through the base closing, they lost 5,000 workers. Over time and with all the work of the communities and everything around that, in the end they gained over 8,000 employees that are working there now. So from the ashes, a phoenix can rise, and I think that's what we're talking about here. So with that, I would appreciate your green vote on LB66 and thank you for your time and consideration. [LB66]

SENATOR COASH: Thank you, Senator Schilz. Members, you've heard the closing to LB66. The question before the body is, shall LB66 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB66]

CLERK: 36 ayes, 0 nays on the advancement of LB66, Mr. President. [LB66]

SENATOR COASH: LB66 does advance. Next item, Mr. Clerk. [LB66]

CLERK: LB402 by Senator Mello. (Read title.) The bill was introduced on January 22, referred to the Natural Resources Committee, advanced to General File. I do have committee amendments, Mr. President. (AM684, Legislative Journal page 783.) [LB402]

SENATOR COASH: Thank you, Mr. Clerk. Senator Mello, you are recognized to open on LB402. [LB402]

Floor Debate  
April 29, 2013

---

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Currently, Nebraska ranks among the top five states in the country in potential development of wind energy. Despite repeated efforts by the Legislature to spur wind energy development, however, Nebraska continues to lag behind our neighboring states in wind development. LB402 is one of three separate proposals introduced this session dealing with wind energy, and I'd like to thank Senators Lathrop and Hadley for introducing LB104 and LB501 and for their work on this very important issue. Also I'd like to thank Senator Carlson and the Natural Resources Committee for making LB402 one of their two committee priorities this year. One of the key remaining barriers to the development of wind energy in Nebraska is the fact that equipment and supplies used by a private developer to construct a wind energy project are subject to sales tax in most circumstances. Currently, the only wind projects that can qualify for an exemption from sales tax are the those which qualify under the Rural Community-Based Energy Development Act, or C-BED. Under C-BED, the equipment and supplies used to construct a project are exempt from sales tax if at least 33 percent of the revenues from the project for the first 20 years flow to Nebraska residents, nonprofit corporations, or limited liability companies comprised entirely of Nebraska residents. Since the C-BED statute was adopted in 2007, only one utility-scale wind project has been able to qualify for the sales tax exemption. LB402 is designed to expand the C-BED law to allow more wind projects to potentially qualify for the sales tax exemption, which will help make Nebraska-based wind projects competitive with projects in neighboring states. With the committee amendment that replaces the bill, LB402 makes four primary changes to the existing C-BED law. First, LB402 reduces the percentage threshold from 33 percent to 25 percent, making it easier for private wind developers to utilize C-BED. At the same time, the bill redefines payments to the local community to include not just lease payments to property owners but also component parts manufactured in Nebraska and services provided by Nebraska-based companies. This change has the practical effect of promoting broader economic development than just the windfarm itself, encouraging the manufacture of wind turbines and other components here in Nebraska. In exchange for expanding the payments to the local community to include these inputs, the bill removes local property tax receipts from the definition. LB402 would also loosen the restriction on what types of business entities could meet the definition of qualified owner under C-BED. Currently, the only type of corporate structure allowed under statute is a nonprofit corporation or an LLC comprised of Nebraska residents. LB402 adds domestic corporations organized and domiciled in Nebraska, as well as cooperative corporations domiciled in Nebraska. This change allows a Nebraska business to undergo a C-BED project regardless of their chosen corporate structure but still stays true to the original intent of C-BED that Nebraska's citizens would be the primary beneficiaries of wind energy development in our state. Finally, LB402 would expand C-BED to include renewable energy projects using solar, biomass, or landfill gas as a fuel resource. In addition to the substantive changes, LB402 includes a variety of cleanup provisions designed to consolidate the C-BED law in Chapter 70 of Nebraska Revised Statutes.

Floor Debate  
April 29, 2013

---

Currently, the definitional language exists in both Chapter 70 and Chapter 77; and LB402 would leave the definitions in Chapter 70, with Chapter 77 simply referring back to those definitions. Looking at the committee statement on LB402, the bill enjoys broad support from a wide spectrum of businesses and organizations involved in the development of wind energy in Nebraska. Big wind developers, small wind developers, landowners associations, agricultural organizations, environmental organizations, and public power can all be counted amongst LB402's supporters. While C-BED has traditionally been an incentive for small wind development projects, LB402 fundamentally transforms Nebraska's C-BED law into an incentive that can work for wind development projects of all sizes. Not only does LB402 greatly simplify the process of qualifying under C-BED, it maximizes the economic development impact of wind development by encouraging the use of inputs from Nebraska businesses in that development. Colleagues, as we discussed at length in the debate on LB104, the potential expiration of the federal wind energy production tax credit makes it critical that the Legislature take action to encourage wind development this legislative session. While I'm a strong supporter of both LB104 and LB402, I believe that LB402 represents a good policy going forward. The C-BED concept, while underutilized, is a well-known incentive both in Nebraska and in a number of other states. Because LB402 is a revision of an existing incentive and not necessarily a new one, I believe that it represents a very viable vehicle for us to promote Nebraska wind at this moment in time. I'd urge the body to adopt and advance LB402 to Select File. And ultimately, in a recollection, so to speak, of dialogue and debate on Senator Lathrop's LB104, as I mentioned in I think a good amount of dialogue between Senator McCoy and myself, I fully anticipate if LB402 moves to Select File that Senator Lathrop, Hadley, and myself have all an agreement that we would sit together and bring the various interested parties to the table to figure out what the best path may or may not be in regards to both of our approaches to wind energy development. Obviously, as someone who has supported Senator Lathrop's LB104, I present you LB402, which is a different take in regards to wind energy development, utilizing the C-BED law that a good number of you passed in your first year in the Legislature in 2007. I look forward to the dialogue today. I have an amendment to the committee amendment that I'll speak on later. But as I mentioned on the General File floor debate on LB104, this is not an either/or situation. At this moment in time, my hope would be both bills obviously would get to General...get to Select File, and we sit down and figure out a way to make wind energy development a priority this session and make sure that both bills accomplish what we originally both intended it to do, which is to ensure that our state is primed for wind energy development both for large export projects as well as other smaller projects that are in-state and focused on our unique public power system. Once again, colleagues, I'd urge you to adopt LB402. Thank you, Mr. President. [LB402 LB104 LB501]

SENATOR COASH: Thank you, Senator Mello. As the Clerk has stated, there is a committee amendment. Senator Carlson, you're recognized to open on the Natural Resources Committee amendment. [LB402]

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. AM684 would become the bill which Senator Mello has really already explained in detail. The amendment is principally a refining of the original bill to ensure that this policy shift on C-BED is workable. The Natural Resources Committee has been supportive of community wind projects from the beginning because of the potential for local economic development. The committee selected this bill as a committee priority because it presents a way to make the C-BED concept work in a way that will lead to more renewable energy development while still ensuring that economic development benefits will flow to the local communities. The bill, as amended, had widespread support at the committee hearing from the original C-BED supporters to larger wind developers. There was one portion of the committee amendment that I want to address. In the definition of community-based energy development projects, the committee saw fit to include an energy generation project using a low-emission fuel source that reduces the overall carbon emissions of the regional generation system as the fuel source. As we discussed during the debate on Senator Lathrop's LB104, this term was considered due to the need for reliability when renewable energy is the source of generation. The committee believes that the concept is worthy of discussion but we realize that allowing it into the context of this bill causes some issues. Senator Mello has introduced and I will support an amendment to the committee amendment that will remove the phrase. The need for low-emission generation to support renewable energy generation is a matter the Natural Resources Committee will look into and discuss as a separate issue in a future session. With that, I would ask for your support of AM684 and the underlying bill LB402. Thank you, Mr. President. [LB402 LB104]

SENATOR COASH: Thank you, Senator Carlson. Mr. Clerk. [LB402]

CLERK: Mr. President, Senator Mello would move to amend the committee amendments with AM740. (Legislative Journal page 794.) [LB402]

SENATOR COASH: Senator Mello, you're recognized to open on AM740. [LB402]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM740 strikes the provision in the committee amendment that would allow C-BED to be utilized for generation using a low-emission fuel source that reduces the overall carbon emissions of the regional generation system. This language was similar to the language that Senator Smith had proposed in AM1123 during last week's floor discussion on LB104. Following the advancement of LB402 by the Natural Resources Committee, the Power Review Board had contacted the committee staff as well as my office with concerns regarding this specific language. Under the current statutory structure, a C-BED project is approved by the Power Review Board through a special generation process; but these statutes only allow for the approval of wind, solar, biomass, landfill gas, methane gas, hydroelectric, and emerging technologies. After reviewing these

Floor Debate  
April 29, 2013

---

concerns from the Power River Board as well as from public power, I spoke with Senator Carlson and other members of the Natural Resources Committee about this amendment that would strike the language, and many of them obviously agreed in support of it, of removal of this provision from the committee amendment. While the language being stricken by AM740 is opposed by the supporters of LB402, I do want to recognize Senator Smith for his discussion that has been generated as a result of this language. Like wind, natural gas will undoubtedly play an important role in our state's energy future, and Senator Smith has helped begin a very important dialogue in moving forward beyond LB402. With that being said, I'd urge the body to adopt AM740 to the committee amendments. Thank you, Mr. President. [LB402 LB104]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to LB402, the committee amendment, and the amendment to the committee amendment. The floor is now open for debate. Senator Hadley, you are recognized. [LB402]

SENATOR HADLEY: Thank you, Mr. President, members of the body. It's interesting we have two bills that both want to improve Nebraska when it comes to wind energy. They take two different tacks. With our fiscal note process, they both have fairly significant fiscal notes. I feel a little bit like Solomon trying to split the baby here, because I think the C-BED legislation does work--or hopefully it will work. First of all, our projects. I think the jury is still out on that. The original C-BED, I went back and read a little bit about it, and it promised a lot of things in 2007 that haven't come through. The other bill that is to...an amendment to the Advantage Act does have the ability to get large-scale wind projects that I'm not sure LB402 is the correct tool to do. And we've talked to companies that have these large-scale projects and they have two concerns. One is the local ownership concept. It would be like any company coming to Nebraska to do business, and we say to them, by the way, you've got to sell 25 percent of your business to Nebraska owners. The second is from some of these \$300 million projects, they don't think it's physically possible to buy 25 percent of the items from Nebraska producers. So I think they're both good bills. I think they're aimed at different segments of the market. But obviously we're going to have a problem because we'll have a fiscal note, if we pass both of them, of \$14 million on wind energy. So it's going to take some concerns. Would Senator Mello yield to a question? [LB402]

SENATOR COASH: Senator Mello, will you yield? [LB402]

SENATOR MELLO: Yes. [LB402]

SENATOR HADLEY: Senator Mello, I'll yield the rest of my time. Could you tell us why the C-BED that seemed to be passed in 2007 with a great deal of hope and promise, to say the least, has not worked out to what it should have been? [LB402]

SENATOR MELLO: Well, that's a great question, Senator Hadley, and I'll do my best

Floor Debate  
April 29, 2013

---

since I was not in the body during that floor debate which the bill did pass 49-0 and ultimately was signed by the Governor. My understanding in us drafting LB402 and the changes that we're making to the C-BED statute, the first is the corporate structure that when C-BED was originally created there was...it was limited in regard to the kind of corporate structure that an entity could be in Nebraska to qualify for that sales tax exemption for the project. That was one issue that we tried to deal with in LB402 is to not pick, so to speak, or limit the business model or corporate structure model for an entity wanting to do a community-based wind project. That's the first component. The second component really is the change from 33 percent to 25 percent in regards to ensuring essentially Nebraska-based payments. It's something that...there was one successful 80-megawatt wind project done with C-BED, but ultimately that 33 percent threshold of making sure that that benefit has to be derived in regards to payments and everything else to local owners was difficult to do with some of the projects. So what we tried to do is we tried to change that language a little bit in the sense of lowering it from 33 percent to 25 percent. We'll still maintain and, obviously, I think, a very healthy focus of why the C-BED statutes were created and making sure local benefit stays in Nebraska. [LB402]

SENATOR COASH: One minute. [LB402]

SENATOR MELLO: The other change, though, was to take...was to expand what would qualify for that to encourage the...I would say, to encourage the by-products of what would happen with a community wind project. Most importantly, payments to Nebraska-based services, Nebraska-based vendors, as well as Nebraska-based manufacturers in regards to the creation of the turbines and machinery needed to build a windfarm. By buying locally, in theory, through the C-BED and utilizing local services, whether it's the attorneys, whether it's CPAs, whether it's developers, those would ultimately make it easier for these projects to utilize this existing sales tax exemption. Those are essentially the two main components of the bill, which once again it's our hope that it would make it...once again it would incentivize a little bit easier for developers, big or small, so to speak, to be able to utilize C-BED in comparison to the little it's been used so far. Hopefully that answers your question. Thank you, Mr. President. [LB402]

SENATOR COASH: Thank you, Senator Mello. Senator Janssen, you're recognized. [LB402]

SENATOR JANSSEN: Thank you, Mr. President and members, and thank Senator Mello for bringing this bill to us today. In fact, you know, the more I hear about it, having an exemption in place or having a policy in place that is underutilized or not being utilized, definitely needs to be tweaked, should be tweaked. And I think we're going down the right road with LB402. Would Senator Mello yield to a question? [LB402]

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

Floor Debate  
April 29, 2013

---

SENATOR COASH: Senator Mello, will you yield? [LB402]

SENATOR MELLO: I would. [LB402]

SENATOR JANSSEN: Thank you, Senator Mello. And I was listening to your opening. I was off the floor. You said, now 25 percent of the items would now have to come from Nebraska-based businesses with the amendments and how you acknowledged the board membership. Is that...that's correct? [LB402]

SENATOR MELLO: Correct. [LB402]

SENATOR JANSSEN: Okay. Would you see...and I didn't read all the testimony from your hearing, but was there testimony about companies that would either expand to meet that? I mean, I'm talking about companies that are in Nebraska now that would qualify, that would expand; or even companies that would come here and create economic development by startup of new businesses? [LB402]

SENATOR MELLO: There was a variety, Senator Janssen, of testimony that I think talked about a variety of different levels of the bill itself. The 25 percent local payment issue ultimately is something that once again there's only been one project that's reached the 33 percent threshold. And by expanding what qualifies for that local payment and lowering it slightly, the thought was that would make it easier. Now, once again, there's a process, because C-BED projects have to go through the Power Review Board. There's a lengthy process that gets involved before a project becomes...ultimately comes into fruition. And so once again, we...to some extent there was no...I can't say that there was exactly one project we know that's in the pipeline with this. I can't say exactly that it's one from out of state or it's an in-state developer. We worked with developers who are in-state and out-of-state developers as well as landowners and everyone else to try to find a way to move forward that created I think more of a climate for wind development to occur. [LB402]

SENATOR JANSSEN: Well, and I...it was by no means a gotcha question. It was just more...I was just interested to see if that was kind of part of the genesis behind the bill. And when we talked about...you talked about...we talk about LB402 and LB104 coming together. How would you see...I've looked at the two fiscal notes. How would you see them, I guess as quickly as you can, how would you see them blending together? [LB402 LB104]

SENATOR MELLO: Well, once again, I can't speak for Senator Lathrop and I can't speak for Senator Hadley. I do believe that they're both, I think... [LB402]

SENATOR JANSSEN: I mean more budgetary than... [LB402]

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

Floor Debate  
April 29, 2013

---

SENATOR MELLO: Well, ultimately, as I mentioned on the floor when Senator McCoy asked these questions on LB104, I don't see both bills passing in their current state, which the fiscal notes are based on their current copy or their current adoption of the committee amendments, which becomes the copy of the bill...version of the bill. So I don't see both bills coming through with that size of a fiscal note. As I mentioned on LB104, there will be changes, no doubt, to probably LB104 and LB402. But that's something that we have to negotiate I think amongst everyone who's been involved in the wind energy development legislative agenda for the year. [LB402 LB104]

SENATOR JANSSEN: And I appreciate that and I got a little bit of pause for concern when I was reading an article, I don't know, but this was in the World-Herald the other day. And one of the companies on LB104 said that they were going to get \$15 million in tax breaks and not what the fiscal note said. Now I looked further into that, and if I look further into that I'd have to think they're talking about possible federal tax breaks as well outside of that. So not a gotcha moment there either. Just it was a little bit of pause for concern of how can we afford...I'm not saying one wind policy is bad or one is good or whatnot. I think they both have merit. I just get concerned when it comes time to pay for them and how we can use them. And I do like the approach of LB402 using Nebraska-based companies and expanding that. And I think it would perhaps lead to companies not only expanding their operations that deal with wind energy,... [LB402 LB104]

SENATOR COASH: One minute. [LB402]

SENATOR JANSSEN: Thank you, Mr. President...but bringing companies here to our rural parts of the state. And with that, I'll yield the balance of my time to the Chair. [LB402]

SENATOR COASH: Thank you, Senator Janssen. Senator Schilz, you're recognized. [LB402]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. This is an issue that the Natural Resources Committee has dealt with for a number of years with, and it's been...in my opinion, it's been kind of a long haul. The changes that were made when C-BED first came into existence in 2007, or '06, before my time, took that first step to make sure that we looked at how not only to bring wind energy development to the state of Nebraska but how to incent that development to come from Nebraska resources as well as Nebraska companies. And I think that's important. I think LB402 sets out that it is much more beneficial for Nebraska if there's Nebraska resources involved in some of these things. It makes sense to me. I also like the idea of enticing manufacturers to come in as well. And if it's Nebraska resources that are going into this and Nebraska manufacturing that are building these turbines and other related facilities and structures, then that can only help Nebraska first. And that's how I look at this LB402 and sort of in

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

Floor Debate  
April 29, 2013

---

the sense I look at LB104. I should explain a little bit that when LB104 came up, I think it's good for the body to know that I've been a proponent of wind energy for quite awhile. In my district, it's not about...(laugh), it's not about, quote unquote, green energy. It's about the ability and having the resources for economic development for smaller communities. You know, we heard about how, oh, this is a lot of money that comes in and it only provides a few jobs. Well, in places like Banner County, Nebraska; Kimball, Nebraska; Bridgeport, Nebraska, eight or nine jobs is a great economic development opportunity, especially when we talk about jobs of this caliber. You know, we've heard it talked about that the C-BED projects were mostly designed to help out the smaller projects. And while that may have been the reality before, as we move forward and as the changes have occurred in the C-BED law, we see now that C-BED can be used for as big a size of...you know, investment as big a size of development as is possible with the Nebraska resources. So I like the idea of enticing people to come to Nebraska, to put their manufacturing in Nebraska, to look for Nebraska interests to be a part of this. And that is why I like LB104. Since 2007, we've had a program, we've had a process, we have a structure that sits there that explains how to move forward and how to make this work. And yes, I voted for LB104, because that was the first bill that came up that gave us an opportunity to capture some of this investment that isn't coming here now. [LB402 LB104]

SENATOR COASH: One minute. [LB402]

SENATOR SCHILZ: Thank you. So LB104 came first and I voted for it. LB402 is up now and I will vote for that as well, but I think there's a lot of hard looking that we need to do to decide which way we want to continue down this road and down this path. And I think we can come together. I think we can figure it out. But there are certain things that are within LB104 that concern me as we start to get to very large projects. I'm very concerned that when we talk about very large projects that we may be looking at an opportunity for some of these companies to forgo the property tax that they could be assessed, and that is exactly why we want these projects to go forward. We need the property tax relief in rural Nebraska. So that's one of the areas that I will be paying very close attention to, to make sure that we don't have some sort of a chink in the armor that allows someone to be able to come in and take advantage of that and not pay the property taxes in those rural communities that need it so very much. Thank you, Mr. President, and I would encourage everyone to vote for the amendments... [LB402 LB104]

SENATOR COASH: Time, Senator. [LB402]

SENATOR SCHILZ: ...and LB402. Thank you. [LB402]

SENATOR COASH: Thank you, Senator Schilz. Senator Johnson, you're recognized. [LB402]

Floor Debate  
April 29, 2013

---

SENATOR JOHNSON: Thank you, Mr. Speaker (sic--President). And I, too, supported LB104 and am leaning toward LB402. I think the 33 percent down to the 25, at least provides maybe a few more opportunities. But I'd like to go back to a comment that I made on LB104, and I did get a short course from Senator Mello on legislative financing as it deals with initiatives, and he probably doesn't have to go through that again. But I'll present it in a little different manner. It shows in here as an expense...it's an expense that we are giving up this tax, sales tax. We're forgiving it so we don't ever bring it into the treasury and then disburse it. We give it back to the developer. So...but I...so if we didn't have LB104, we would not have incentives. If we don't have LB402, we don't have any incentives. I think what we really have to struggle with is we give up that money now. We abate the increase in the sales tax now. But we need to evaluate what that long-term gain is going to be, and I know we don't put that into the calculations. But if we believe in incentives, we have to believe that the end result is going to outweigh the incentive. And I think we have to struggle through that a little bit because, you know, we've got jobs. It doesn't come back to the state in quite the same manner, but whether it's sales tax to a local community, sales tax to the General Fund, or jobs in rural Nebraska, I think we have to add all those together and say the long-term gain of this incentive is very valuable and we will recover that. So again, the fiscal note says it's an expense and I understand how that's figured, because it's an incentive. But it's not really an expense. It's a forgiven income in order for a future gain, and I think that's the focus that we have to look at. Thank you. [LB402 LB104]

SENATOR COASH: Thank you, Senator Johnson. Senator Carlson, you're recognized. [LB402]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. As we have discussion on LB402, it is for C-BEDs, and we go back again to when we had the first bill that was to encourage C-BEDs to come into Nebraska, and it really hasn't happened on any kind of a large scale. I do think that the difference between 33 percent of the investment and 25 percent is an encouragement to possibly have more of these projects started. I think if we don't do this, C-BED may be on its way out. And some of you might think, well, that's okay; they didn't make it so it's good enough. But I think that there's some wisdom in pursuing LB402 and giving that change an opportunity to work. Certainly I also believe that LB104 is a bill for bigger projects, and like most of us, I've been called out into the lobby and been introduced to people that are executives in other companies on the outside that would like to come to Nebraska and invest a lot of money for wind energy based on LB104. So here we are with a decision that we've got limits here just like we've got limits in a lot of other things that we do. But I think rather than me make the judgment at this point that LB104 is better than LB402, I'm going to vote for LB402 and the amendments. And then I think as the appropriation process and when we get into the budget, there will have to be a decision made. And as happens with many times, rather than shut one completely out and have nothing, hopefully we'll

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

Floor Debate  
April 29, 2013

---

end up with some money to go in both directions for LB402 and LB104. And it's kind of a perhaps last effort and last warning for C-BEDs, and I hope that this will give them the opportunity to be successful because it is Nebraska-owned business in areas that need economic development. Thank you, Mr. President. [LB402 LB104]

SENATOR COASH: Thank you, Senator Carlson. Senator Davis, you're recognized. [LB402]

SENATOR DAVIS: Thank you, Mr. President and members of the body. I just rise in strong support of this bill. The C-BED model hasn't really had enough time, I don't think, to go forward. I think the tweaks that we're making to this are very beneficial. I look at...and I'm supporting LB102 (sic--LB104) also. But I think if you look at what we're doing with the C-BED, in so many ways our economy in Nebraska is kind of a colonial economy where we ship raw materials out and they're finished somewhere else. And this C-BED model gives us the opportunity to have more of that profit centered within the state of Nebraska. And the tweaks that I think have been done to this bill are good ones, so I would urge the body to move it forward and pass it into law. And remember that, as Senator Johnson said, incentives are just that; it really isn't a cost to us as taxpayers. Thank you. [LB402 LB104]

SENATOR COASH: Thank you, Senator Davis. Senator Chambers, you're recognized. [LB402]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I want to remind my colleagues of something. First of all, before I remind you, I have never liked incentives. You're always kowtowing and cheesing up to the big shots. You do it by dangling a little bit of something over the rural community. They are so used to being given the back of the hand, that when you offer them a pot of gold at the end of the rainbow, they jump for it and they say, we've got to have this; we need it; it's going to do all of these wonderful things for us. I haven't tried to stop these bills and I won't try to stop this one. But remember, when we get to talking about the budget, if these things come into play, the same amount of time can be taken on these issues through the budget bill individually as could be taken here. I'm trying to listen without saying over and over what I've said: You all keep talking about your constituencies and the poor people in the rural communities and what they need; I'm concerned about my constituency in the city. The sales tax...you're rebating, you're forgiving, you're excusing. Call it anything you want to. You don't want to make these people that you care about, these big investors, pay sales tax. So you grovel, you crawl on your bellies, you beg them, you plead with them; if 33 percent is not good enough, 25 percent, 18 percent, 2 percent, whatever that percentage relates to. And they mock and they scoff. They play you like a yo-yo. I'd like to ask Senator Mello a question. [LB402]

SENATOR COASH: Senator Mello, will you yield? [LB402]

Floor Debate  
April 29, 2013

---

SENATOR MELLO: Yes. [LB402]

SENATOR CHAMBERS: Senator Mello, if this bill passes, it has your name on it, how soon do you expect a project to come into being under this bill? Since everybody is talking to these investors and people are so eager to take advantage of it, when do you envision a project coming into being? [LB402]

SENATOR MELLO: Senator Chambers, I'm not aware right now of any other project except one that's currently being worked on in Burt County, I believe, in Senator Brasch's district, which is a 10-megawatt project, which is currently in the process of trying to get a power purchase agreement which may be able to utilize this project...or maybe be able to utilize LB402 changes, if it passes. If it doesn't pass, they may still try to be able to utilize the existing C-BED statute that has it at 33 percent and it limits the corporate structure. But that right now is the only project for certain, that I'm aware of, that would be able to utilize LB402 in this short term. [LB402]

SENATOR CHAMBERS: And that project was underway before this bill was even introduced, wasn't it? [LB402]

SENATOR MELLO: Correct. [LB402]

SENATOR CHAMBERS: So was this bill introduced to help that project, and all this other is fluff and just talk? [LB402]

SENATOR MELLO: No. [LB402]

SENATOR CHAMBERS: You actually expect other projects to come in under this bill? [LB402]

SENATOR MELLO: My hope would be, Senator Chambers, that this would spur I think projects that need to start in Nebraska that are not going to be the super-large, 200-megawatt windfarms. But there's a significant number of smaller projects that this would help hopefully spur as wind energy development occurs across rural Nebraska. [LB402]

SENATOR CHAMBERS: Excuse me. [LB402]

SENATOR MELLO: That one project in Burt County is the only one I know for certain that currently is through that pipeline which takes a little bit of time to get through. [LB402]

SENATOR CHAMBERS: So my time won't run out, have you talked to any of the people

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

Floor Debate  
April 29, 2013

---

who are thinking about these smaller projects who have said, if you get this bill we're off and running? [LB402]

SENATOR MELLO: I've not had a conversation with someone that said, if you pass this bill, we will do X. No. [LB402]

SENATOR CHAMBERS: How do you know they exist? You used the word "hope." But do you have more than a hope? [LB402]

SENATOR COASH: One minute. [LB402]

SENATOR MELLO: Well, Senator Chambers, I think this is a change to the existing C-BED statute that was passed in 2007, and we've only seen one project be able to utilize this statute to date. The thought is, is that there are other projects that are currently trying to be worked on in the sense of developing the financing mechanism hopefully to be able to get a power purchase agreement with our public power system. But that ultimately takes time. [LB402]

SENATOR CHAMBERS: Here's what I'm asking: If these other projects...have you talked to anybody who is envisioning bringing one of these types of projects into being and they're saying the only thing stopping them is that they don't have a bill like this? [LB402]

SENATOR MELLO: I've talked with wind developers in the sense of wanting to do projects in Nebraska, but they're not saying that LB402 is the end-all be-all I would say of legislation to make that occur. It would help facilitate the process, easier for them, but it's not simply a matter of if you pass this bill we will build it. [LB402]

SENATOR CHAMBERS: Thank you. And I know my time is up. Thank you, Mr. President. [LB402]

SENATOR COASH: Thank you, Senator Chambers. Senator Brasch, you are recognized. [LB402]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. And, Senator Chambers, that was a good question. And, Senator Mello, yes, absolutely I do have a group of constituents in Burt County who are very engaged, already investing, and actively working on a wind energy project that they're very excited about. And it happened on my drive home back to our farm on Thursday evening that I did receive a phone call from this young farmer working on this project, and they followed up with an e-mail or he followed up this morning. And in here he writes that C-BED is designed to aid local renewable energy production. He's very innovative. They're looking at this as an investment, more economic development. It's innovation and opportunity for

Floor Debate  
April 29, 2013

---

individuals, farmers, people across Nebraska to enter into the next age of renewable energies, bio energy, all energy is going to become more and more valuable and much more needed in the future. It was interesting to read besides this young farmer thinking about how C-BED can help and how valuable it is to them, he also wrote a good little commentary here that I thought I'd just share here. He hopes that I had a good weekend and they talk about their farm. At the farm we struggled all weekend getting the planter to work, but I did plant 68 trees. I hope others planted trees on Arbor Day here. And he also planted an orchard at his parents' house. They battled a controlled burn that got out of control and they took the Steiger out with the disk through the smoke and contained the flames. Again, energy commitment...and I know this is at least a second- or third-generation farmer that is looking at LB402 with hope and expectations of doing more work besides the farm. I would hope that you will support LB402. I am supporting both bills that we had, the one last week; and I spoke with them again, can you support both? And they said, absolutely, that that was the right thing to do. So I do ask for a green light. I want to thank Senator Mello for introducing LB402 and others on Natural Resources for their thoughtful consideration of this bill. Thank you, colleagues. [LB402]

SENATOR COASH: Thank you, Senator Brasch. Senator Scheer, you're recognized. [LB402]

SENATOR SCHEER: Thank you, Mr. President. I spoke last week on LB104 and I'd just like to say a few things in regards to LB402. You know, there's no guarantees for any of these. But if you look around Nebraska, let's look at our neighboring states. Iowa has 5,137 megahertz (sic--megawatts); Kansas, 2,712; Colorado, 2,300; Wyoming, 1,400; South Dakota, 784. And Nebraska is sitting at 459--less than half...almost half of what our lowest neighbor is already producing. What I look at this as maybe there's no guarantees, but it's a heck of an advertisement. You know, if we were out trying to sell hamburgers for \$3 apiece and it was pretty slow sales, you'd have to think about what could you do to stimulate some additional sales? Or in this case, growth. Well, if you were willing to sell your hamburgers for \$1, you probably would have to assume you're going to sell a lot more \$1 burgers than you would \$3 burgers. But if you don't let anybody know that you've changed your philosophy, your marketing, how would they ever know? We have to change our marketing, we have to change our philosophy to make sure that the investors and people that are building these projects take another look at Nebraska and know that we've changed our format. You can't expect them to continue to call us and say, hey, have you changed anything? We've got an investment we'd like to make and a project, but just wanted to see if you've changed anything in the last year or two? That's not their job. We have to make sure people are aware of what we're doing. We need to stimulate that. You know, we just need to do a better job of making sure that those developers and those investors that are here in the state of Nebraska know that Nebraska is a great place to do business and that we're wanting to open it. You know, we talk about losing the investment on the sales tax. Well, from my perspective again, you don't lose anything that you've never had. And even if this...even

Floor Debate  
April 29, 2013

---

if the investment of the \$300 million or \$400 million went flat and they never made anything and we didn't lose anything, think of the dollars that were generated during that construction period. That's additional dollars not only to those communities but the state. This truly...these type of deals are no lose. And yeah, from an accounting purpose, we have to make sure that we account for those \$7 million of lost revenue here or the \$15 million there, but you don't really, when we stop and think about it, you don't lose dollars that were never going to be in the coffers. But what we can do is anticipate those additional dollars from construction costs. And yes, Senator Schilz is exactly right. Nine jobs to Omaha, Nebraska, is not a big deal. Nine jobs to Bayard or Burwell, that's a big deal. And those children and those families that move in and buy the houses, those are a big deal. It's economic development again for rural Nebraska. I sympathize with Senator Chambers. I can't help him with north Omaha but I would be glad to look at anything that somebody comes up to help stimulate their economic development in that area as well. But we can't hold back other parts of the state simply because that part of the metropolitan area is slower moving than the rest of that community. This is economic development for rural Nebraska. Let's get behind it and let's support it. Thank you, Mr. President. [LB402 LB104]

SENATOR COASH: Thank you, Senator Scheer. Senator Chambers, you're recognized. [LB402]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I don't want to take from my rural colleagues and these investors the pot of gold that the leprechauns have told them will be found at the end of the rainbow. I never believed in Santa Claus. My children didn't believe in Santa Claus. They believed in Daddy Claus and they lived with Daddy Claus every day of the year and didn't have to wait till one day to be shown that consideration. I don't want to rain on the parade of my rural colleagues who are convinced that at last Nirvana, the Millennium, all of the good things anybody could ever hope for, is in those turbines. So instead of having an idol carved from wood, you now have a technological device which has taken the place of this god of all the largesse which is going to benefit the rural people. I wonder if the rural people, the populace, are as confident as those on this floor in thinking that their salvation, economically speaking, is in these wind devices. What they might say is, the dreams that we had when we sent those representatives down there are now gone with the wind. All this talk of wind energy, everything is speculative, everything is based on a hope. I'm not going to sing the song but there's one: "Wishing and hoping and thinking and praying." That's what this kind of legislation consists of. When they were saying C-BED, I didn't know they were talking about the letter C hyphen B-E-D. I thought they were talking about sea, s-e-a-b-e-d, because you know what you find on a seabed? You find a lot of sand. And that's what I thought they were talking about; they're going to bring the sand right into the rural areas. And I said to myself, well, that makes as much sense as anything else as they've come up with these crackpot notions. But this is that desperate hope. Nobody knows of a project that is going to come into being as a result of this bill passing, if it

Floor Debate  
April 29, 2013

---

passes. It's been like that ever since I was in the Legislature. Always: This is going to work; well, this didn't, that did; but it didn't. Has anybody stopped to think and put this stuff together when they hear how so much and so much of the economy is based on small businesses? But then when you have these kinds of bills, even when you call it helping a smaller big shot, the little business people who cannot qualify have to contribute to subsidizing the one who's going to run them out of business. You don't say that since this little business cannot qualify for all these exemptions and Nebraska Advantage or even some of the rural businesses, because they're the wrong kind, they still have to pay taxes. They have to pay the taxes that these big shots don't pay. When you need a certain amount of money in the pot and the big shots don't put the money there, it's got to come from somewhere. And these small businesses upon which so much reliance is placed have to put into that pot... [LB402]

SENATOR COASH: One minute. [LB402]

SENATOR CHAMBERS: ...and make up for the money that their big competitors are not putting into the pot. If Cabela's could get some money, then the small shot has to pay for the big shot. If Walmart, K-Mart, Skagway, or any of them, if they're big enough, then they can make the little business people subsidize them. You all have never thought of that? It doesn't occur to you? You think in terms of the big shot but you'll never be a big shot. And by identifying with the big shot, even though you'll never be one, you cannot look at the people who are harmed by these programs that benefit the ones who will take this country down eventually, economically speaking. The scandals in the banks in the mortgage lending agencies...and there was a figure given the other day: The top 7 percent of those who hold wealth in this country have had their worth go up by 28 percent. It has gone up, the top 7 percent of wealthy people. And for the ordinary people that we supposedly represent, on the whole... [LB402]

SENATOR COASH: Time, Senator. [LB402]

SENATOR CHAMBERS: ...has gone down by 4 percent. Thank you, Mr. President. [LB402]

SENATOR COASH: Thank you, Senator Chambers. Senator Hadley, you are recognized. [LB402]

SENATOR HADLEY: Mr. President and members of the body, speaking of this bill, one of the concerns I have about the bill is the fact that we're going to require 25 percent to be basically purchased local. We have a lot of firms in Nebraska that export their products. They sell to a lot of other states. Does this become the possibility that we then have other states say, okay, we will put similar bills in our legislature and pass them, that our companies must buy within our state? Remember, back in your economics classes and they talked about protective tariffs where you try to protect your industries?

Floor Debate  
April 29, 2013

---

I don't know. Do we want Behlen's or Nucor or those kind of companies to get in a position where they're harmed because other states say, I'm sorry, we've got to buy local? I thought the economy system worked from a free economic system. What would we think of our agricultural system where we said to our agricultural people, you must buy within Nebraska? They might say that they don't like that. The second thing, Senator Chambers talked about a potential user of it. LB104, we have a potential user of it. It's a \$300 million investment. I would like that sometime when Senator Mello is on the mike, does he think that this company will be able to use the C-BED legislation to do their product here? And remember, they are under the December 31, 2013, doing away with the production credits. They go away unless they're changed. Last time it was a last-minute deal on the fiscal cliff that kept them. So this company that we talked about in LB104 has to do it this year. Thank you, Mr. President. [LB402 LB104]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Hadley. Senator Avery, you are recognized. [LB402]

SENATOR AVERY: Thank you, Mr. President. The debate the other day on LB104, we heard some criticism of that bill about the wisdom of giving tax incentives to out-of-state companies. And I voted for that bill knowing that the bill carried some risk. Of course, you can say that about a lot of bills that we pass. The risk was that it might not work, that the big wind energy projects may not materialize. Risk, too, was expressed that we might be forgoing significant sales tax revenues that could outweigh the benefits generated by these new projects. I remember well the debate in 2007 on the C-BED bill. And like Senator Chambers, at first I thought, too, the reference was to s-e-a beds until I took a close look at the bill. I voted for that bill and I hoped for the best. And again, Senator Chambers is right, we were basing a lot of our votes on hope. It appears that we haven't gained much from that C-BED legislation, but at the same time we haven't really lost anything. What I liked about the 2007 bill was the Nebraska ownership feature and the promise that we would gain jobs in rural Nebraska. I have devoted a lot of my time in this Legislature over the past seven years to working with my rural colleagues on these kinds of issues, and I will probably vote for LB402 and for many of the same reasons that I supported the C-BED legislation in '07. This bill, too, is a risk, but risk must be taken to contribute to economic development, partially in rural areas where it is so difficult. I again express the hope that this will work and that it will meet a need for at least adding something to the mix in wind energy production in our state. The original C-BED legislation was designed to promote small projects. LB104, as I understand it, is designed for large projects. This redefinition of C-BED legislation suggests to me that it might fall somewhere in the intermediate-size project. Maybe that's the sweet spot that we're looking for. There is no doubt that we gain ultimately from alternative energy. If we generate alternative energy, we are better off; the nation is better off. This bill it seems to me might promise a little bit more than what was

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

Floor Debate  
April 29, 2013

---

promised in the 2007 bill. It also provides a solid companion bill to LB104. So I will vote for LB402 and again expect and hope that we get what is promised, and get what is promised by this bill, with the understanding that we might once again be disappointed. But I would agree with one of the speakers a while ago, we don't lose anything. I think this was Senator Johnson. We don't lose anything if the projects... [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR AVERY: ...don't come to fruition, and we don't really lose anything by forgiving the sales tax, because that is sales tax receipts we don't have without the projects. So with that, Mr. President, I intend to vote for the underlying bill and for these amendments. Thank you, Mr. President. [LB402]

SENATOR KRIST: Thank you, Senator Avery. Mr. Clerk for a motion. [LB402]

CLERK: Mr. President, I have a priority motion. Senator Chambers would move to bracket the bill until June 5, 2013. [LB402]

SENATOR KRIST: Senator Chambers, you're recognized. [LB402]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, before I embark on this motion I want to touch on a word, a couple of things that Senator Hadley mentioned. He said that, and I'm paraphrasing, if you require this 25 percent in Nebraska, maybe other states will do the same thing. It's too late to worry about what state A is going to do in response to state B. The states gave that away when they foolishly allowed themselves to be put into competition with each other by the big shots who made them scramble to see how much of their state benefits they could give away to get a big company to come there. So now as soon as the company says, I'm looking for a site, then all of the states scramble and start offering to the company: If you come here we'll give you this. They say, well, so and so said they'd give me his dog, because everybody loves his dog; what will you give me? Well, I'll give you my dog, my cat, and I have a Shetland pony. So then somebody looks at that and says, I don't have any animals. So he says, I'll give you my wife. Now we're really getting down to where somebody is serious. So this one is going to give his wife; what will you give? I'll give my wife and my daughter and my granddaughter. Sold. The states are selling out. It's too late to even worry about that. When they were having these organizations where the state governments get together, they should have decided and agreed that they were not going to get into this competition. But that wouldn't work because when you try to get farmers or any group of producers to agree--now, I'm not talking about price fixing--that you're not going to hurt each other, then somebody says, uh-huh, if those suckers are not going to produce a lot of corn, then I'm going to produce a lot and I'll make a killing, and by the time they catch on, I've got mine; I'm gone and I'm out of the picture. So it's never going to work. Senator Hadley mentioned something about the free

Floor Debate  
April 29, 2013

---

market. That's what I always hear from people who are capitalists and would-be capitalists. How in the world are you going to talk about a free market when it's not free? They're subsidized. You think free market principles have anything to do with ethanol or ethanol has anything to do with that? Or the farming economy where they're subsidized? Without subsidies, they can't work. And you are going to jive the people and say this is free market? You're letting the market determine? You let everybody fail who cannot cut the mustard with the market. So you let the big banks, they want free market, no regulation. And then they...well, you all know what they do. I've got to get to this motion. I'd like to ask Senator Mello a question. [LB402]

SENATOR KRIST: Senator Mello, will you yield? [LB402]

SENATOR MELLO: Yes. [LB402]

SENATOR CHAMBERS: Senator Mello, is there an intrinsic, inherent, or essential contradiction or conflict between LB104 and LB402? [LB402 LB104]

SENATOR MELLO: I wouldn't say there's a direct conflict, inherent conflict. I think, Senator Chambers, both pieces of legislation seek to expand wind energy development in this state. One, my bill, LB402, utilizes an existing statute that was created by this Legislature in 2007 that was proven to try to ensure wind energy development in our state, saw the local benefits, so that it wasn't just outside developers coming in building wind farms, taking the profits outside of Nebraska. Ultimately, LB104 seeks to try to change our Nebraska Advantage Act, our incentive laws, which allows the investment into a renewable energy project to qualify for that very similar sales tax exemption. [LB402 LB104]

SENATOR CHAMBERS: Okay. Now this that they're seeking to do with LB402 doesn't have to have anything to do with that so-called Nebraska Advantage Act, does it? [LB402]

SENATOR MELLO: No. [LB402]

SENATOR CHAMBERS: There could be a freestanding piece of legislation that will do exactly what LB402 is talking about doing. Couldn't that happen? [LB402]

SENATOR MELLO: It could, yes. [LB402]

SENATOR CHAMBERS: And there is no thing in LB402 and no thing in LB104 which when you put them side by side will make them clash in an irreconcilable manner. Is that more or less true? In other words, they can complement each other. [LB402 LB104]

SENATOR MELLO: They could complement each other but there is the difference of

Floor Debate  
April 29, 2013

---

LB402 which requires that the 25 percent of payments to local communities which is not in LB104. That is a different and unique aspect of the C-BED law that when passed requires that. [LB402 LB104]

SENATOR CHAMBERS: Could that provision be restricted to the size of the project? Could it apply to projects of a certain size? In other words, if it can be done in a separate statute, it could be done in LB104 also, couldn't it, by way of an amendment. [LB402 LB104]

SENATOR MELLO: It could. Yes, Senator Chambers. [LB402]

SENATOR CHAMBERS: So why don't we get rid of LB402 now and then let those two groups get together and do everything in LB104? Why cannot that be done? [LB402 LB104]

SENATOR MELLO: Well, Senator Chambers, that actually may be what happens after...if LB402 advances to Select File, Senator Lathrop, Senator Hadley, and myself have all agreed to sit down with all of the interested parties who some ultimately are supportive of both bills, some are supportive of one bill over the other, to figure out what ultimately is the best method to move forward, understanding that LB402 changes our existing C-BED law. So we already have a sales tax exemption for renewable energy projects on the books. [LB402]

SENATOR CHAMBERS: So it could wind up, when all is said and done, with one bill incorporating the essentials of both of them. [LB402]

SENATOR MELLO: Yes. [LB402]

SENATOR CHAMBERS: Why don't we just...thank you, Senator Mello. Members of the Legislature, I tried to stay out of this one. Whether you believe it or not, I'm trying to streamline and facilitate the remainder of the session by having us use our time in an efficient manner. Why have two individual bills, when you're not going to wind up with both of them anyway? They both cannot survive. Parts of both may survive and probably will, and that's not going to happen with saying, cut certain things out of LB402 and we'll cut certain things out of LB104. Then we have two individual pieces of legislation when they both deal with the same subject but you're talking about projects of different sizes. When you had these giveaway programs, you would say that if it produced a certain number of jobs of a certain description they could get a certain benefit. Those that had smaller numbers of jobs were scaled down accordingly. Why don't you do it with one bill? Use your brains. But if you don't, then I see that you don't care about time. You don't care about using it efficiently. And I'm going to do just what I've always done in the past. Time means nothing to you; it means nothing to me. This is the first opportunity we have to do something that makes sense. We are supposedly a

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

Floor Debate  
April 29, 2013

---

deliberative body of intelligent men and women. To be intelligent means you act in accord with the principles of right reason. You want to reach a goal. There always will be more than one way to reach it when you're in a legislative setting. This that I'm offering is a bracket motion. That doesn't kill the bill. It can be brought up again prior to that date. [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR CHAMBERS: Why don't you let these people work together? They all agree; they're all in cahoots. And they can't work together? If they can't do it my way, what makes you think they're going to do it any other way? Thank you, Mr. President. [LB402]

SENATOR KRIST: Thank you, Senator Chambers. Senator Davis, you are recognized. [LB402]

SENATOR DAVIS: Thank you, Mr. President and members of the body. I have to say to Senator Chambers, I asked the same question of Senator Mello the other day, that I thought these two bills ought to be put together. And I would encourage that that might take place. But I wanted to address a few of the issues that Senator Chambers had brought up earlier with regard to this bill based on some information that I picked up in the lobby from a constituent of mine who lives up in Cherry County. Cherry County developed a wind association there approximately three or four years ago with the objective of developing sort of a wind coop. Once the NPPD transmission line was put in place, that transmission line will be going in sometime in probably 2017 or '18. So to answer Senator Chambers' question, this C-BED legislation is one thing that is going to work. It's just a few years down the road before Cherry County is ready, because you can't put the cart before the horse; but it's 430,000 acres. It's a huge development project for us out there and it will benefit rural Nebraska. I'd like you to think about the neighboring states if you ever drive around and look into them. There are a number of wind projects right on the border of Colorado, Wyoming, South Dakota. And if you remember going back to the 2007 legislation that there was quite a bit of opposition from public power entities in this state who were concerned about being forced to purchase the power. I think they've kind of developed a separate peace with that. So if I were Senator Chambers, I would probably look at this bill and say this is probably a bill that really will do something for Nebraska citizens. Maybe the other bill, maybe LB102 (sic--LB104) is going to be more for big power entities that are outside of the state and then they're going to get all the benefits and the money is all going to go somewhere else. But this one really will draw the money to our area. And just as a final note, you know, you talk about C-BED. Well, we've got all that sand out there so we wouldn't have to import it, Senator Chambers. With that said, I'll yield the rest of my time to Senator Mello if he has got any other comments. [LB402 LB104]

SENATOR KRIST: Senator Mello, you've been yielded 2:50. [LB402]

Floor Debate  
April 29, 2013

---

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And with all due respect to my friend and colleague, Senator Chambers, I do have a slight differing opinion in regards to his bracket motion. The reason being is I agree with Senator Chambers, in an ideal world we would be able to work out some kind of compromise in regards to one bill. But as I mentioned in my opening, Senator Lathrop's bill and Senator Hadley's bill was first on the agenda last week ahead of LB402. I stood up and said I would support the bill understanding that I have a separate wind proposal that looks to seek wind energy development in a different manner, in a different path, than what LB104 does. I think bracketing LB402 essentially says we want LB104 because the reality is for any of the supporters, the large number of landowner associations, environmental groups, business organizations, small Nebraska developers as well as out-of-state developers, to tell them essentially LB402 is bracketed and essentially won't be brought back this session means there really is only one bill available and there's really little negotiating room to figure out what's the best path forward to see wind energy development happen both in the short term, whether it's a large project as envisioned by Senator Lathrop's bill or maybe smaller projects but more of them in the long term, which may be envisioned under LB402. At the end of the day I think that dialogue doesn't really occur if one bill essentially doesn't get past General File and the other one does. I think any of us have known when we've been put in positions to try to negotiate and try to find and work out compromises in regards to sometimes similar yet opposing pieces of legislation, the reality is, is that you want to make sure that you're able to bring everyone on an equal footing. I'm not saying Senator Lathrop wouldn't do that. [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR MELLO: I'm not saying Senator Hadley wouldn't do that. But ultimately if LB402 is bracketed and doesn't move to Select File, the likelihood is the C-BED statute will not be changed and the focus will mostly shift to the Nebraska Advantage Act, which as I mentioned before is not a bad way to go. I just feel that LB402 provides a different flavor and a different perspective to keep more of our local investment in Nebraska. That's a difference comparison to LB104 that doesn't require that. I think that will be a sticking point that no doubt we will have negotiations and talks about if LB402 moves to Select File. So with that, I'd urge the body not to adopt the bracket motion and instead support AM740, the underlying committee amendment, and LB402. Thank you, Mr. President. [LB402 LB104]

SENATOR KRIST: Thank you, Senator Mello. Senator Chambers, you are recognized. [LB402]

SENATOR CHAMBERS: Mr. President and members of the Legislature, what I'm talking about and what my colleagues don't want to confront is trust, honesty, and

Floor Debate  
April 29, 2013

---

integrity. Is there really an intent to work out the differences that both sides--when I say sides I mean those who like LB104 and those who like LB402--are they really going to come together and work it out? We'll put them in a position where that's all they can do, and if the only way you're going to get those who are with LB104 to work it out is to pass a meaningless LB402 over to Select File, then you can do it. But I'm going to start taking time on all of them. I hear too much about how these groups are going to get together and talk. I watched what happened with the school aid bill, and there were other proposals and other notions floating around, and the people involved came together and presented us with one thing to work with and there still might be some discussions. But we don't have competing bills all over the place. In this case, all over the place comprises two competing bills. If they both are on Select File and LB104 adherents--I'm not speculating; this is a theoretical presentation--feel like they have the upper hand, they don't have to yield anything to LB402. And if LB402 gets angry, then they'll fight LB104. And so instead of coming together and working things out, they fight. If they fight, I'll be glad to get into it; and they'll want to quit before I want to quit once they provoke me. But here's what I'm trying to get across: It seems to me that my colleagues don't really trust each other, that they're being disingenuous. Maybe they're not. I prefaced that with "it seems to me." If you have mature, sensible people looking at the same subject and they know that both of these bills cannot pass...wait a minute, maybe they don't know that. Let me ask Senator Mello a question. [LB402 LB104]

SENATOR KRIST: Senator Mello, will you yield? [LB402]

SENATOR MELLO: Yes. [LB402]

SENATOR CHAMBERS: Senator Mello, in your judgment can both of these bills pass? [LB402]

SENATOR MELLO: I would say, Senator Chambers, in regards to the green copy versions and/or the amended versions by the committee, with the fiscal notes they have, I have a tough time seeing this body wanting to adopt roughly \$14 million in revenue changes for two wind bills. [LB402]

SENATOR CHAMBERS: Then if I'm Solomon, which baby should I slay? [LB402]

SENATOR MELLO: Well, as I mentioned on LB104 last week, I have a feeling that both bills can see changes, both Senator Lathrop's LB104 and my LB402, in the sense of seeing if there's a way to combine them that, one, would reduce their fiscal notes; and if that's the case, to see if there's a way to ultimately combine the bills into one. I don't think at the end of the day, for me, it's a matter of a...it's not a matter of pride of authorship. Ultimately I want to see wind energy development happen in our state at a much greater pace than it's happening now. The difference though is LB104 and LB402 do not take the same paths and do not adopt the same policy perspectives to

Floor Debate  
April 29, 2013

---

accomplish that. They may have the same goal but they come at it from two different ways. [LB402 LB104]

SENATOR CHAMBERS: So you're saying that two bills still will pass but through this negotiating each one will reduce its A bill, is that what you're saying? [LB402]

SENATOR KRIST: One minute. [LB402]

SENATOR CHAMBERS: Or that they're going to be combined into one bill? [LB402]

SENATOR MELLO: Senator Chambers, I'm not saying either bill will pass. One bill is on Select File and we're debating LB402 right now. So the hope would be that there would be a wind bill that would hopefully see some kind of Final Reading vote where we could ultimately see some development that occurs from the passage of that. At this moment in time, LB402 is the bill I've offered. It went through the Natural Resources Committee, in comparison to the Revenue Committee, which has a different perspective in regards to the renewable energy development in comparison to purely the tax changes that currently have been discussed in the Advantage Act bill. [LB402]

SENATOR CHAMBERS: That's the last question I'm going to ask you. I know my time is up, Mr. President. Thank you. [LB402]

SENATOR KRIST: Thank you, Senator Chambers and Senator Mello. Senator Brasch, you are recognized. [LB402]

SENATOR BRASCH: Thank you, Mr. President, and good afternoon again, colleagues. I have received information that there are two wind energy businesses in Nebraska ready for C-BED assistance. Call them credits, incentives. One is in Dixon County and then the other is in Burt County. They have been through every phase of implementation, from costs. They're right there at the point where they need to be to move forward. This is funding. We're not taking again money from anywhere else. It's an ability to make money. We're just asking government to tax less on these projects. They are startup. They are local. It's all the right reasons to bring in more opportunities in our rural areas and provide energy for every...anywhere, everywhere, for export, whatever the needs may be. In speaking with the constituent, they are very concerned if this would be bracketed. They've taken a long time...they had a lot of waits. They were ready months ago, I understand, to move forward. However, the process is very full of paperwork, wait, rush and wait type of things in their connectivity. Nebraska needs to invest in our innovation, and this investment is not giving them...writing them a check. It's just asking for them to have less tax burden placed upon them. Wind is a source of renewable energy, as is solar, as is oil and coal and biofuels. We need to be better investors in our future. Again I do ask for your support of LB402. I am against the bracket. It would again place this at a position where Nebraskans, local Nebraskans

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

Floor Debate  
April 29, 2013

---

with wind energy will be at a disadvantage. Please vote against the bracket and continue your support for LB402. Thank you. [LB402]

SENATOR KRIST: Thank you, Senator Brasch. Senator Cook, you are recognized. [LB402]

SENATOR COOK: Thank you, Mr. President, and good afternoon, colleagues. I rise in support of LB402 and against the bracket motion. I had the opportunity in my freshman year and sophomore year, or I guess it's your second semester freshmen year, technically, to serve on the Natural Resources Committee as a city girl on the Natural Resources Committee. In addition to becoming educated on issues like trapping in the ditch, I had the opportunity to get an education on how Nebraska prepared its historic legislation related to setting the stage to maximize wind energy here in the Saudi Arabia of wind. I also, in my spare time--rather a glutton for punishment perhaps this time of year--I'm reading a book called The New Jim Crow. And it points to a thesis about sentencing disparities and links it directly to a loss of manufacturing jobs in urban centers. And there's a part of my district where that is very, very evident. You don't have to look too far to find people who have unemployment rates well above the state's and the nation's highest unemployment rates, and they simply haven't had access to the same manufacturing jobs that would have brought their previous generations up from the South and kept them well-employed, well-housed, and their families together. I rise in support of LB402 because, like my colleague Senator Scheer and other senators, I would be ecstatic to have nine jobs to a person who has been previously gainfully unemployed--a job that could keep a family together, a job for which they could get training at the community college or on-the-job training with a manufacturing environment. So once again I rise in support of LB402. The opportunities for gainful employment, ongoing career training, everything that flows from that economically and within our communities societally, I rise in support of that. Thank you, Mr. President. [LB402]

SENATOR KRIST: Thank you, Senator Cook. Senator Lathrop, you are recognized. [LB402]

SENATOR LATHROP: Thank you, Mr. President and colleagues. It might be a good time to talk about the difference between LB104 and LB402 and what they're...the dynamics at work in the two different bills. LB104 is intended to target large projects, primarily large export projects. And when you understand what that's attempting to do, it's trying to level the playing field between us and states that have the same kind of wind potential we do. So the groups that look at the possibility of bringing in a \$300 million project, they can put that in Kansas and Oklahoma that don't have any requirements nor do they have sales tax on the inputs. They look at Nebraska and they say, we need LB104 to level the playing field and then we can play in Nebraska and we'll be there. LB402 does something else. LB402 tries to say, in my opinion, we want

Floor Debate  
April 29, 2013

---

wind development and we want to make sure that before it happens there are beneficiaries other than the landowners, other than the communities, the counties that will get the taxes, other than the benefits, direct benefits, from having the project there. In other words, we're going to make sure that they buy some Nebraska manufacturing. Great idea. We're asking LB402 to do two things. One is bring wind and the development and all of that business to the state. And we're asking it to do another thing: spur development with local manufacturers. It sounds like a great idea, but understand, when you tell somebody you have to buy Nebraska, which sounds great, you increase the costs because you diminish the competitive ability of that person to go out and get the lowest price. That's a problem with big developers who are...where Nebraska is competing for a \$300 million project with Kansas. You want to start putting in measures in LB104 that increase the expense, then we become less attractive. In LB402, you have a different target, I believe, and that is a smaller project that will have a partner in public power. Maybe it's okay to ask public power to pay a little bit more for power generated from a wind project if we have public power--us--buying it; and we are accomplishing another policy thing: buy Nebraska. So in some sense they are two different bills. Both do something worthwhile. But understand, LB104 cannot carry the weight of the requirements of LB402 and still have Nebraska competitive with Kansas and Oklahoma. It's not going to happen and we will lose and those projects won't come here and we will get no benefit. LB402, on the other hand, would be a good process for a smaller project that can enter into a power purchase agreement or develop that smaller project with an OPPD, an NPPD, or a rural electric. Because maybe it's fair to ask public power to help with that additional policy purpose--buy Nebraska--that would make a large project uncompetitive in the Midwest-sized competition for large export wind projects. And I hope that's beneficial. So you will see me support LB402. If we get to a place where they're both sitting on Select File and we're looking at what do we do next, I don't want you to misunderstand. [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR LATHROP: I'll put the people in the room and we can have the conversation, but we must understand that it's not likely that LB104 can pick up what I would regard as sort of that second purpose: trying to make people buy local, because that increases even in a marginal way the costs of that project which, as I said the other day, the economies, they do it on a large scale because there's economies of scale and then can lower the price of the electricity. They do it without restrictions, more or less, lowers the cost, and then Nebraska can compete with Kansas and Oklahoma. So I hope that's helpful and I'm happy to answer any questions about what I perceive to be the difference between LB104 and LB402. [LB402 LB104]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Chambers, you're recognized. [LB402]

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

Floor Debate  
April 29, 2013

---

SENATOR CHAMBERS: Mr. President and members of the Legislature, whereas Senator Lathrop's explanation was very clear, I'm going by what I've heard the people on this floor say before I got involved. Both of these bills are not going to pass or both are going to have to cut their A bills considerably. Are those who support LB104 going to get those who support LB402 to cut their A bill? Are those who support LB402 going to get those who support LB104 to cut their A bill? Why can't they both pass? If both of them are good, why aren't you willing...I'd like to ask Senator Mello a question. And, Senator Mello, I just want you to give me an answer that's brief. And if you go too long, I'm going to say "stop." [LB402 LB104]

SENATOR KRIST: Senator Mello, will you yield? [LB402]

SENATOR MELLO: Yes. [LB402]

SENATOR CHAMBERS: Senator Mello, what is the A bill for LB104, roughly? [LB402 LB104]

SENATOR MELLO: Right now, roughly \$7.8 million, including cash funds. [LB402]

SENATOR CHAMBERS: What is the A bill for LB402? [LB402]

SENATOR MELLO: \$6.5 million. [LB402]

SENATOR CHAMBERS: Making a total of about \$14 million. [LB402]

SENATOR MELLO: About \$14 million total combined. [LB402]

SENATOR CHAMBERS: There is that much money available to play with to cover both of them with the A bills they have, isn't that true? [LB402]

SENATOR MELLO: That is true. [LB402]

SENATOR CHAMBERS: Why is that not likely to happen? [LB402]

SENATOR MELLO: I don't think that...I think that's unlikely to happen, Senator Chambers, because to some extent you would be creating a dual incentive for maybe a project who would qualify under LB402, let's just use an example, an 80-megawatt project who would qualify under LB402, who wouldn't use LB402 possibly if LB104 passes, because LB104 doesn't have near I would say...it doesn't have near the restrictions. Maybe there's a better word than restrictions, but... [LB402 LB104]

SENATOR CHAMBERS: Okay. Next question: What are they going to work out between them then? LB104 wants to go its way; LB402 wants to go its way. What are

Floor Debate  
April 29, 2013

---

they going to work out? There can't be one bill, in other words; or do you think there can be one bill? That's what I'm talking about. Everybody who gets up here talks past what I'm talking about. If the two sides get together, are they still going to have two separate bills? [LB402 LB104]

SENATOR MELLO: Senator Chambers, I don't know at this moment in time if that will be the case, because we haven't entered into those discussions or negotiations with everyone involved, understanding that there is a significant number of...I believe there's only one cross-supporter of LB104 and one cross-supporter of...that crosses both LB402 and LB104, which was the Nebraska Sierra Club. Otherwise, both bills had completely different supporters on their bills. [LB402 LB104]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I'm going to get in the spirit then. But I'd like to remind my colleague, Senator Cook, that had she not voted for the override of the sales tax, which hurts people in her district, I wouldn't be doing what I'm doing now to try to get rid of that local option tax. I mean it when I say I'm interested in the people who have got to pay that tax. I'm not trying to reach anybody. I'm trying to help people. So how am I going to hurt them by saying, make it possible to tax them more but then I'm concerned about these big shots in other areas? Well, let me be concerned about all of them. But we're going to do something different and I'm going to take some time today. You've gotten my back up. You're on the fighting side of me and I'm not going to try to kill LB402. I'm going to try to kill a lot of time. How much time do I have, Mr. President? [LB402]

SENATOR KRIST: One minute and 10 seconds. [LB402]

SENATOR CHAMBERS: I'm going to take every bit of it. And any time anybody else wants to give me any, and if they don't I'll find a way to make my time. I'll start off with motions to strike sections from this bill until I make you all talk to me directly. Don't keep telling me that both of these bills cannot pass. The A bill is too big if you take both of them as they are now. Neither side has told me what each side is willing to cut from its A bill. If there are two different approaches that cannot be reconciled, that's what you call irreconcilable differences. And if two people are together and that develops, they get a divorce. If there is sense enough to see what it is in the first place, they don't get married. The Legislature is going to be asked to perform a marriage between two irreconcilable forces. Is that producing what was called at one point in this country's history, in the 1800s, an irrepressible conflict? Is it going to break out on the floor and you're merely postponing it? Well, I believe when we know that there's something bad to confront, we ought to confront it now. [LB402]

SENATOR KRIST: Time, Senator. [LB402]

SENATOR CHAMBERS: And that's what I want us to do. Thank you, Mr. President.

Floor Debate  
April 29, 2013

---

[LB402]

SENATOR KRIST: Thank you, Senator Chambers. Senator Mello, you are recognized.  
[LB402]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Senator Chambers is right in the sense that both bills could pass. But as I said on LB104 and as I said today, I think it's highly unlikely the Legislature would pass two wind energy bills that ultimately possibly may cover part of the same territory in the sense of certain kinds of projects. I don't see that happening. But ultimately I'm not in the position today with AM740, the committee amendment still outstanding, to negotiate with the supporters of LB104, because we haven't gotten LB402 to Select File yet. And as I mentioned when Senator Chambers asked questions, there's only...if you look at the committee statements, there's only one entity that transfers over: the Nebraska Sierra Club. Otherwise, we had completely different supporters for both of our bills, because both bills go at wind energy in a different manner. I appreciate Senator Lathrop's explanation. I think there is...that's an interpretation to some extent of what C-BED could or couldn't do. Ultimately, under LB402, it doesn't limit the project size so it's not exclusively limited to just small projects. But the likelihood is, yes, projects 80 megawatts or smaller are what has been intended with C-BED when it passed, and it's likelihood that that's the kind of projects that would be moving forward. But it doesn't preclude large projects if they want to meet the requirements that are currently in statute that we slightly change, which to some extent I appreciate Senator Hadley's perspective on this. But I would argue to some extent it's not purely a "buy Nebraska" concept. Lease payments to landowners make up the overriding amount of the 25 percent that would qualify for local payments to communities. We've incorporated and expanded that definition outside of that to incorporate local labor, local manufactured goods, local services, because the concept of C-BED is different than the concept of the Nebraska Advantage Act, which LB104 does. There's no job requirements under LB104. There's no job requirements under LB402. There is a difference though that there's 25 percent of the revenues generated for the first 20 years under LB402 need to go to Nebraska businesses or services to meet the qualification to get the exemption, the sales tax exemption. That's not the same requirement under LB104. They go at it in a different way. I appreciate Senator Chambers' perspective in the sense of wanting to see something occur if both of these bills can either be put together; or if they can't, what would be a path moving forward. Colleagues, as I said last week, I don't know what the future is moving forward. I don't know if LB104 or LB402 will be the driving force of wind energy development this session, because they go at it in a different way and a different focus. Senator Lathrop mentioned, and Senator Hadley, that LB104 was primarily focused on one large out-of-state developer who wants to do a \$300 million project. I'm not saying that's bad. I supported LB104 because I think that's good for Nebraska. The dilemma is, what's the best policy? Do we pick purely that one project with LB104 and see what other projects also qualify or do we look at LB402 and see if there is a possibility that that project

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

Floor Debate  
April 29, 2013

---

would qualify under LB402 if we made changes? [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR MELLO: I can't predict the future of a negotiation that hasn't occurred yet, and it's not that I don't trust Senator Lathrop or Senator Hadley. The reality though is, to negotiate something, you have to be willing to have everyone around a table and feel that you're on equal footing. If both bills are on Select File we would have equal footing. If LB402 doesn't advance, the likelihood is LB104 has, I would say to some extent, has a much better chance of passing as is, and to some extent there's little room for negotiation if LB402 doesn't look like it's going to get any further than General File. I'm not saying that Senator Lathrop or Hadley would not want to talk with people and work with people, myself included. But we've all been in situations where if we've got to try to negotiate and find a way to move forward, and we have differing opinions, it's better to do that from an equal footing. My hope is... [LB402 LB104]

SENATOR KRIST: Time, Senator. [LB402]

SENATOR MELLO: ...passing LB402 to Select File will do that. Thank you, Mr. President. [LB402]

SENATOR KRIST: Thank you, Senator Mello. Speaker Adams, you are recognized. [LB402]

SPEAKER ADAMS: Thank you, Mr. President. Will Senator Mello yield? [LB402]

SENATOR KRIST: Senator Mello, will you yield? [LB402]

SENATOR MELLO: Yes. [LB402]

SPEAKER ADAMS: Senator, having been in and out, I'm not sure but what you've already answered this. But here's what I would like for you to do for me, and tell me very briefly how does your bill attract in contrast to Senator Lathrop's? Because it would seem to me...and I'm being redundant now, because I think this is working out of the debate, we all have the same goal. The question is, what's the best policy to get there? We'd like to do both but we're carrying \$14 million of A bill here and we're going to probably have to make some choices. So tell me what, as briefly as you can and as concisely as you can, what's the difference. [LB402]

SENATOR MELLO: Two main differences. One, if you're a renewable energy project and LB104 you would have to invest a minimum of \$37 million to qualify for the sales tax exemption. That's what tier five of the Nebraska Advantage Act says. So if you don't invest \$37 million on a project, you won't qualify for the exemption under LB104. Under

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

Floor Debate  
April 29, 2013

---

LB402, you only qualify for the sales tax exemption if 25 percent of your local payments to the community is met. That incorporates lease payments to landowners, that incorporates hiring local businesses, purchasing local parts manufactured, professional services. All of those incorporate that 25 percent payment to local communities. So you don't qualify for that sales tax exemption unless you meet that threshold. [LB402 LB104]

SPEAKER ADAMS: All right. So there are different criteria, and am I correct in hearing you say that LB402 broadens the spectrum of potentially eligible companies? [LB402]

SENATOR MELLO: I believe that under LB402 you could be a project that is a \$10 million renewable energy project that could qualify for a sales tax exemption if we adopted LB402 and you meet that requirement of that 25 percent to local payments. So I think it spreads it out, so to speak, broadens the ability for small projects to qualify for an incentive as much as very large projects. [LB402]

SPEAKER ADAMS: Let me ask you one more question, Senator, and then I'm going to shut down. And I know this is difficult for you because it's the unknown. In LB104, we were presented with the option of, in effect, having a company again kind of standing on the border saying, we might come to Nebraska if. Now with your bill do we have a known commodity out there saying, we'll develop under the confirmation that this bill would have, if it's passed? [LB402 LB104]

SENATOR MELLO: We don't have the same company, so to speak, that has spoken in support of LB104. I think the reality is that this particular bill, LB402, is not intended to lure one company or one project to the state in the sense that there are existing smaller projects, as Senator Brasch mentioned, in her district that are relatively small in comparison to a 200-megawatt wind project that may qualify for LB402 if it passed. So it's not purely, I think, a short-term focus of trying to acquire investment for one project that takes...that could be an option or it could take...I think it takes a longer-term approach, which smaller projects in rural Nebraska may qualify for this in a larger amount down the road. [LB402 LB104]

SPEAKER ADAMS: Thank you, Senator. Thank you, Mr. President. [LB402]

SENATOR KRIST: Thank you, Speaker Adams. Thank you, Senator Mello. Senator Brasch, you are recognized. [LB402]

SENATOR BRASCH: Thank you, Mr. Speaker (sic--President). We do have a project in Burt County that has a potential of bringing in new money into the tax base of \$15 million, using only seven turbines. It's a real deal. It's there. The reason I read to you, it's a real person. It's not a big investor looking for fame, fortune, the quick fix. It's a family farmer trying to do good for their district, for their county, help keep those local schools open. We're seeing...we've consolidated as much as we can. We hope to grow our

Floor Debate  
April 29, 2013

---

schools, bring people back home as the economy changes. There's another project, real project, real people in Dixon County. We have just two that I'm aware of ready. And I believe Senator Davis mentioned he has someone else. We have Nebraska-based companies that would like us to make the playing field equal for them, at least, or give them an advantage being local and grow locally. They are not asking us to write a check but help them to do business. This group in Burt County, regardless, they've managed to put together \$132,000 invested to date. Things are there. The turbines are there. The project is there. They are waiting slowly but surely for this to come to fruition where they can expand this and help other rural areas, or even urban areas--Omaha, you know, should they choose. It is an opportunity for us to bring in revenue. They can't compete with someone in New York City or wherever the other large companies may be coming from, Europe or elsewhere. But they are hoping to expand their rural business now. It's a typical operation for farmers. Some farmers also have other jobs on the side. They may drive truck, haul cattle, have other sidebar businesses. But our main streets do need these dollars. Our schools do need these dollars, this revenue. We're not asking for any existing cash funds to be put in here. But for their investment they would like to not have as much tax taken out so they can continue growth. And if we need to come back and revisit this in a couple years, that heaven forbid, they're making too much money on energy here in Nebraska compared to another state, could make more money, we can evaluate that. But this is important and it's not like a project that says, if you do it, I will come. These people are here. These people are in my district and many of yours that are asking us to please not bracket this but to move forward with local known companies. Thank you. I still would like to ask for your consideration and not support the bracket. And I'll...if there's any time, Senator Chambers could have it. I would... [LB402]

SENATOR KRIST: Senator Chambers, you're yielded 1 minute. [LB402]

SENATOR CHAMBERS: Thank you. Thank you. Senator Brasch, I'm not saying right now that I'm against the little projects. Let me try to do a visual. This in my left hand represents the big guy and he can reach a certain threshold so he can get the sales tax exemption. This represents the little guy who cannot reach the sales tax exemption, so instead of that he promises to buy the 25 percent from Nebraska. They are not competing. Put them in the same bill and the little guy still is not going to qualify like the big guy because he doesn't spend enough money. The big guy is not going to compete with the little guy because he would have to buy the 25 percent. They do not compete. I don't know how to make it clearer than that. So I want these people who tell me that they're going to negotiate if this bill gets over to Select File, which they cannot do without it getting to Select File, let there be one bill and both of these concepts can be put in the same bill. [LB402]

SENATOR KRIST: Time, Senator. [LB402]

Floor Debate  
April 29, 2013

---

SENATOR CHAMBERS: Thank you, Mr. President. [LB402]

SENATOR KRIST: We do have a rule against using props, but I let you do it that time, Senator. Thank you. Senator Smith, you are recognized. [LB402]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I know it's getting close to dinner time and attention is waning, but I wanted to weigh in just briefly on this. I do support LB402, the underlying bill, as I did with LB104, and I do so because I think they are particularly important elements of a comprehensive energy policy. But I did want to point out some fundamental differences between LB104 and LB402. And Senator Lathrop almost touched on this earlier, but it's probably a not so attractive piece of LB104 and that is LB104 using incentives from Nebraska allows developers and producers to export low-cost renewable power to markets outside of Nebraska. So that is, once again, we're using Nebraska taxpayer incentives for the benefit of non-Nebraskans by way of lower electric rates and renewable power or green power. We're not keeping those benefits in Nebraska. Now, once again, I do believe that LB104 has some strength in that it's part of a larger comprehensive energy policy. But, once again, we are taking Nebraska incentives. We are allowing developers to produce lower electric rates with those incentives that are transferred outside of Nebraska markets for the benefit of non-Nebraskans. LB402, on the other hand, is for small-scale projects relative to LB104 that benefit Nebraskans and Nebraska communities. And I believe, you know, if we're splitting the baby, as Senator Chambers was talking about earlier, I'd have to first support LB402 because relatively speaking it has a greater benefit to Nebraskans than would LB104. That's not to say I'm opposing either bill. I'm just saying LB402, in my opinion, relatively speaking, has a greater benefit to Nebraskans than LB104 would. If Senator Chambers would like to have my remaining time, I am happy to give him my remaining time. [LB402 LB104]

SENATOR KRIST: Senator Chambers, you are yielded 2 minutes 10 seconds. [LB402]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, let us presume that both of these bills wind up getting to Final Reading because nothing can be worked out on Select File. They will get there by way of the same argument being given to me today. We've got to let them both go. If they both are on Final Reading, which of the two will be read first? If those who are for...let me give the bills a letter instead of the number: bill A and bill B. Those who support B will see A read first. Maybe the ones who support B say, but if I vote for that, then that's all the money the Legislature is going to spend because there are a lot of A bills up there, so I'm not going to vote for A. If B is to be read first, then the same argument could be made. I doubt that the Legislature is going to vote for both of the bills. If they both make it to Final Reading, perhaps neither will pass and then people will say, well, let's get together and... [LB402]

SENATOR KRIST: One minute. [LB402]

Floor Debate  
April 29, 2013

---

SENATOR CHAMBERS: ...see if we can salvage something, and we'll do that by trying to reconsider the vote on each bill on Final Reading, and the agreement will be that either the vote will be reconsidered for both of them or the vote will be considered for one of them. And if that vote is reconsidered, the bill would then be brought back to Select File for a specific amendment and that amendment would be to do what I'm saying they ought to do before they even get there. Thank you, Mr. President. [LB402]

SENATOR KRIST: Thank you, Senator Chambers. Senator Johnson, you are recognized. [LB402]

SENATOR JOHNSON: Thank you, Mr. President. We're trying to talk whether it's one bill or two bills, and I still think there's enough difference between the two and support both concepts. And then we started going back to, okay, if it's one bill, it's a \$14 million fiscal note and that's too big. So what I go back to again is if either bill A, which LB104...if bill A, LB104, does not pass, what have we lost? We probably lost the company that was going to come here and give us long-term benefit. We lost the potential of collecting some sales tax if we didn't give an incentive, but they didn't come and maybe they won't come. Same story with B which is LB402. If that does not pass, we do not give the opportunity for future gain in economic development. Now I understand that the sale tax is more beneficial to the state for the sales tax to come in because the state tax is 5.5 percent or 5 percent, whatever it is. So the state does not get that money or economic development that comes in the long term. Maybe it's got some sale tax in it but it's got jobs and it's got other business opportunities in small communities. So I understand the part that it's a fiscal note for the state of Nebraska General Fund. But it's not a fiscal note and fiscal cost when you look at the total package of developing economic development, whether it's in a small town or whether it's in Omaha and Lincoln or whether it's in rural Nebraska. I still say that we put too much emphasis on an incentive being a fiscal note and not looking at the benefit long-term for economic development. I understand also incentives, some people are opposed to those. I've heard the story about the incentives for other businesses. We've had incentives in the past for ethanol. There are no incentives from the state level, the federal level for ethanol anymore, but we might not have had those businesses and that long-term value to Nebraska if we would not have provided those. And now those incentives are off. We survived that without getting that sales tax. And now we're still receiving the benefit of that business, those businesses still in Nebraska. So the long-term value is still what we've got to look at and focus on and not be as concerned in my mind as the \$14 million that we are giving up today for the long-term benefit of the incentive programs. A would not have come here...or will not come here, I don't believe, if LB104 is not passed. I'm not sure about LB402 but I think it's going to be the same story. Thank you. [LB402 LB104]

SENATOR KRIST: Thank you, Senator Johnson. Senator Campbell, you're recognized.

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

Floor Debate  
April 29, 2013

---

[LB402]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I would like to ask Senator Mello if he would yield to a question. [LB402]

SENATOR KRIST: Senator Mello, will you yield to a question? [LB402]

SENATOR MELLO: Yes. [LB402]

SENATOR CAMPBELL: Senator Mello, part of my problem is that I used to serve on the Lincoln Electric Board, but granted, that was a few years back. When we look at LB402, we are seeing most of that energy that's produced in the state, staying in the state. Would you say that's correct? [LB402]

SENATOR MELLO: Correct. [LB402]

SENATOR CAMPBELL: Have we talked to NPPD and the rurals and LES and Omaha? Have we looked at all those, do they have the capacity to take on more wind energy? [LB402]

SENATOR MELLO: Well, I think that's a conversation that we could probably have at greater lengths with public power districts, but NPPD and Omaha Public Power did testify in support of LB402 in the sense of making the changes to C-BED to allow more local projects to ultimately qualify and utilize this exemption that currently already exists. [LB402]

SENATOR CAMPBELL: And, Senator, part of the reason for the question is, when I served on the LES board we had a certain...and I don't want to use necessarily the word "quota," but we had a goal in terms of how much wind energy we could take on because of trying to spread our costs among different ways of generating that energy. And so to some extent I think it might be helpful to retalk to those people and say, okay, if all of this incentive inside the state, will they take on that excess capacity and pay for it? And that would be my major question on LB402 and I'll give you the rest of my time. [LB402]

SENATOR KRIST: Senator Mello, you have 2:50. [LB402]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature; and thank you, Senator Campbell. It's a good question but the reality I would say is that for these projects to occur, to even utilize this exemption, they would need to have a power purchase agreement, and so they'd have to work that agreement out with public power before the project would really move forward for them to be able to utilize the concepts in LB402. So I think ultimately that's a decision that gets worked out through the development of a project not just with the wind developer, whether they're in state or out

Floor Debate  
April 29, 2013

---

of state, but that gets worked out with our public power districts accordingly. So I think that whether or not a public power district wants to purchase a 20...have a 20-year purchase agreement for a C-BED project, that's negotiated between the power district and the developer. Ultimately, if the developer is not able to get that PPA, the likelihood of a project going forward is highly unlikely. So I think that's the uniqueness of LB402, and it is different from LB104 in that sense, that LB104, you could operate essentially of trying to do almost an exclusively export project. And that's the difference, I think, between what we're seeing a little bit dynamically from LB104 and LB402. Once again, though, I think there's the opportunity between Senator Lathrop, myself, Senator Hadley and others, to find a way to see if both bills can move forward in conjunction or if one bill moves ahead of the other and that's just the way it is, because there was no way to negotiate a compromise or some kind of consensus of what we want to see happening with wind energy development policy. But I think as I've committed to on the mike multiple times under LB104 and LB402, that that's my intention that we would have those negotiations if LB402 obviously moves to Select File, and that's my intent if we move forward with my underlying bill. [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR MELLO: Thank you, Mr. President. [LB402]

SENATOR KRIST: Thank you, Senator Mello. Senator Schilz, you're recognized. [LB402]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. You know, I've sat here and listened to the reasons both behind Senator Chambers' reason for wanting to bracket this and others that have said, hey, look, this needs to move forward. And I have to stand here and say that I'm against the bracket motion. I think Senator Mello is exactly right. If you're going to move forward with competing interests and competing bills that look to do somewhat of the same thing, if one gets moved off down the path, then all of sudden that bill doesn't have the impetus that it did before. Both these bills need to move forward. C-BED has been in place, like we've heard, since 2007. Wind energy projects have been coming along and been placing themselves, you know, in states including Nebraska for a lot of years as well. Our issue in the state of Nebraska comes down to the fact that public power already produces enough energy for the people and the demands within the state today. And, in fact, we probably produce more on average than what the state uses. So we're in an interesting position. Almost anything that we would be talking about that would be a major project would be for export. And as we've heard, you need a power purchase agreement and you need to find people willing to build the transmission that takes it there. Which is better? I had listened to Senator Chambers and he talked about LB104, and like it or not, in the economic development world what LB104 is doing and what it's put us in is what the economic development folks like to call a race to the bottom. How much are we willing

Floor Debate  
April 29, 2013

---

to give? How much are we willing to let go so that somebody will place their business here? And we've seen this on a lot of other bills that have come through here as well, on bills that have had folks that are interested, businesses, industry that are interested in building here in Nebraska. But none of those are a sure thing no matter what we do. So I think the smart thing to do is to move forward with both bills past General File. In between General and Select, we get together to see if there is any way to work forward to come together to find ways where these bills or one bill can move forward. But I have to agree with Senator Mello that if this one is bracketed, that it will take a backseat to LB104 and how that goes. And maybe that's the way people on the floor want it, but I know there's folks outside the glass that are very invested in what LB402 does. And in the Natural Resources Committee, where we have dealt with wind energy and wind energy promotion for the last, you know, as long as I've been in the Legislature and even before that if we can go back to 2007 with C-BED, we passed LB1048 to try to take some of those shackles off the wind energy folks. This is another step in that direction. It is a policy decision. It's one that we need to go in with our eyes wide open. I think both bills...as we know, LB104 went forward. I think LB402 needs to go forward as well. [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR SCHILZ: And I would appreciate your support on that and to vote against the bracket motion. Thank you very much, Mr. President. [LB402]

SENATOR KRIST: Thank you, Senator Schilz. Seeing no one else in the queue, Senator Chambers, you're recognized to close on your motion. [LB402]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, once again I hear that strain in the words that Senator Hadley just spoke of distrust. If everybody is ethical, what difference does it make if this bill survives or not? The issues have to be discussed. Let's say this bill would be bracketed and those who are supporting the other bill say, well, we're not going to talk. Then just don't vote for their bill or kill it by talking it to death. They can't get away. But here's what I would suggest. Instead of those of us on the floor who take this seriously, wasting our time, just let those who support LB104 and those who support LB402 form a delegation and go outside the glass and ask the lobby. Just go on out there and ask the lobby, what are we as a Legislature allowed to do, because we don't have the backbone to do what we think we ought to do. Now we've gone as far as we can with the smoke and mirrors of saying we're going to talk about it between General File and Select. Well, you can do that whether this bill is around or not. And what are they going to talk about? If there are two different approaches which cannot be put into one bill now, they're going to be put into one bill if this one moves forward. That makes no sense whatsoever. They'd have to give me a better argument than that if I were in control. But I'm not. I talked to some delightful children between 1:30 and 2:00, and when I finished, you know what I told

Floor Debate  
April 29, 2013

---

somebody? I've talked to the real children over here; now I've got to go to that other Chamber and talk to the other children. And that's what I feel like I'm dealing with: children. This back-and-forth, we're going to talk about this but we can't talk about it unless this bill moves. Who's going to vote for my bracket motion? Nobody. Not one soul is going to vote for my bracket motion. And as the guy from Louisiana used to say on his cooking program, I "gare-own-tee" it. But before we see whether or not I'm correct, he told a joke about these people who were building...who were setting power poles. So before they set it, they had to get a guy to measure it to see how long it was. So they took the tape measure and they measured it. So then when they set it down in the hole, they knew how deep the hole was. But the guy put a ladder up there and he was scrambling up the ladder. And they said, what you going up there for? He said, well, I have to measure it again. He said, well, you measured it when it was on the ground, fool; why do you have to measure it again? He said, when I measured it on the ground that told me how long it is, now I have to measure it to see how tall it is. That is what I deal with here. Now, when the pole is on the ground, how tall is it? How are you negotiating? What are you going to negotiate? But when I make a declaration unequivocally, then I prove that it's the case. And nobody is going to vote for my bracket motion, including myself, because, Mr. President, I withdraw that motion. See there? See, what did I tell you? [LB402 LB104]

SENATOR KRIST: Thank you, Senator Chambers. So moved. Back to discussion on AM684 to AM740. I see no lights on. Senator Mello, you are recognized to close on your motion. [LB402]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And thank you, Senator Chambers, for talking with Senator Adams and myself about this issue and helping us hopefully move this issue forward to discuss it maybe a little longer today, but ultimately, discuss it with other members of the body who support both LB104 and LB402, but want to find a way for us to be able to put together, let's say, a comprehensive wind energy development bill, hopefully taking, I think, a consensus-building approach between the two entities or the two parties who have been working on differing bills. But AM740 essentially strikes a small section of the committee amendment, which I discussed earlier, that strikes the language, specifically a low-emission fuel source that reduces the overall carbon emissions of the regional generation system. Ultimately, this was some language, as we discussed in LB104, that discusses essentially the potential of natural gas development and ultimately natural gas plants development that Senator Smith has been working on. I think it's a worthwhile dialogue that we need to continue having in the future in which myself and I think the committee members are interested in having; but ultimately it needed to be stricken from LB402. Essentially it caused some problems with both the public power system but also, ultimately, it causes some headaches with the Power Review Board in regards to existing C-BED projects that have to go through their regulatory process before they can move forward. So with that, I'd urge the body to adopt AM740 to the

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

Floor Debate  
April 29, 2013

---

committee amendments. Thank you, Mr. President. [LB402 LB104]

SENATOR KRIST: Thank you, Senator Mello. You've heard the closing. The question is, shall the amendment to the committee amendment to LB402 be adopted? All those in favor vote aye; opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB402]

CLERK: 27 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB402]

SENATOR KRIST: The amendment is adopted. Senator Smith, you're recognized. [LB402]

SENATOR SMITH: Thank you, Mr. President. And I was on the mike just a few minutes ago and I wanted to repeat something I said. I'm not certain that we are really picking up on what is being communicated here. This is a very complex issue and I do believe that LB402, as has been amended thus far and will be amended with the next vote, is absolutely critical as a key piece of legislation that will benefit our energy policy for our state, and our economic development policy as well. And LB104 that we've been talking about a great deal likewise is very important. But I want to make certain, colleagues, that we understand one of the fundamental differences here between LB104 and LB402, and I'm going to repeat myself, I know, but I think it's very important to listen and to understand. LB104 is going to take taxpayer incentives in Nebraska and it's going to be given to developers, large-scale developers, and these large-scale developers will produce lower electric rates that will be exported to non-Nebraskans. I do believe that LB104 has a place and I'm still supportive of LB104. But I think it's really important that we understand that. And it would be wonderful that sometime between now and Select on both LB402 and LB104, as we are looking at all the options of how to meld these two bills and such, that we can think about this and find some way in which LB104 can have a greater, immediate benefit to Nebraskans and not citizens and businesses outside of Nebraska only. I do stand in strong support of LB402 as amended thus far. Once again, it's a small-scale project compared to LB104. I believe that it benefits Nebraskans and Nebraska communities relatively better than LB104, and I stand in strong support of LB402 as amended. Thank you, Mr. President. [LB402 LB104]

SENATOR KRIST: Thank you, Senator Smith. Seeing no other lights on, Senator Carlson, you are recognized to close on the committee amendments. [LB402]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And as I close on AM684, I'll say this, that I think that to talk about putting the two bills together and seeing where we go on A bills for both of them, LB104 needs the A bill entirely in order to entice the company to come into Nebraska that sounds like they're ready to come. So I don't think that we can pare down the A bill on LB104. LB402, that

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

Floor Debate  
April 29, 2013

---

would be up to Senator Mello to decide that, but I agree with Senator Smith that these are both worthy bills and I would ask for your support on AM684 and then LB402. Thank you. [LB402 LB104]

SENATOR KRIST: Thank you, Senator Carlson. You've heard the closing. The question is, shall the committee amendments to LB402 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB402]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB402]

SENATOR KRIST: The amendment is adopted. Seeing no other lights on, Senator Mello, you are recognized to close on the advancement of LB402. [LB402]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And thank you for I think what was a very educational dialogue today in regards to a little bit of the history of the C-BED law that was passed, and ultimately, the issues surrounding why we need to modernize it with LB402. As we had some lengthy dialogue, LB402 ultimately makes changes to the existing sales tax exemption that's under our current law for a renewable energy project. So it's not a new incentive. It's not a new exemption. It's something that was passed into statute by the Legislature with a 49-0 vote and signed by the Governor in 2007. And the hope was that we would create this exemption in this unique model to spur renewable energy development in rural Nebraska and to ensure that the profits generated from that energy development stayed in Nebraska. Ultimately, we had one project so far that's qualified for this. And our hope is that LB402 will spur future projects in the future. But as I mentioned before, there's no one specific project that will or will not happen if LB402 passes. My hope is that there would be future projects that come leaps and bounds with the passage of LB402. But the reality is we know that there's small projects in Senator Brasch's district that may be able to take advantage of this, depending on when and if the bill even passes. But the reality is, is what we're trying to do is to modernize something that ultimately this Legislature and this Governor felt was good energy policy to encourage a unique public-private partnership between developers, Nebraska investors in public power to see renewable energy development occur and for those proceeds and for those revenues to stay in Nebraska, to go to Nebraskans. I don't see that in direct competition with LB104. I think it's a different approach. And as I've mentioned both on that bill and at length on LB402, I'm confident that we'll have, I think, a good, thorough conversation, a good, thorough negotiation to see what's the best approach to move wind energy development in our state this session. It could happen that the Legislature determines we should not do either bill, and I've come to resign...I've resigned myself to that, because the reality is this: We know there's only so much money for A bills. And as I've mentioned to every other senator with A bills, I'm in the position in front of you now with one of those A bills, and I know that LB402 may have to be dramatically altered to make it fit within our fiscal

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

Floor Debate  
April 29, 2013

---

reality. But I have to play by the same rules that I've asked everyone else to play by, of taking your bill and realizing that it may need to be altered to fit within the parameters of what is being left for the floor outside of the budget. Six and a half million dollars, colleagues, I understand is no small fiscal note. But I ultimately realize, as what I've discussed on everyone else's bill, that there are things that are going to need to be changed, things that are going to need to be, I would say to some extent, altered. And the hope is that there's this altered product that comes back on Select File that the body feels is good public policy and it fits within our fiscal realities. What I'm urging everyone today to do is to adopt and move LB402 to Select File... [LB402 LB104]

SENATOR KRIST: One minute. [LB402]

SENATOR MELLO: ...so that we can start to have those, I would say, spirited negotiations, spirited dialogue amongst all of the interested senators in LB104 and LB402 to see what's the best path moving forward. Obviously I'm impartial to my bill and I believe Senator Lathrop and Senator Hadley are impartial to their bill. But ultimately I feel and I trust that we can probably come to "yes" at the end of the day, because that's what we're going to try to do. And if that's our ultimate goal is to get to "yes" for us to be able to bring a bill back to the entire body to consider, that, colleagues, I think, is what we need with LB402, moving it to Select File. With that, I'd urge the body to adopt LB402. Thank you, Mr. President. [LB402 LB104]

SENATOR KRIST: Thank you, Senator Mello. You've heard the closing. The question is the advancement of LB402 to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB402]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB402. [LB402]

SENATOR KRIST: The bill advances. Announcements, Mr. Clerk. [LB402]

CLERK: Thank you, Mr. President. An amendment, Senator Sullivan on LB410. Enrollment and Review reports LB561, LB269A, and LB579A to Select File. Enrollment and Review also reports the following bills correctly engrossed: LB103, LB107, LB141, LB169, LB222, LB223, LB277, LB303, LB329, LB332, LB344, LB349, LB442, LB477, LB493, LB500, LB538, and LB647. That's all that I have, Mr. President. Thank you. (Legislative Journal pages 1165-1166.) [LB410 LB561 LB269A LB579A LB103 LB107 LB141 LB169 LB222 LB223 LB277 LB303 LB329 LB332 LB344 LB349 LB442 LB477 LB493 LB500 LB538 LB647]

SENATOR KRIST: Thank you, Mr. Clerk. Next item.

CLERK: LB93 is a bill originally introduced by Senator Dubas. (Read title.) Bill was introduced on January 10, referred to the Transportation and Telecommunications

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

Floor Debate  
April 29, 2013

---

Committee, advanced to General File. I have committee amendments, Mr. President. (AM762, Legislative Journal page 865.) [LB93]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Dubas, you're recognized to open. [LB93]

SENATOR DUBAS: Thank you very much, Mr. President. And, colleagues, good afternoon. First of all, before I get into the particulars of the bill, I...there are a lot of people I would like to thank. I'd like to thank my committee members for their help and support on this issue; we had many veterans groups that came forward and testified; the Department of Motor Vehicles and their help with this bill; Department of Veterans Affairs and their help. So many people helped with the actual content and the technical aspects of this legislation. So I am very appreciative, also don't want to leave out staff, did a great job in helping us put this together. LB93 as introduced allows for the word or designation of "veteran" to be displayed on a driver license or state ID card. I'll briefly reference the committee amendment and the amendment that I'll introduce after that just to kind of lay the groundwork for where we're going. The committee amendment added a military honor license plate and combined portions of bills introduced by other members of the committee: Senator Janssen's LB383; Senator Price's LB596; and Senator Smith's LB378. I also will have an amendment after the committee amendment that will take into consideration some strong objections that have been raised in regards to license plates. And basically, in the interest of time, I've introduced AM1168 to remove that language but to keep the veteran designation on the driver license. In addition, that amendment will retain the registry created by the Department of Veterans Affairs to aid the Department of Motor Vehicles in identifying eligibility, so just, kind of, laying out a little groundwork for where we will be going with this bill. Senator...or, excuse me. I'd like to thank Hall County supervisor Pam Lancaster for bringing the idea for LB93 to my attention. There are at least 34 other states who have passed or are in the process of passing driver license designation laws for veterans. Currently, if a veteran needs to show proof of service, they must provide either their discharge papers or a DD214. This is not a picture ID. It is bulky to carry. Some are decades old and in not the best of condition. And the form also contains a person's Social Security number and other private information that you would not want to necessarily have fall into someone else's hands. So it's not likely that a veteran will be carrying these types of papers on them on a routine basis. I feel very strongly about LB93. And I do believe that there are multiple reasons for its passage. Number one, it's a very convenient way for a veteran to show proof of their service. Right now, there are many stores and restaurants and other businesses that will offer a discount to a veteran. Unless they have some form of ID showing their proof of service, they're not allowed to take advantage of those discounts. I think having this designation on a driver's license or state ID card also is an opportunity for us, the general public, to say thank you. Any time a veteran is asked to show their ID, I would hope that the person who has made that request will notice the designation and take a moment to give an expression of gratitude. This designation

Floor Debate  
April 29, 2013

---

could also be helpful for law enforcement. Unfortunately, many of our veterans return home and experience homelessness; they suffer from PTSD, drug abuse, or other issues. If a law enforcement officer is able to identify the person as a veteran, it could help them better handle the situation and ensure that our veterans receive the sources...receive the resources that are available to them. The Department of Veterans Affairs testified in support of this bill and offered their assistance with implementation. They see this legislation as an opportunity to create a statewide registry for veterans. Currently, no such database exists, which makes it difficult for the department to ensure that all veterans are receiving the benefits and services for which they are entitled. We heard testimony about homeless veterans passing away, and the only way they receive the honorable burial offered by their country in appreciation for their service was that a police officer knew of the man's former service, knew the director of the Department of Veterans Affairs, and was kind enough to make the necessary arrangements. I also received an e-mail from other people who are in the law enforcement area. One such person is director of Hall County Department of Corrections. He stated in his letter that: Many times we have received a veteran into our facility while never knowing that this person has served in our armed forces. These same individuals have been reluctant to provide our staff with personal information indicating their service to our country. This may be due to personal embarrassment, not being in a condition to provide that information, or unaware that their prior military service may afford them opportunities not available to the general public. Hall County sheriff also submitted a letter in support of LB93, stating that: It is not unusual to find a struggling veteran in our daily routine of responding to calls for service or just in our daily travels. So again, by having this designation on a driver's license, it could assess...assist such people in their encounters with our veterans. I am a daughter of a Korean War veteran. And my dad taught me from a very early age a very deep sense of patriotism and to always show respect for our flag and to the men and women who served, whether during war or peacetime. And even though my dad has passed away, several years ago, this is a way for me to honor his memory and give my personal thanks to him and all who serve, past, present, and future. As stated, there is a committee amendment, and I will go into that amendment. But for right now, that is the essence of LB93. It's creating that notation of "veteran" on a driver's license. Thank you. [LB93 LB383 LB596 LB378]

SENATOR KRIST: Thank you, Senator Dubas. As the Clerk stated, there are amendments from the Transportation Committee. Senator Dubas, as the Chair, you're recognized to open on those amendments. [LB93]

SENATOR DUBAS: Thank you very much, Mr. President. The committee amendment...as I stated in my original opening, there were multiple bills introduced to the committee, dealing with veteran issues. Senators Janssen, Price, and Smith introduced bills dealing with license plates. This amendment, AM762, combines LB93, the driver license bill, with those other bills that created a military license plate. In the committee amendment we direct the Department of Motor Vehicles to create a military

Floor Debate  
April 29, 2013

---

honor plate. They would use official designs honoring those who served or are serving in the United States Army, Navy, Marine Corps, Coast Guard, Air Force, or National Guard. The amendment also creates a registry in the Department of Veterans Affairs. Again, all of this is voluntary, either the driver license or the license plate portion. We are not requiring anyone to have this veteran designation or to register. But in the committee we discovered that there is no way for the state to know how many veterans we have other than estimation based on the use of services at the VA. The Department of Veterans Affairs was very helpful in designing the language in this amendment and the help in creating a registry that would also eliminate the need for the Department of Motor Vehicles to make a determination of eligibility. This was something that came out of the hearing and the introduction of these bills that I don't believe anybody, myself included, on the committee anticipated coming forward. It is the creation of this registry and, really, how important this registry can be to our Department of Veterans Affairs to conduct their business. The veteran designation option is available to an individual who's served active duty in the Armed Forces of the United States and was honorably discharged. A notation is voluntary and will remain on the license at the time of renewal if a veteran checks that box on their application. A person could wait until their current license expires and ask that it be added on the new one. Or they may obtain a replacement license in order to receive the notation immediately. There would be no additional cost to add the notation, just the regular replacement license fee. So in practice, a veteran would register with the Department of Veterans Affairs. Then they would go to the DMV and apply for the driver license, state ID card, or license plate, and check the box that they are a veteran and want the designation on their card or to apply for the appropriate license plate. The DMV would then verify that person's eligibility with the Department of Veterans Affairs, and then that designation would be included on the card. The amendment also goes into detail as to how the license plate would be developed and distributed. So that includes...concludes the introduction of the committee amendment, AM762. [LB93]

SENATOR KRIST: Thank you, Senator Dubas. Mr. Clerk, is there amendment to the committee amendment? [LB93]

CLERK: Senator Dubas would move to amend the committee amendments with AM1168. (Legislative Journal pages 1166-67.) [LB93]

SENATOR KRIST: Senator Dubas, you are recognized to open on your amendment to the committee amendments. [LB93]

SENATOR DUBAS: Thank you very much, Mr. President. AM1168 is an amendment borne out of reality. There are those in this body who adamantly oppose the use of license plates for anything other than their original purpose. And because of that belief, we would spend a great deal of time talking about LB93, as amended by the committee, before ever coming to a vote. In light the limited amount of time left in the session and

Floor Debate  
April 29, 2013

---

other issues that still demand our attention, I decided to strike the portions of the committee amendment that deal with the license plates. Does that mean that I am any less committed to seeing this issue through? Absolutely not. I am fully prepared to bring this portion of the bill back next session. This is a committee priority bill because the entire committee feels very strongly about the entire content of this bill. Senators Janssen, Price, and Smith, as well as myself, all brought forward bills that dealt with military license plates or military issues. They feel very strongly, as do I and the rest of the committee, about creating these military honor plates. I discussed my thoughts about introducing this amendment with committee members, and not everyone is in total agreement with striking this language. But also, after conversations with the Speaker and others, the recognition of our limited time remaining, and the need to prioritize our priorities, I bring this amendment. Again, I have told those who oppose the military honor plates that the bill will come back. And I am prepared to carry it through to full debate. As was stated last week on another bill, we don't always get what we want. And this amendment is certainly not my preference. But I am a realist and I would prefer to get something, rather than nothing. This will allow for us to begin to put the mechanisms in place to create that registry, so that we can move forward at a later date to bring the entire bill to complete fruition. So at this point, with the amendment of AM1168, we would strike the military honor plates and, simply, keep in place the designation on the driver license and allow for the creation of the registry. Thank you, Mr. President. [LB93]

SENATOR KRIST: Thank you, Senator Dubas. Senator Price, you are recognized. [LB93]

SENATOR PRICE: Thank you, Mr. President, members of the body. As a member of the committee and as a member of one...or an individual group to bring one of the bills that we're probably going to set aside here, I still want to say that I rise in strong support of what we're doing here. When you talk about putting veteran status on this license and this ID, it's going to be a tremendous boon because we find that there are veterans who, unfortunately, end up in hospitals and they end up in mortuary situation there and no one knows and no one understands. There's no connectivity, no connection, no ability to go across the databases. So by creating a database...but we're fortunate here in Nebraska that over 60 percent of our veterans...as I understand, approximately 60 percent or more are actually identified. But not all identified veterans want to have something and they won't have to. But there are those that will like it. And let's take the case of homeless veterans. Homeless veterans comprise 25 percent of our homeless population. It's a disproportionate number. Right now, in Omaha, at the VA center we have a nationally recognized program going on to help our homeless veterans. When a homeless person is brought in for...let's say they're brought in for medical concern. Right away, if they have this on their ID, if they've taken the time and they've gotten it taken care of, right away, federal and VA assistance can be levied and brought to bear to help these individuals, which it will help our counties, it will help our state. But more importantly, it will help that veteran right away, as a veteran is acknowledged. And at

Floor Debate  
April 29, 2013

---

the veterans hospital, if you ever have a chance, I encourage every one of you to go to that VA hospital in Omaha. You'll see that, when you walk into the building, right there to your right, there is a place to have their laundry done; there is a place to take a shower. And when you turn to your left and you look, there is a chair that the veteran sits in. And since they've already been adjudicated and found to be a veteran with greater than a dishonorable discharge, it cuts down the search. It narrows it down to where services can then be delivered. And the VA is doing such a good job. If you're a homeless person, and as in the old model, you'd be given appointments once they finally validated that you are a veteran. And obviously, if you are a homeless person, you probably aren't keeping the greatest records, so it takes a lot of effort. But once you get validated, then they would give you a series of appointments. And those appointments could take a long time to get to. Again, if you're a homeless person, I'm not sure that you're keeping an appointment book or a calendar. But that's not how it is anymore. That veteran sits down and all the services they can they bring to that veteran sitting there in that chair, right then and there. They have a good, high-priority placement. If they have an opening that day, they'll get them into the clinic that day. And this is important for these individuals. And that's what having that veteran status clearly marked, adjudicated, on this ID will do for our veterans in the state. The other thing that's important is a lot of veterans are very, very humble individuals and they don't go out of their way to get accolades and acclaim. Unfortunately, this also means that they won't get some of the services they've earned. And if we can help them out in any way, I think that's good. And the other part is it adds to their pride. And it's important. As we all know and as Senator Dubas said and, I'm sure, others will say,... [LB93]

SENATOR KRIST: One minute. [LB93]

SENATOR PRICE: ...it's important to recognize veterans--thank you--for their contribution because, as I read in, for those who are Facebook aficionados, a little article going by, a little photograph going by, is: Veterans wrote a check, payable in full with their lives, for the country. And this is one way that we can help them, we can recognize them, and we can empower the systems that are out there to support them to be in place quicker. So I support what we're doing here. I will vote the bill forward and I hope you will too. Thank you. [LB93]

SENATOR KRIST: Thank you, Senator Price. Senator Chambers, you're recognized. [LB93]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I've discussed the bill with Senator Dubas. I have no objection to the bill in the form where it will not carry those license plates. But you have to realize there are veterans and there are veterans. I am extremely bitter most of my waking days, and there are things presented to me that cause that. I handed out a document this morning--well, actually, a packet--but on the front of it are two things that were obtained from the Web and were

Floor Debate  
April 29, 2013

---

given to me. The first one: South Dakota, Confederate flag removed at VA hospital. Hot Springs, South Dakota: Officials at the Veterans Affairs medical center in Hot Springs have removed a Confederate flag from a historical display after some patients complained. VA Black Hills Health Care System director Steve DiStasio says that he will meet with the veterans next week to talk about the matter. The flag has been a part of the display for decades. DiStasio says he understands that it might be offensive to some despite its historical significance. It's because of its significance that it generates extreme offense in me and an insult. I don't talk about the fact that I was in the military. I'm not proud of it. I don't go to any veterans functions. I don't seek anything as a result of it. It was shameful for me to even enlist. And I got an honorable discharge. And I wouldn't have anything put on my driver license, on my car, or anything else that would make that notation. I mention here only because of what we're talking about. And some people think that everybody in the military is a hero, everybody went there and had these glorious notions and had a great time. But if you look at any of what I put in here, you see the insults that the black men encountered while wearing the American uniform. They were treated better in Germany, in France, and England than in the United States. One veteran pointed out how King George VI in England told the American commanders that, as long as a man in uniform is on British soil, he'll be given every right that everybody else has and he won't be discriminated against. And he could have added, as you do in America. But then there is, a little later, notification from the same area: Confederate flags are flying again at the Veteran Affairs medical center in Hot Springs. That's South Dakota not South Carolina. Two Confederate flags were removed from historical displays at the southwestern South Dakota hospital last week after some patients complained that they represented racism. VA Black Hills Health System director Steve DiStasio says that the flags were returned to the displays Tuesday as, quote, a reflection of those who gave the ultimate sacrifice for America. These suckers who were represented by the Confederate flag, they were traitors. They tried to destroy this country. They gave nothing to this country. And my ancestors who fought for this country--and many died--would walk to that VA hospital, if they could walk, and see the Confederate flag. And some white man is going to say, this is to honor those who gave to America, the rebels, the Confederates, the ones who would destroy this country. But let me go on. You all don't understand why I'm bitter and upset all the time. This happens now. It doesn't affect you because you don't care. But I'm going to put it in the record anyway. This man says the original purpose of the Hot Springs hospital was to care for Civil War veterans not Confederates. [LB93]

SENATOR KRIST: One minute. [LB93]

SENATOR CHAMBERS: They were traitors but they were white. Desert Storm veteran Craig D-e-m-o-u-c-h-e-t-t-e--I won't even try in my present state of being upset--says he understands the historical value of the flags but still objects to their display in a government building. He says they belong in a museum. What difference does it make what a Desert Storm veteran says? What difference does it make if a black man, such

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

Floor Debate  
April 29, 2013

---

as I, say anything? And I'm not going to talk long. But I have to, maybe, turn on my light once or twice, just to get some things into the record. An article from USA Today, dated June 10, 1984, talks about something I've mentioned: When black soldiers returned to the USA, German POWs--the enemy--were treated far better than Europe's black GI liberators. In chow lines German POWs often were served before black soldiers. In movie theaters and on buses black soldiers were forced to sit in the back, behind the Germans, historians say. Then, after the war,... [LB93]

SENATOR KRIST: Time, Senator. [LB93]

SENATOR CHAMBERS: ...it talks about the horrible things that black men suffered when they came here. There was a... [LB93]

SENATOR KRIST: Time, Senator. [LB93]

SENATOR CHAMBERS: Thank you, Mr. President. [LB93]

SENATOR KRIST: Thank you, Senator Chambers. Senator Wallman, you're recognized. [LB93]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. And that was a sad day in the history of our nation. And having been in the South, I did, too, ride in the front of the bus because I was told to. And do you think I was proud of that? No. And my brother was stationed in Fort Benning. And it was not exactly kind down there either to a...it was racial issues. So we should definitely say we're sorry because my uncle served with the Air Force. And they had a strictly black unit. And they did tremendous work for our nation, some of the best pilots in the Second World War. And so we've done things bad. But we have to move forward and do better. As a Christian nation, if we truly profess we're Christian, we have to do as good as we can. And we're still going to fall short. Thank you, Mr. President. [LB93]

SENATOR KRIST: Thank you, Senator Wallman. Senator Davis, you're recognized. [LB93]

SENATOR DAVIS: Thank you, Mr. President and members of the body. I want to second Senator Chambers' anger and disgust at what's going on at the veterans hospital in South Dakota with the Confederate flag. Let's all remember that, as Senator Chambers said, it was an attempt to destroy the United States as an entity. And it also was an attempt to maintain slavery in the world. And it's just...was not tolerable to our President Lincoln. And we lost a lot of troops. So I am completely in support of Senator Chambers' anger and understand that and respect him for it. Thank you. [LB93]

SENATOR KRIST: Thank you, Senator Davis. Senator Chambers, you're recognized.

Floor Debate  
April 29, 2013

---

[LB93]

SENATOR CHAMBERS: Thank you, Mr. President. As I said, I'm not going to talk it to death. And I can understand Senator Dubas' position. She had different experiences from those of mine. And she put hers in the record. I want to put into the record why I am so bitter. And I'll do it by citing some of the words directly from Abraham Lincoln. They come from The Collected Works of Abraham Lincoln, edited by Roy Basler. And in a letter that Lincoln had written to a guy he referred to as the Honorable--I want to see his name and give him all of his titles--the Honorable James C. Conkling. And it was dated August 26, 1863. And I won't read the entire thing. And Lincoln had said some particular things. He said: I certainly wish that all men could be free, while I suppose you do not. You dislike the Emancipation Proclamation and, perhaps, would have it retracted. You say it's unconstitutional--I think differently. Then he explains why he felt it was constitutional. As commander in chief, since slaves were deemed to be property, the commander in chief could confiscate that property and put it to the use of the Union. And he admitted frankly that he issued the Emancipation Proclamation as a military necessity. And it was for the purpose of opening the ranks of the Union Army to black troops. And he stated to this man: I know, as fully as one can know the opinions of others, that some of the commanders of our armies in the field who have given us our most important successes believe the emancipation policy and the use of colored troops constitute the heaviest blow yet dealt to the rebellion and that at least one of those important successes could not have been achieved when it was but for the aid of black soldiers. Among commanders holding these views are some who never have had any affinity with what is called abolitionism but who hold them purely as military opinions. You say you will not fight to free Negroes. Some of them seem willing to fight for you, but no matter. I thought that whatever Negroes could be got to do as soldiers leaves just so much less for white soldiers to do in saving the Union. Does it appear otherwise to you? But Negroes, like other people, act upon motives. Why should they do anything for us if we will do nothing for them? If they stake their lives for us, they must be prompted by the strongest motive, even the promise of freedom. And the promise being made must be kept. And I don't feel free to this day. This is other people's homeland. I don't feel like it's mine and never will. Then he goes on to say: And then--and think about this when you see that Confederate flag--there will be some black men who can remember that, with silent tongue and clenched teeth and steady eye and well-poised bayonet, they have helped mankind on this great consummation, while, I fear, there will be some white ones, unable to forget first (sic--that), with malignant heart and deceitful speech, they have strove to hinder it. There are so many things that black people have confronted that white people don't want to hear about. When Senator Dubas was talking there was no discussion going on, on the floor of the Legislature. But there is no respect for black people here or anyplace else. And I'm not going to use Senator Dubas' bill to go into those things. [LB93]

SENATOR KRIST: One minute. [LB93]

Floor Debate  
April 29, 2013

---

SENATOR CHAMBERS: But throughout the rest of the session I'm going to demand some things from this Legislature. And they need not grant it. But I'm going to give back what I've been having given to me--the lack of respect, the lack of consideration, the lack of fair and equal treatment. I can take it. And one reason I can take it, because...I have to turn my light on one more time. [LB93]

SENATOR KRIST: You can continue. [LB93]

SENATOR CHAMBERS: And I don't think I need the full five minutes, Mr. President. Members of the Legislature, I watch how weak some of my colleagues are and how weak white people have been where I've been in contact with them. I've never had a black teacher in my life. I've never gone to a black school in my life, from grade school through high school through the university. I've never felt inferior to white people. As a matter of fact, you know why I felt superior? Because they were griping and whining about how hard things were, and I had far harder things. And that sucked to go through at that time. But after what I went through as a child and as a young teenager, then an older teenager, then a young adult, what they talked and whined about was nothing. Then I function using their language better than they use it, mastering their thoughts, their philosophy, their law, their constitution, and respect it more than they do. And we catch hell every day. And I'm supposed to act like it's not happening and come down here and act like everything is all right. Everything is not all right. And a point is reached with everybody when some things must be said. And if they never reach that point with others, they reach that point with me. And I have an obligation to the black people who live now, to the black people who lived in the past, who lie in unmarked graves, unknown, unmourned. There was a man who sang "Riding on the City of New Orleans," singing about a train, one of the Guthries. And he talked about passing these graveyards full of old black men. And that hit me, probably, like nobody else who heard that song who was not black. And you all will never understand, and I know you won't. But there are some things I want in the record so that, in years to come, if anybody reads what it was I said and tried to do on this floor, they will know that I never sold out my people, I never swallowed spit and bit my tongue trying to get along with these people. And I'll treat you the way you treat me. If you treat me with respect, you get that from me. Nobody can treat me nicer than I will treat them. But I'm a realist. I know what the attitudes are here. But I also know that there are some people who are trying to do the right thing. And I just want those people to understand that, while I'm making these statements, I mean every word that I say. But those of you that I've dealt with on a different plane, I'm not discounting you. And I'm not including you. But I'm not going to, every time I make a statement, say, but there are some good ones and I don't mean this one and I don't mean that one. There are not enough of those who are trying to make any significant difference. And I know that the material I handed out will not be read. But if you scan it, you'll see, always, the black men were under fire, always proving something, were never recognized for it. Then, in some cases, fifty years later, they say,

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

Floor Debate  
April 29, 2013

---

well, maybe now. And that's supposed to square things. Well, really, it doesn't. And that's all that I have to say on this today. Senator Dubas, had I not spoken to you earlier, I would never have done it this way. Thank you, Mr. President. [LB93]

SENATOR KRIST: Thank you, Senator Chambers. Seeing no one else wishing to speak, Senator Dubas, you're recognized to close on your amendment to the committee amendments. [LB93]

SENATOR DUBAS: Thank you, Mr. President. And I do ask for the Legislature's support on AM1168. You know, I can't put myself in Senator Chambers' place, nor would I try. And I don't introduce LB93 or the committee amendment as we put forward in any way to negate or ignore the experience that Senator Chambers has just talked about. I introduced this bill and my fellow committee members introduced their bills out of our experience, out of the deep sense of honor that was instilled in me by my father and that I want to be able to carry forward. And so, again, in light of where we're at in the Legislative session and wanting to be able to start to move this entire process forward, I do ask your support for AM1168. Thank you. [LB93]

SENATOR KRIST: Thank you, Senator Dubas. You've heard the closing. The question is, shall the amendment to the committee amendment to LB93 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Record, Mr. Clerk. [LB93]

CLERK: 26 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB93]

SENATOR KRIST: The amendment is adopted. Seeing no other lights on, Senator Dubas, you're recognized to close on the committee amendments. [LB93]

SENATOR DUBAS: Thanks for the votes on the previous amendment. The committee amendment, again, I want to stress that this is voluntary. I recognize that there are those veterans, as Senator Price so aptly put forward, who are very proud of their service. As I said, my father was one of those people who was never ashamed to let people know about his service and was very proud of it. But I also recognize there are those who, for their very own reasons, would prefer not to have a lot of public recognition of their service and would prefer to keep that private. And I don't want to do anything to disrespect those feelings either. So having the designation on the driver license or the state ID card, as well as registering with the Department of Veterans Affairs, is purely voluntary. So I want to make sure that all of our veterans understand that. The committee amendment, as amended now, leaves the driver license designation in place and allows for the creation of that registry. So I ask for the Legislature's support on AM762. Thank you. [LB93]

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

Floor Debate  
April 29, 2013

---

SENATOR KRIST: You've heard the closing. The question is, shall the committee amendments to LB93 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB93]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB93]

SENATOR KRIST: The amendment is adopted. Seeing no other lights on, Senator Dubas, you're recognized to close on LB93. [LB93]

SENATOR DUBAS: Thanks to all who have supported this legislation to date. And I ask for your continued support on LB93 as amended. I'd like to take one last opportunity to thank my committee members. A special thanks to Senator Price and Janssen and Smith and the others who supported this legislation as well as the initial committee amendments...and to thank all of the veterans who are currently here, in the Legislature, for their service, as well as those across the state of Nebraska. We do appreciate what you and your families have done to take care of the rest of us in the state and across the country. So I ask for your continued support on LB93. Thank you. [LB93]

SENATOR KRIST: You have heard the closing. The question is the advancement of LB93 to E&R Initial. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB93]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB93. [LB93]

SENATOR KRIST: The bill advances. Next item. [LB93]

CLERK: Mr. President, the next bill is LB82 offered by Senator Schumacher. (Read title.) Introduced on January 12, referred to the Revenue Committee for a public hearing, advanced to General File. There are Revenue Committee amendments pending, Mr. President. (AM693, Legislative Journal page 765.) [LB82]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Schumacher, you're recognized. [LB82]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I want to thank the Revenue Committee for having the entrepreneurial spirit to advance a completely novel idea. The idea in LB82 is very simple. It permits a taxpayer to send in extra money with their taxes. And in exchange, in the basic configuration, five years down the road they get to claim a credit against whatever taxes they have then. And that credit is equal to the ten-year U.S. Treasury rate yield, which right now is running about 1.75 percent and their basic investment adjusted for inflation. The money that is sent in early gets applied to the same place that the LB84 money goes to and that is infrastructure and road development. The idea for LB82 came from a challenge issued

Floor Debate  
April 29, 2013

---

by Senator Flood the first year I served in the Legislature. And Senator Flood said, if you have any ideas besides taxing and our approaches that we have now, let's hear them, don't be afraid to bring them forward. Last year in the context of the discussion of the Governor's tax cut proposal, I floated this idea in the context of an amendment and got very positive input from the public that saw it on the media. I also got positive input from some of you and was encouraged to file this particular idea as a bill so it could work its way through the proceedings and through the hearings and be tested and vetted that way. This year before Revenue Committee, while this particular bill was pending, Senator Conrad brought her LB531. And it was, perhaps, the input on LB531 that led me to declare this to be my priority so that I could bring it to you today. Senator Conrad, basically, was questioning whether or not we could afford to finish the road program; something that was questioned when LB84 was on the floor. This is a road program that we first addressed back in the 1980s; we laid out some goals and objectives. It was a road program that we then tried to fund two years ago, and did, in fact, dedicate a quarter percent of sales tax. But we all know that down the road times are going to get tougher and we're going to have baby boomers that are going to become more and more dependent. And we're going to have other social programs that require money and it's going to be awful hard to meet our commitment to that roads program. Now let's put all this in the context of the world that we live and see if we can put the pieces together so that we can accomplish social objectives and create public wealth. We live in a world where we're pretty much in chaos financially. Our Congress isn't able to act properly. And our financial fate is in the hands of the Federal Reserve that has chosen to keep interest rates at a very, very low rate. Also in the world that we live in today, we have as an anomaly of a series of forces an extraordinarily low interest rate...or inflation rate, combination low interest rates, low inflation rates. We have a public that is cash rich in many places looking desperately for a place to invest their money. Do they invest it in a stockmarket that is highly volatile and they may lose 30 percent on any given day after an odd event triggers a panic? Do they put it in a bank at zero percent interest? Where do they put their money? And this notion is here that it is better to put money into bridges and roads in Nebraska than it is into debt in Washington. During the context of Senator Conrad's bill, there was testimony from various interests and I happened to ask the Department of Roads could they handle, let just say, an extra \$100 million for roads? And they said, yes, we can. And I asked the engineers when they testified, could you handle the engineering of an extra \$100 million in roads? And they said, yes, we can. And I asked the contractors, how about you? Is there enough of you guys available, you got enough equipment, and you have enough personnel if you had a big chunk of extra money could we get this road building done so we conserve our resources down the road? And they said, yes, sir, we can. And for a moment I felt I was back in the United States of America, the "can-do country." I almost could hear the words of John Kennedy talking about achieving the goal that before the end of this decade is out of landing a man on the moon and returning him safely to earth. We can do things if we do them right. We have engineering and construction ability. We have a dire need for roads; a lot of our roads and bridges are 50 years old.

Floor Debate  
April 29, 2013

---

We have a need for completion of a freeway project which will have immense value to our children and grandchildren. We have all that sitting there. We have people with money willing to invest. What we don't have is the mechanism that puts them all together, a mechanism that enables that money to go to work now while things are cheap, while interest rates are low, while inflation is low, and treats the investor fairly in the context of the rate of return that they can expect now. This is an idea. And I welcome the discussion that we're going to have on this idea, or at least I hope we will have, because I think it bears merit. I think we owe it to our children and we owe it to our savers and we owe it to our future to build a sound infrastructure during this narrow window of opportunity that I have and we have. I would call note that we probably need to invest a little bit more money in English and algebra because in the translation of this bill starting out as algebra talking about interest rates times years plus an adjustment for inflation, it got translated into English and the bill translator...or bill drafter translated it again. Then when they translated it back into algebra for the fiscal note in the initial bill, they came up with a result which wasn't correct and which will be addressed later on in an amendment that finally gets the algebra and the English on the same page. I think this is an opportunity. It's not done anywhere else in the country. It enables us to accelerate revenue into our treasury to build roads now, to free up assets by early termination of LB84 down the road when we're going to need the money and we...it would be nice if we won't, but I think we will be needing it desperately for the baby boomers and for the needs of a society that is going to be stressed as time goes on. So I'd appreciate your consideration of this bill. I'd be happy to answer questions. I think that in the context of the bill I can answer the questions, explain its various provisions; one of which is early withdrawal for people who are over 62 years old and how you would transfer this by paying a fee,... [LB82 LB531]

SENATOR KRIST: One minute. [LB82]

SENATOR SCHUMACHER: ...a healthy fee, transfer this in the event that you died too soon and still had some assets left over in the program. So this is a financing mechanism. And it's one I'd appreciate your consideration for. Thank you. [LB82]

SENATOR KRIST: Thank you, Senator Schumacher. As the clerk stated, there are amendments from the Revenue Committee. Senator Hadley, as the Chair of the committee, you're recognized to open on your amendment. [LB82]

SENATOR HADLEY: Mr. President, members of the body, thank you very much. Actually, they're, basically, technical amendments; the committee amendments clarify the formula used to determine the program rate described in the original bill, in essence the rate of return. And secondly, the original bill said that the credit could be used against any taxes owed to the state. The committee amendments alter the...from any taxes owed to the state making the credits claimed applicable only to the personal income tax, corporate income tax, and to the inheritance tax liability. Thank you, Mr.

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

Floor Debate  
April 29, 2013

---

President. [LB82]

SENATOR KRIST: Thank you, Senator Hadley. Mr. Clerk, there is an amendment to the committee amendment? [LB82]

CLERK: I do, Mr. President. Senator Schumacher, Senator, AM426 is the first one, but I have a note you wish to withdraw. [LB82]

SENATOR SCHUMACHER: That's correct. [LB82]

CLERK: Senator Schumacher, I also have AM873, but with a similar note to withdraw. AM873 withdraw, right? [LB82]

SENATOR SCHUMACHER: That's correct. [LB82]

CLERK: Thank you. And finally, Senator Schumacher, AM1078 is an amendment to the committee amendments. (Legislative Journal page 1113.) [LB82]

SENATOR SCHUMACHER: That's correct. [LB82]

SENATOR KRIST: Senator Schumacher, you're recognized to open on your amendment to the committee amendments. [LB82]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This is an amendment...does two things to the committee amendment. When the committee amendment was adopted on the formula, the Bill Drafters got it wrong and so it corrects that. The formula is very simple, it is this: interest rate on the T-bill for the month that the investment was made times the number of years until the credit is claimed. Take that and you add it to the inflation adjustment of what the CPI is when it's claimed divided by what it was when it went in. And, for example, if that would be today and let's say we had a two-year...or 2 percent increase in CPI over a period of time and for a year we had 2 percent interest, it would be 2 percent interest and then the inflation adjustment on it. I think this clears up that. The other thing that it does is this particular amendment removes the sales tax as something that you can claim this credit against. There was complaints that that would be much too complex to have people incrementally claiming sales tax. So this, basically, is something that is claimable against an income tax liability, which I think makes things a lot simpler because right now if you pay in too much on your quarterly estimates or on your...employer pays in too much into the income tax folks, they have an account set up under your Social Security number and they're able to keep track of when you paid it in and how much credit you have with the system. So with very little additional overhead, they should be able to make these particular computations and be able to appropriate the credits. So this is a...corrects a problem with Bill Drafting and the translation from algebra to English and back again;

Floor Debate  
April 29, 2013

---

and it also takes sales tax and the complexities of how you would administer this out of the particular picture. Just one bit of clarification on the record, the treasury rate, let's say it's .018, slightly more than 1.8 percent, say you leave it in there for five years, you get .09. Then you take that and you take the CPI for, let's say now, it's 230 and in 2008 it was 211 and you get 1.09. Add .09 to 1.09 and you would claim a credit of 1.18 times what you made in your original investment. I think that for purposes of getting the bill in a position to be able discuss, I'd ask your support for AM1078. Thank you. [LB82]

SENATOR KRIST: Thank you, Senator Schumacher. You have heard the opening to AM1078 to AM693 to LB82. The floor is open for discussion. Senator Chambers, you're recognized. [LB82]

SENATOR CHAMBERS: Mr. President, I listened very closely to what Senator Schumacher said and when he reached a point where he said that clarifies the other, it made me think of a part of song that Harry Belafonte sang, it said: (singing) it was clear as mud but it covered the ground, and the confusion make me brain go round. That's what this was. But then he said, I caught a boat and I went abroad, and in Baden, Germany, I asked Sigmund Freud. He said, Son, from your sad face remove the grouch, put the body up on the couch, I can see from your frustration a neurotic sublimation; love and hate is psychosomatic, your Rorschach shows you're a parapathatic, so it all started with a broken sibling and the words of the famous Rudyard Kipling. So that, I think, is as clear as what Senator Schumacher said. I'm not going to support the bill. I have no idea what it's talking about. But it does refer to a miracle. On page 1 starting in line 11, the taxpayer being 62 years of age or the death of the taxpayer, comma, the taxpayer making the tax investment shall be entitled to claim. So after death it doesn't say the taxpayer's heirs and devisees, but the taxpayer, after death, is entitled, I guess, to make the claim. So that taxpayer is one that I don't think they really have to worry about. But I do have a question I want to ask of Senator Schumacher. And if he answers this question, I think I will understand his question if he will...his answer. [LB82]

SENATOR KRIST: Senator Schumacher, will you yield? [LB82]

SENATOR SCHUMACHER: Yes, I will. [LB82]

SENATOR CHAMBERS: Senator Schumacher, on page 15 in line 18 it says: except for the tax imposed on the sale of a motor boat as defined in Section 37-1204, there shall be allowed a nonrefundable credit against any tax imposed under this section to a taxpayer as provided in the taxpayer investment program. Why does it except out a motorboat? [LB82]

SENATOR SCHUMACHER: Senator Chambers, this entire section dealing with sales tax is what AM1078 proposes to withdraw to eliminate that area of confusion. [LB82]

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

Floor Debate  
April 29, 2013

---

SENATOR CHAMBERS: But as it stands, why was motorboat singled out? I'm just curious. [LB82]

SENATOR SCHUMACHER: I think it was originally singled out because this dealt with...if you read through the original thought on the sales tax exemption which the committee had inserted, it talked about motor vehicle taxes. And there was thought that this could still be claimed against an automobile motor vehicle tax and I think this motorboat thing was in the same category as an automobile sales tax and that is why it was exempted because the only thing this was intended to be able to be claimed against was motor vehicles as in cars and... [LB82]

SENATOR CHAMBERS: Okay, now that makes sense. So is this language on page 21 also exempted, in line 12, there shall be allowed to corporate tax payers a nonrefundable income tax credit as provided in the tax payer investment program? Is that...does that remain in the bill, or is that... [LB82]

SENATOR SCHUMACHER: Yeah, corporate income tax does remain eligible for the credit. [LB82]

SENATOR KRIST: One minute. [LB82]

SENATOR CHAMBERS: Now what is a nonrefundable income tax credit? [LB82]

SENATOR SCHUMACHER: There's two types of income tax credits. One is a refundable one. That means the government writes you...can write you a check. [LB82]

SENATOR CHAMBERS: Um-hum. [LB82]

SENATOR SCHUMACHER: That's kind of like the Angel Investment thing we talked about the other day where when you make an investment they can write you a check for the 40 percent kickback. [LB82]

SENATOR CHAMBERS: Um-hum. [LB82]

SENATOR SCHUMACHER: Okay. That's a refundable. A nonrefundable is just a claim against your taxes; you never get any money back, you just don't have to pay as much in. [LB82]

SENATOR CHAMBERS: But you get it after you reach 62? [LB82]

SENATOR SCHUMACHER: At 62 you only have to leave money in this program under its language for a short period of time. You can claim it back... [LB82]

Floor Debate  
April 29, 2013

---

SENATOR CHAMBERS: Do you ever get any money back? [LB82]

SENATOR SCHUMACHER: You never get any money back, you get to claim a credit against your tax. At 62 you don't have to wait the five years. [LB82]

SENATOR CHAMBERS: I'll listen to more of the discussion. Thank you. [LB82]

SENATOR KRIST: Thank you, Senator Chambers and Senator Schumacher. Senator Conrad, you're recognized. [LB82]

SENATOR CONRAD: Thank you, Mr. President. Good evening, colleagues. I rise with concerns related to LB82 and the pending amendments. At the outset I would like to say this: I commend Senator Schumacher for what is an incredibly innovative and creative approach to some of these critical financing issues that face this state now and into the future. That being said, like any case of first impression, there is bound to be some question marks when it comes to how that fits within our statutory framework, our constitutional framework, and in practice. The concerns that I want to ensure that are at least noted for the record emanate from Article VIII-1 of our constitution which has a limitation on the state's ability to incur indebtedness over a very nominal amount and for only very specific purposes. So I'm hoping that maybe in later light Senator Schumacher or other members of the committee might be willing to address whether or not they grappled with that question at the committee level and how they were able to resolve that question. I think that would be helpful to my understanding of the legislation as we move forward. The other questions and concerns I have is related to the transfer of some of these credits, I guess you can say. Those transfer components are not found in other aspects of our economic development policy and I think could provide some, again, question marks or concerns when it comes to implementation. I'm wondering if the committee had entertained maybe any sort of cap or limitation in terms of how this loan might be utilized. And then finally, I would like to just put forward the general proposition which I have been very consistent about through the course of this session that rather than making any major changes to our tax code I would prefer to see this idea rolled into the comprehensive tax commission study as contained in LB613 or in another format which we may take up. So with that I did want to take a moment to at least flag some of those issues and concerns and I am confident that Senator Schumacher will probably have crystal clear answers for those topics and it's important those be in the record. It's important that we all enhance our understanding on this creative and innovative proposal, but that we also be cautious when it comes to implementation, General Fund impact, and a variety of other issues. I think my colleague, Senator Mello, might speak to...for current and future state budgetary obligations. So with that I'd be happy to yield the remainder of my time to Senator Schumacher if he so desires. [LB82 LB613]

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

Floor Debate  
April 29, 2013

---

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Conrad. Senator Schumacher, 1 minute, 50 seconds. [LB82]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Thank you, Senator Conrad. With regard to the indebtedness of the state, this is not a general obligation of the state. This is a credit that is claimed only against the taxpayer's or its assignees' taxes. The state never has to pay out any money. This is no different than us saying to a corporation, look, if you come in here and build a windmill, we will give you a tax credit in the amount of whatever calculation we set. So in this particular case, if you advance pay so much money... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: ...we will give you a credit according to this calculation. No how does the state have to dig into its pocket and give anybody any money. What the state does get in exchange for that advance payment, is an asset equal to a piece of road that it would otherwise have to pay more money for. The committee, I think, did consider a cap. A cap would be fine with me if one thinks it's appropriate. I don't know if it's going to be so successful that it will need a cap, but right now it does not create a cap. That can be...I mean, if we want to cap this at \$50 million, \$100 million, \$250 million, I think that can be easily incorporated into the language. I didn't think of the bottom line, wasn't felt that it would be necessary to have a cap on these expenditures. Part of the reason for the urgency being that interest rates sooner or later are going to go up and so is inflation. Let's get this work done now while we can get it done cheaply and, therefore, let's not waste our time... [LB82]

SENATOR CARLSON: Time. Thank you, Senator Schumacher. Those wishing to speak include: Mello, Chambers, Schumacher, and Conrad. Senator Mello, you're recognized. [LB82]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And I'll start off thanking my good friend, Senator Schumacher, for bringing a what undoubtedly will be one of the most interesting floor debates we will have this year regarding fiscal policy, as well as tax policy. I agree with Senator Conrad in the sense that I...Senator Schumacher has come up with, I would say, an innovative approach in regards to dealing with infrastructure financing. However, that innovative approach, I believe, while I'm not an attorney, the way it's drafted in the committee amendment I don't see how it's not unconstitutional because at the end of the day...and I have an amendment after Senator Schumacher's amendment which clarifies for budgeting purposes that this is an express obligation of the state. The state at the end of the day is accepting money from a taxpayer. And the question is, is that money a loan? Because if it's a loan, which one

Floor Debate  
April 29, 2013

---

would think it is because we are giving them an interest dividend back on that prepayment, I don't see how we're not going into debt in the sense of accepting a prepayment of taxes that we ultimately spend now and at a future point in time provide that money back to the taxpayer when they try to reduce their liability and we incorporate interest on that money that's tax free. It's an innovative approach, Senator Schumacher, I don't disagree, in the sense of turning the state into an investment banker. But the reality is, as Senator Conrad mentioned, and while I'm not an attorney, I'm looking forward to how this is not an express obligation of the state because at the end of the day, the Legislature and our General Fund status will have to account for any money that we take in under this program as an express obligation. We will have to pay that back in lost General Fund revenue and account for the interest accrued. So that is an express obligation to the state and I don't know how it's not in any way, shape, or form, but I imagine we'll have a good, friendly dialogue with that, Senator Schumacher, Senator Conrad, Senator Chambers, and others who are attorneys and maybe can speak a little bit more to the legality issues. But an interesting concept is beyond the fiscal note, which if you read the fiscal note, too, to LB82 the Fiscal Office and the Department of Revenue was unable to give an exact dollar amount, with an exception of them stating: We do believe the bill as written would draw considerable interest from individuals with Nebraska tax liability and as a result would have a positive impact on the state Highway Capital Improvement Fund and a substantial negative impact to the state's General Fund and negative impact on the state's other tax revenues. The Legislative Fiscal Office also agrees with the Department of Revenue that the administrative costs would be significant. That's to put things, I guess, in a fiscal note perspective, colleagues. But I raise another perspective in the sense that the funding that would be generated by LB82 and the prepayment of tax liability is earmarked for road construction. What's to say that contractors and businesses engaged in road construction wouldn't prepay their taxes to the tune of \$20 million, understanding that \$20 million in prepaid taxes automatically goes to road construction, and they build a revolving fund, almost, of prepaying taxes so that they spend more money on roads and which, yes, more roads get built, but they're being built because road contractors are prepaying taxes to generate more... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR MELLO: ...contracts on road construction and at the end of the day, the state's General Fund picks up that payment with interest? So that interest on \$20 million from one company over a period of years, yes, it provides more funding for road construction, but make no doubt, colleagues, that comes out of the General Fund. This is a General Fund obligation. And at the end of the day, the state is going to go into debt to have to pay people back because we're getting their money up front and spending it. As I mentioned, I really applaud Senator Schumacher for thinking outside of the box on this bill. But the reality is this, is it is an express obligation of the state. It is questionably constitutional at best. And this is a General Fund obligation that we will be picking up an

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

Floor Debate  
April 29, 2013

---

indeterminate amount for an indeterminate number of years. And using my example of those prepaying taxes... [LB82]

SENATOR CARLSON: Time. [LB82]

SENATOR MELLO: Thank you, Mr. President. [LB82]

SENATOR CARLSON: Thank you, Senator Mello. Senator Chambers, you're recognized. [LB82]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Mello said this will be a very interesting discussion. How are you going to discuss it when you don't understand it? I'll be honest, I have no idea what this thing is about. Senator Schumacher, I'd like to ask you a question or two. [LB82]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

SENATOR SCHUMACHER: Yes, I will. [LB82]

SENATOR CHAMBERS: First of all, how did you persuade seven members of the Revenue Committee to vote with you to send this out here? You don't have to answer that, it's a secret and you ought to patent it or copyright it. (Laughter) I thought you said when you and I were talking that the state will never pay out any money to anybody, that it will just be a credit against taxes that will be owed. [LB82]

SENATOR SCHUMACHER: That's correct. [LB82]

SENATOR CHAMBERS: So if...why would I want to do that? [LB82]

SENATOR SCHUMACHER: Because you will get a slightly...you will get...your money will be inflation protected. You'll be able to claim equal value for the money you put in. And you will get a slightly greater credit than what you put in. [LB82]

SENATOR CHAMBERS: Why do I want to do that? Take money out of my pocket and give it to the state when I'm never going to get...if I put it in the bank, I get my principal and I get interest even if it's a little bit. You say that, in effect, I'm putting this money to the government that I don't owe, but it's not like going into the bank when I can get it back. Is there no point when I can get my money back that I overpaid the state? [LB82]

SENATOR SCHUMACHER: There is no point. [LB82]

SENATOR CHAMBERS: Then why would I put the money in there? [LB82]

Floor Debate  
April 29, 2013

---

SENATOR SCHUMACHER: Because you get to claim a credit at some future date against your taxes... [LB82]

SENATOR CHAMBERS: If I don't owe any taxes then that's just money that I've lost by giving it to the state in advance? [LB82]

SENATOR SCHUMACHER: That's correct. [LB82]

SENATOR CHAMBERS: This is a con if ever I heard one. The public is going to think that there is something here, because there's got to be because the state wouldn't trick me out of my money. I'm going to put my money in; it's going to accumulate interest at a certain rate, but so what? I never get it. They could let the interest rate accumulate at 50 percent, I'd never get that back, I'd never see it. And if I got injured or anything happened and I wasn't paying taxes, then that money is gone. I'd like to ask Senator Schumacher, is that correct? [LB82]

SENATOR SCHUMACHER: Yes, it's gone if you don't owe any taxes. But if you owe taxes and there's two things certain in life, death and taxes, you can claim it against those taxes. [LB82]

SENATOR CHAMBER: But if I paid more than what I owe in taxes, then the state is still ahead of me by having more from me than any tax that I would be...have due, right? [LB82]

SENATOR SCHUMACHER: There are...there is provisions in the bill that permit, if you do have more paid in than you have in taxes, you'd apply it against any inheritance taxes, any bills you owe because the state advance Medicaid... [LB82]

SENATOR CHAMBERS: If I don't owe them anything? [LB82]

SENATOR SCHUMACHER: Well, then you lose it. [LB82]

SENATOR CHAMBERS: Thank you. Thank you, Senator Schumacher. What I'd like my colleagues to do this afternoon, I want each one of you all...if you haven't got it, bring it tomorrow, I want you to give me a hundred dollars in case you ever owe me anything. And I promise you that I will return 14 percent per annum on that hundred dollars. Now you're never going to get it back because you may owe me something someday. How many of you all would give me that money? Well, I guess there's not one born every minute on the floor of the Legislature. That's all that I would ask you, Senator Schumacher. And I'm not going to discuss the bill anymore because even when I try to read through the language, it is so complex that you will lose your way, but I wanted it clearly on the record that a point could be reached where you no longer owe any tax... [LB82]

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: One minute. [LB82]

SENATOR CHAMBERS: ...but no matter how much you overpay, no matter how...so if you had this company that's overpaying a million dollars and then they go bankrupt and then they're not making any money and paying any taxes again. They don't owe that million dollars. Never did they owe it. But it's all gone, all gone. So I don't think you need to put a cap on it, because I don't think there are many business people who are going to send good money after no money. And that's the way I view this bill. I will not vote for it, and I will actually vote against it because I think it's a scam. Not saying that was Senator Schumacher's intent, but a scam is a scam is a scam and I believe in calling a thing what it is. It's a con and it's the state working a con against the public because you would think from the explanation that your money is in an envelope with your name on it and it's... [LB82]

SENATOR CARLSON: Time. [LB82]

SENATOR CHAMBERS: Thank you, Mr. President. [LB82]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB82]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. What a real con is: when you put money into the stock market and a couple days later have only 70 percent of it left or you put money into a bank and never get a nickel's return and it isn't inflation protected. What this enables people to do is invest in Nebraska, invest in our infrastructure. I did want to clarify one thing that upon payment of a 10 percent penalty and waiver of the interest...or not penalty, 10 percent transfer fee and waiver of the interest you can assign to another individual the inflation-protected principal that you put in. So under that mechanism you do not completely lose your money, but another individual that you can assign it to at whatever discount you negotiate with them is able to take the money. So it's not a complete loss of money. For you, if you die without it, yeah, you've lost it, but you've lost a lot more if you're dead. This is not a General Fund obligation any more than a promise to a corporation that if you build a windmill we will give you a tax credit at some time in the future is a general obligation. If there are budgeting issues with it, it's no more than we have budgeting issues with our general business tax credits that we particularly have. Arguments have been made that administrative costs will be significant, but they didn't define what significant is and we've since taken out the sales tax provision to make it very, very simple to notate when you put money in and when you are claiming it. This has had interest from many individuals because the people who live in Nebraska and stay in Nebraska who are desperately looking for something to invest in who realize that our roads need to be addressed, either that or forget about it, but don't keep holding the

Floor Debate  
April 29, 2013

---

carrot out there that we're going to have a roads program. Our investors are interested in this type of investment. Not big, big amounts, but a couple of years taxes, maybe. And if they don't invest anything, if they think like Senator Chambers does that it's some type of scam, they don't have to invest. But those who do invest will have the deal that they make which isn't all that bad a deal and which, in fact, is better rates than they probably can get by leaving the money sit in the checking account at the local bank. It is not a loan to the state; it is not a debt of the state because the state will never have to pay it back in cash. And to the extent there are arguments that this has constitutional problems, I find that very interesting because so does the wind bill have constitutional problems, so does the Advantage Act have constitutional problems, so does anything that we do that say, we will give you a credit if you do thus and so for us and this is how we will compute the credit. The very same principles in that credit computation are inherent in here. As far as this being complex, it's not complex. It is very simple: you put money in and you get to claim a credit five years down the road, sooner if you're over 65, you get to claim a credit adjusted for inflation and a very, very modest rate of interest. I did find amusing Senator Chambers' comment that it would be an impossibility for a dead taxpayer to make a claim. The bill does provide that a taxpayer's heirs can...or assignees can stand in the taxpayer's shoes and thus make the claim. This is an idea that can get some roads built, that can shorten up the time frame to do that, that can free up our resources down the road ten years... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: ...or so when we need to have those resources free for social programs and to take care of the baby boomers. It is an opportunity to act now while unusual circumstances exist at the federal level with both inflation rates and interest rates and it's a way to avoid the waste of people standing around looking for work, equipment sitting idle, engineers wanting something to do, and our Roads Department says we can handle it. Why wouldn't we want to try? Why would we just simply want to say, you know, we can't do that because we don't know why, but we can't? Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Conrad, you're recognized. [LB82]

SENATOR CONRAD: Thank you, Mr. President. Good evening, colleagues. Initially, please let me correct the record, at my first time at the mike I was misreading the Roman numerals that I had sketched down on my note pad. I should have referenced Article VIII-1; instead, I referenced Article XIII-1 in relation to the constitutional prohibitions related the state's indebtedness and to incur those kinds of obligations. So I apologize for any confusion, but I did want to clarify the record in that regard to ensure that we were all on the same page. I appreciated very much though Senator Schumacher's response to the questions that I put forward. And I think putting the

Floor Debate  
April 29, 2013

---

constitutional questions aside for a moment, which I again think are real, I could potentially understand where he was coming from, but for the provision that requires and necessitates an interest payment, I'm having a hard time understanding if the prepayment of these taxes would overall be classified as an investment or a loan. Because I think that that is a critical distinction that we need to clarify for the record. And the other point that I'm trying to work through and may have to wait for Select File because I'm again trying to, in a legitimate way, deal with this novel case of first impression. If we have a level of confidence in this body about the repayment of these prepaid taxes and the interest I'm wondering if maybe instead of having unknown General Fund implications if we should pay the credits against the Highway Trust Fund itself because then it would be a payment in, a payment out, so to speak, and I think would really challenge our feeling about whether or not we have a high level of confidence with this proposal, if we're willing to put those roads dollars at risk. I know that this body has been willing to challenge General Fund obligations and I wonder if the same would hold true if we were challenging Highway Trust Fund allocations in that regard. Of course, I appreciate and understand that taxes paid in are to the General Fund and I'm guessing that was why the original impetus of the bill has it listed that way and that's why I'm trying to work through in a technical way whether or not that would even be a possibility. But I think that it would bring the discussion to a head about whether or not we have a high level of confidence in this financing proposal that Senator Schumacher brought forward. So with that, I'm going to keep listening. I'm going to keep visiting with staff from both Revenue and Fiscal Office to see if we can't put some, maybe, parameters on this legislation and I think that we also need to get a very clear response on the potential constitutional prohibitions in relation to the debt question. So with that I'm happy to yield any of the remainder of my time to Senator Schumacher. Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Schumacher, 1 minute and 35. [LB82]

SENATOR SCHUMACHER: Thank you, Mr. President, thank you, Senator Conrad. The principles behind this bill allowing people's money to be saved and invested in projects of value to the state and in return get inflation protection and a little bit extra back go beyond road construction. If this works, and I have no doubt that it will bring in far more money than what Senator Chambers thinks it will, then... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: ...a new iteration could very well be considered at some future point for investments in research, for example, at Innovation Campus in which some of the proceeds of the intellectual property would be funneled back through the system. This is a secure way for folks to feel a little safer investing their money some place. It is a way where we take money that is setting, basically, idle now and put it to

Floor Debate  
April 29, 2013

---

work with resources that are, basically, setting idle now; know how that is not being used. There is no greater crime than waste. And these years that go by with people unemployed with money setting not drawing respectable interest, with roads not being constructed, that is waste for which our children will pay. It is something that we have an obligation... [LB82]

SENATOR CARLSON: Time. Thank you, Senator Schumacher. Senators still wishing to speak include: Bolz, Nordquist, Harr, Chambers, and Mello. Senator Bolz, you're recognized. [LB82]

SENATOR BOLZ: Thank you, Mr. President. Senator Schumacher, I appreciate this idea. I think your ideas are always innovative and fascinating. I wonder if you would yield to a question? [LB82]

SENATOR CARLSON: Would you yield to Senator Bolz? [LB82]

SENATOR SCHUMACHER: Certainly. [LB82]

SENATOR BOLZ: One of the concerns I have about this bill is that it's directed towards roads funding. Why is it roads funding and how is that a choice that doesn't actually create policy to promote roads development in a way that should be a responsibility of the Legislature? [LB82]

SENATOR SCHUMACHER: We've made a determination in this body on a couple of different occasions, one back in the 1980s, one just a couple years ago that completion of the set of roads is really important to us. It would help grow the state. Testimony at some of the hearings in the Revenue Committee indicated we can expect far more than a 4 percent rate of return from roads building. And roads initially with this theory, this type of approach are simple for people to understand. If we build a dollar's worth of roads now, that road is going to be there five or ten years from now. It's something that we can grasp, something we can understand and a way that we can say, look, we took on a dollar early and, by gosh, we got a dollar's worth of value for it. [LB82]

SENATOR BOLZ: I see where you're coming from. What's to say that this isn't setting a precedent to say that we should invest in other things, say education, or as you say, research that would, in fact, put people with capital ahead of policymakers? [LB82]

SENATOR SCHUMACHER: People with capital are what pay our taxes. People with capital are what makes it work. And education may be a thing that we may be able to fund using this technique. Again, too complicated to explain or sell when you first start. This is simple, it's a road, it's cement, it's big tractors running around, people understand it without a lot of sales. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR BOLZ: One more question, Senator, I am learning about the appropriations process and I'm understanding the value of being able to plan ahead, being able to project our revenues into the future, especially when it comes to long-term obligations like capital construction, how would having these future impacts on revenue impact our ability to plan our budget in the future? [LB82]

SENATOR SCHUMACHER: We will know how much money we bring in on a year-by-year basis to this program. Very well, as it develops, we may need to say five-year, ten-year certificates, something like that, in order to budget around it. This is a program which, undoubtedly, if it is passed and tested will evolve and we'll address those particular issues. But for now, we'll bring in a chunk of money that the roads people and the engineers and the construction people say we can absorb. And the amount of money it brings in, in context, let's just pretend it was \$50 million, well, \$50 million is only a small percentage or about a third of the unexpected windfall we got from people being afraid of Obama taking their money through capital gains taxes. [LB82]

SENATOR BOLZ: Thank you for your insights. I'll yield the remainder of my questions to Senator Mello should he have other budget-related issues to address. [LB82]

SENATOR CARLSON: Senator Mello, 1 minute, 40 seconds. [LB82]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. A couple points of clarification in dialogue that Senator Schumacher and others have had. There's two policy discussions here: one, the first under LB82 should the state become a banker is the first policy here of whether or not the state should take money in, promise by then prepaying that they will get a return on their dividend and we will utilize that money for one purpose and one purpose alone. The second issue, and Senator Schumacher did address this, I think, with Senator Conrad, and it needs to be clarified. These credits are transferable which makes it... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR MELLO: ...an express obligation of the state because once a credit is established, it can be transferred to another entity for a 10 percent transaction fee. So if Senator Kintner wants to prepay \$5,000 of his taxes, and ultimately realizes his tax liability won't...he won't need that \$5,000 in prepayment, he can transfer that and pay a 10 percent transaction fee to someone else who will buy it from him and the state is still on the obligation for the amount that he put on. So, I think Senator Schumacher said there...that they're not an express obligation, but the reality is making them transferable means we have to account for every one of them at the end of the day. That because they can be transferred, the state has to take those into consideration in General Fund loss...General Fund revenue loss by the prepayment to obtain these credits. [LB82]

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

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: Time. [LB82]

SENATOR MELLO: Thank you, Mr. President. [LB82]

SENATOR CARLSON: Thank you, Senator Mello and Senator Bolz and Senator Schumacher. Senator Nordquist, you're recognized. [LB82]

SENATOR NORDQUIST: Thank you, Mr. President and members. I, too, want to thank Senator Schumacher for bringing a bill that certainly is generating a lot of interesting discussion this evening. The first question I have, if Senator Schumacher would yield to a few questions. [LB82]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

SENATOR SCHUMACHER: Yes. [LB82]

SENATOR NORDQUIST: What guarantee would I as a taxpayer, say this bill was set up, and I decided next year to prepay \$5,000 worth of taxes, what guarantee would I have that I would get that credit with interest back at some point? [LB82]

SENATOR SCHUMACHER: When you...assuming you don't drop dead, when you file your tax return and owe \$5,000 five years down the road you mark down on the little category on the tax form just like you would for your W-2 withholdings that this is what you had coming. [LB82]

SENATOR NORDQUIST: Okay. [LB82]

SENATOR SCHUMACHER: And there would probably be a chart in which you could look across and figure out what month you put it in and how many years it's been. [LB82]

SENATOR NORDQUIST: Okay. But because this is coming out of the General Fund though, let's say, you know, the sky falls, state revenues hit the skids, what guarantee is there that future legislatures won't change the rule of the game? Can they change the rule of the game, in effect, what I'm owed? [LB82]

SENATOR SCHUMACHER: If they eliminate the income tax, then they've changed the rule of the game and you're out. [LB82]

SENATOR NORDQUIST: Um-hum. [LB82]

SENATOR SCHUMACHER: Now you can bet on that if you want. [LB82]

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

Floor Debate  
April 29, 2013

---

SENATOR NORDQUIST: Okay. [LB82]

SENATOR SCHUMACHER: I'm willing to take that bet, that they won't eliminate the income tax in totality. [LB82]

SENATOR NORDQUIST: Yeah. Okay. [LB82]

SENATOR SCHUMACHER: And this is not coming out of the General Fund. The General Fund may receive money on the input side. On the output side there is no payment made out of the General Fund. [LB82]

SENATOR NORDQUIST: Yeah. We were just... [LB82]

SENATOR SCHUMACHER: There's just less revenue coming in, just like a tax credit. [LB82]

SENATOR NORDQUIST: Yeah, we would just count for lower revenues coming in that year. [LB82]

SENATOR SCHUMACHER: Right. [LB82]

SENATOR NORDQUIST: So...but could...say we don't eliminate income taxes down the road, say a future Legislature wanted to say...say we're not going to pay this high of interest, we're going to pay...you know what, we're in tough times, we're not going to pay any interest back. Could that happen? [LB82]

SENATOR SCHUMACHER: I think it's a situation where you're entitled to claim your credit, just like you couldn't say to the windmill farmer, we're not going to pay you the credit for your sales tax, same difference. [LB82]

SENATOR NORDQUIST: But if we eliminated those credits, we could. [LB82]

SENATOR SCHUMACHER: Well, if you...if today we repealed Nebraska Advantage Act and however many hundreds of millions of dollars of credits laying around in that thing, those businesses still be entitled to their credit on taxes. [LB82]

SENATOR NORDQUIST: Are those credits constitutionally protected like a public pension where there's a guarantee...where there is a contract protection on them, do you know? [LB82]

SENATOR SCHUMACHER: I think the similarity between this credit and those credits are very much the same. It's a deal that the state has made with regard to credits. Now

Floor Debate  
April 29, 2013

---

this does raise a very interesting issue, kind of intended to be raised by this, are credits under any advantage-type program... [LB82]

SENATOR NORDQUIST: Um-hum, yeah. [LB82]

SENATOR SCHUMACHER: ...obligations of the state and contravention of that provision of the constitution? If they are here, then they are also there. [LB82]

SENATOR NORDQUIST: That's right. Interesting enough on the federal level, there's discussion during the fiscal cliff, there are people floating the ideas that even with like a Roth IRA where you're...there's no taxes on the back end, you pay your taxes up front, there's people speculating that Congress could eventually change the rule of that game and say, no, now on the back end of a Roth we're going to start making you pay some taxes as you withdraw, too, at least on your income earned off of that money. You mentioned eliminating the income tax; so if we start this program, I invest my money, can't start claiming my... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR NORDQUIST: ...credit for five years and we eliminate the income tax at some point, and there you're out of luck, could they...does this apply to corporate taxes? [LB82]

SENATOR SCHUMACHER: Yes, it does. [LB82]

SENATOR NORDQUIST: So, the best I could come up with at that case is to pay my 10 percent penalty and sell it to some corporation, is that right? [LB82]

SENATOR SCHUMACHER: You could do that. You'd end up, probably, losing a little bit of money, but if we didn't eliminate the corporate tax too. [LB82]

SENATOR NORDQUIST: But that's a risk that the... [LB82]

SENATOR SCHUMACHER: It's a risk of life. [LB82]

SENATOR NORDQUIST: All right. And then just the...the kind of the concept of the impact of the General Fund; so we were to cap this program at \$50 million, there's \$50 million inserted of inputs into the road construction fund. In five years, potentially, we've got to start accounting for potential liabilities to the General Fund of reduced revenues of \$50 million? I mean, they may not all come in that first year of the five years, but we need to start accounting for that, right? [LB82]

SENATOR SCHUMACHER: Right. I mean...in the real world there is no free lunch,

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

Floor Debate  
April 29, 2013

---

there's no... [LB82]

SENATOR CARLSON: Time. [LB82]

SENATOR SCHUMACHER: ...free lunch here. [LB82]

SENATOR NORDQUIST: Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Nordquist and Senator Schumacher. Senator Harr, you're recognized. [LB82]

SENATOR HARR: Thank you, Mr. President, members of the body. I remember at the beginning of the session I heard someone say we need to do something bold. And bold was used a lot. Well, Senator Schumacher, this is definitely bold so I want to congratulate you. Would you be willing to yield to some questions? [LB82]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

SENATOR SCHUMACHER: Yes, I would. [LB82]

SENATOR HARR: First off, thank you for bringing this bold action. I guess my first question is...and I, like Senator Chambers, read this and very quickly it went over my head and I've read it over a couple of times and then I gave it to other experts to read. And amazingly everyone I talked to thinks this is actually a pretty good idea. So I guess my question is, in hindsight, those last boom...or bust that we had people kept saying, how did we ever get into that derivatives problem with Merlots and bruts and no one understanding what was really going on? So can you explain this to me on a fifth-grade level so I can understand it? I still don't understand quite...so let me start, I prepay my taxes, is that correct? [LB82]

SENATOR SCHUMACHER: Right, you send some extra money in. [LB82]

SENATOR HARR: Okay. And I get a ten-year treasury note. [LB82]

SENATOR SCHUMACHER: The rate... [LB82]

SENATOR HARR: The rate... [LB82]

SENATOR SCHUMACHER: In the month you send it in, that's the number that you're locked into for rate. [LB82]

SENATOR HARR: And it's locked in forever. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR SCHUMACHER: For the term...until it's redeemed against your taxes. [LB82]

SENATOR HARR: And the term is a maximum of how long? [LB82]

SENATOR SCHUMACHER: Five...assuming you're under 62, 5 to 20 years. You've got up to 20 years to claim your money back. [LB82]

SENATOR HARR: Okay. And can my employer...if my employer prepays this for me, is that income to me or does that go towards them? [LB82]

SENATOR SCHUMACHER: If your employer prepays that value...gives the government some money in your name, in other words, is that what you're saying? [LB82]

SENATOR HARR: Yes. [LB82]

SENATOR SCHUMACHER: I would say that probably income to you. Because the same as if he paid it to you and you paid it in, I don't think you can beat the tax boys that easily. [LB82]

SENATOR HARR: Okay. What if they make it in less than ten...if...now let's pretend I prepay my taxes for my child. Is that just a gift tax exemption or is that income to the child? [LB82]

SENATOR SCHUMACHER: If you prepay your taxes for your child, you would be making a gift of that amount, I think, to your child. [LB82]

SENATOR HARR: Okay. And what is just...I don't know if you know what is the exemption for gift tax on children under the state? [LB82]

SENATOR SCHUMACHER: I think that you're...it's right at \$13,000. [LB82]

SENATOR HARR: Okay. Well, this is an innovative and bold idea. [LB82]

SENATOR SCHUMACHER: Don't use the word "bold," that's a four-letter word this year, Senator. (Laughter) [LB82]

SENATOR HARR: Well, I appreciate it. This is a very complex idea. It is bold and it is very complex. And I have, like I said, vetted it with outside sources and the concerns raised here today I find interesting because I haven't heard those before, the constitutionality. And to be honest with you, I haven't investigated that. And I've been doing a little bit on my gadget here. I guess I would yield the remainder of my time to Senator Schumacher to go into greater detail if he would like. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: Thank you, Senator Harr. Senator Schumacher, 1 minute and 20 seconds. [LB82]

SENATOR SCHUMACHER: What sounds like a complicated deal is really very simple. Not at all like...and I seem to remember a few years ago, at least, at the federal government if you...they were actually paying you interest on your overdeposits of federal taxes, if I remember right. [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: But you put money in and at a time in the future you get to take a credit for the money you put in adjusted for inflation and the T-bill yield rate of interest. That's as simple as it gets. It's not complicated. And we, the state, gets money now to build roads while they're cheap to build, and we also learn from the experience as to whether or not this type of mechanism can be refined in order to do other things to bring private capital together with public assets in order to create wealth at the public level and at the private level. It is a simple notion of mobilizing capital in a unique way. [LB82]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Chambers, you're recognized. This is your third time. [LB82]

SENATOR CHAMBERS: Thank goodness for that, Mr. President. I would like to ask Senator Schumacher another question or two. I may as well have my education improved here. [LB82]

SENATOR CARLSON: Senator Schumacher, will you yield? [LB82]

SENATOR SCHUMACHER: Of course. [LB82]

SENATOR CHAMBERS: Senator Schumacher, can the state issue general obligation bonds? [LB82]

SENATOR SCHUMACHER: I think there are certain limited classes that it can issue, but, generally, no, because it's pledging the credit of the state. [LB82]

SENATOR CHAMBERS: Can they issue the general obligation bonds...this isn't a trick question. You're not sure? [LB82]

SENATOR SCHUMACHER: I think the answer is yes, but I think there's limitations on it. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR CHAMBERS: Can they issue revenue bonds? [LB82]

SENATOR SCHUMACHER: Cities can, so the state must be able to do too. [LB82]

SENATOR CHAMBERS: But we're not sure the state can issue general obligation bonds? But if they could, then they get the money right now, don't they? [LB82]

SENATOR SCHUMACHER: That's correct. [LB82]

SENATOR CHAMBERS: But then they have to pay interest when somebody wants to cash in the bonds, is that correct? [LB82]

SENATOR SCHUMACHER: Right, and they got to pay cash out in exchange for the bonds. [LB82]

SENATOR CHAMBERS: If you put your money in here, because some people still haven't gotten it, you will never under any circumstances see that money again, will you? [LB82]

SENATOR SCHUMACHER: You will not see it from the state; you might see it in a transfer after payment of a 10 percent fee to another entity. [LB82]

SENATOR CHAMBERS: But I'm talking about between you and the state. [LB82]

SENATOR SCHUMACHER: It be gone. [LB82]

SENATOR CHAMBERS: If I were to set up an operation where I had a scheme and I promised people 10 percent interest on their money and the way I got the money to pay them was to get other people to invest with me on the same basis, it would work and I'd have no problem as long as I had an influx of people who would invest enough money with me to pay off those who put money in, give them their principal and the interest that I promised, I'm all right, isn't that true? [LB82]

SENATOR SCHUMACHER: You're not the state of Nebraska though. [LB82]

SENATOR CHAMBERS: But if I did that, I can do that, can't I? [LB82]

SENATOR SCHUMACHER: You could and you'd probably be sharing a bunk with Bernie. [LB82]

SENATOR CHAMBERS: What would that scheme be called if I as an ordinary person did it and a point was reached where I could no longer pay off the people who I owed because nobody else was giving me money? [LB82]

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

Floor Debate  
April 29, 2013

---

SENATOR SCHUMACHER: If you did what you'd described, which is not what this bill does, I think they call it a Ponzi scheme. [LB82]

SENATOR CHAMBERS: Right on. (Laugh) Except as a Ponzi operator, somebody gets their money back. Somebody gets their money. When you mentioned putting money into the stock market you know it's a gamble. When you put your money in with the state like this, you aren't clear that your money is gone no matter what. If the economy improves and the state is rolling in dough, you'll never see your money again. And if there would be a recession and people cannot pay their taxes, let alone overpay, then the Roads Department is not going to get that money to spend on roads, is that true? [LB82]

SENATOR SCHUMACHER: The roads...once paid in, the Roads Department is going to spend it. You will be able to claim it as a credit against your future taxes. [LB82]

SENATOR CHAMBERS: But if you've got no taxes because you can't pay any taxes, and all that money that you may have prepaid is gobbled up, but nobody is paying in tax money in advance, then the Roads Department is not going to get extra money, are they? The only way they get this money is from people paying in advance. And if something happens and nobody is paying in advance, that money that the Roads Department counted on is not there anymore, isn't that true? [LB82]

SENATOR SCHUMACHER: Well, of course. [LB82]

SENATOR CHAMBERS: Then if the Roads Department has let contracts, they can't pay those contractors, can they? [LB82]

SENATOR SCHUMACHER: The money...as I believe the roads program is set up, the money comes in, then they let the contracts. [LB82]

SENATOR CHAMBERS: But if something happens and contracts are let and no money has come in, would the state then be obliged to appropriate money to pay those contractors... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR CHAMBERS: ...for the work that they had done already? [LB82]

SENATOR SCHUMACHER: I don't think the Roads Department spends money that far in advance. [LB82]

SENATOR CHAMBERS: Hmm. This is a scam. And I think this bill ought to be killed.

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

Floor Debate  
April 29, 2013

---

But I'm not going to do all the work today. But at some point...Senator, I'm not going to say it's innovative and give you all those words of praise when I don't even know what's going on except the simple part that when your money is gone, it's gone period. And if I can pass it on to somebody who means something to me and they owe no taxes, then I pass nothing to somebody to whom it is nothing, then they pass it on to somebody to whom it is nothing. And however many transactions we make, nobody is going to see any of that money again. The state, the Roads Department, the only one that benefitted from it, and I think that's...I think it's wrong, actually, to have something like this. But if the public is simple enough, should we let them do it? [LB82]

SENATOR CARLSON: Time. [LB82]

SENATOR CHAMBERS: Thank you, Mr. President. [LB82]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Schumacher. Senator Mello, you're recognized. [LB82]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Would Senator Schumacher yield to a question? [LB82]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

SENATOR SCHUMACHER: Sure will. [LB82]

SENATOR MELLO: Senator Schumacher, we've had this dialogue, I think, between Senator Conrad, myself, and yourself in regards to this being an express obligation to the state. Your...the committee amendment tries to clarify in the statute that this is not an expressed obligation of the state. And my question is, if it's not an express obligation of the state, what necessitates the state to have to repay the taxpayer then? [LB82]

SENATOR SCHUMACHER: The same nature of law that requires the state to honor a Nebraska Advantage Act credit. [LB82]

SENATOR MELLO: Now I appreciate that, that answer. But my understanding is under the Nebraska Advantage Act the state has to enter into a signed legal contract with the taxpaying entity, whether it's a corporation, LLC, whatever it is, a legal contract which becomes an express obligation of the state to have to pay, or give the refund of those sales tax or income tax or property tax, whatever they be, if the contract is met on behalf of the business. Is that kind of your interpretation as well of the Advantage Act of it's a legal contract that the state signs with an entity, that that's what makes an express obligation? [LB82]

SENATOR SCHUMACHER: I think it's a legal document that is signed under those

Floor Debate  
April 29, 2013

---

circumstances pursuant to statute, just as your submission of your extra deposit would be on your signed tax return accepted by the Tax Commissioner. [LB82]

SENATOR MELLO: But under the bill, there's no legal documentation that's required for a taxpayer to sign this contract with the state, that would show that the state is...it's an express obligation, so to speak then, that we have to pay them back. Correct? [LB82]

SENATOR SCHUMACHER: The bill sets up the provisions which set the rules in the same manner that the contract would set it up in the...and they are set up, under the Advantage Act and under the windmill credits and all that. [LB82]

SENATOR MELLO: I appreciate the response, Senator Schumacher, and we can, no doubt, talk a lot more about this off the mike. I just want to draw the body to not so much the amendment that Senator Schumacher has before us but an amendment I put in that follows it which seeks to address this whole language of an express obligation of the state, in which under section...under statute 77-2715.01 that ultimately walks through the Tax Rate Review Committee, ultimately our income and sales tax rates limitations. And what it essentially says, as section (b) of that statute states, that the Legislature shall set the rates of sales and income taxes so that estimated funds available plus estimated receipts from sales, use, income, and franchise taxes will not be less than 3 percent, no more than 7 percent in excess of the appropriations and express obligations for the biennium for which the appropriations are made. Section (c) then states: For the purposes of this section, express obligation shall mean an obligation which has a fiscal impact identifiable by a sum certain or by an established percentage or other determinative factor or factors. Colleagues, if...essentially what my amendment does is it explains we have to account for tax credits that we give out. They are an express obligation of the state because that is revenue the state will not receive through those credits. [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR MELLO: And for us to make this an express obligation of the state, or if we don't adopt my amendment, we fall in some murky water. As I was asking Senator Schumacher, if it's not an express obligation of the state by the way it's worded in the bill, what necessitates the state to have to pay these credits? If it is an express obligation of the state, which my amendment would make these credits that, we have to account for it in our financial status. We have got to account for it in regards to ongoing General Fund loss when we pay out these credits towards future income tax payments. It's very...I appreciate the dialogue because it's that simple. There's no other way to get around this. We have to make this an express obligation of the state. Otherwise, we don't have to pay these people anything. So I look forward, if Senator Schumacher has some ongoing dialogue regarding this. I'll kind of bypass and wait a little bit after this amendment till I get to mine. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: Time. [LB82]

SENATOR MELLO: Thank you, Mr. President. [LB82]

SENATOR CARLSON: Thank you, Senator Mello and Senator Schumacher. And now the senators wishing to speak include Gloor, Avery, Pirsch, and Nordquist. Senator Gloor, you're recognized. [LB82]

SENATOR GLOOR: Thank you, Mr. President. Good evening, members. I wonder if Senator Schumacher would yield to a question or two from me. [LB82]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

SENATOR SCHUMACHER: I sure will. [LB82]

SENATOR GLOOR: Thank you, Senator Schumacher. This is interesting, and slowly but surely is gathering a lot more interest I think. I want to ask you about redeeming your claim. And if I recall right, it's you must hold it for five years, age 62 or death, whichever is earlier. Well, I'm 62, just. I know that shocks a lot of people, but I'm age 62. And what...when you say age 62, does that mean I have to hold it for five years? If I'm age 61, can I redeem it after one year, but once I hit 62 I've got to wait the five years or death? I'm trying to figure out the magic of age 62. [LB82]

SENATOR SCHUMACHER: Sixty-two is you can claim the credit on your taxes, if you're 62 years old or older, even if it was only in there are year or two. [LB82]

SENATOR GLOOR: Okay. So it does give you basically a rapid turnaround in claiming that tax credit. [LB82]

SENATOR SCHUMACHER: And it also gives a bit of tax reduction, not too much but a bit, to folks who are at the traditional retirement age. [LB82]

SENATOR GLOOR: So you're doing this as, can I use the term, "marketing" to perhaps those folks who are more comfortable with some sort of a fixed, secure investment? [LB82]

SENATOR SCHUMACHER: No, more as a sense of fairness that 62 has been, at least it used to be of Social Security, you could apply for Social Security. And at that particular point, particularly because it gets more involved once you pass away--and you get over 62, you're getting closer and closer to that day--it just adjusts for that. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR GLOOR: Okay. You know, I'm looking at this more as an investment opportunity and I'm thinking about many of my constituents. I think this would be true for almost all the senators. But you know, there are a large number of our constituents who look forward to that check from the federal and state government after they've done their taxes every year. And the reality of eventually giving the government more money than the government deserves, liking the fact that it's some sort of a Christmas account that you get money back, that's not a high level of, I'm trying to be polite here, sophistication in managing money. So I'm back to the issue of is there really a market for this out there. Have you talked to investment advisors or estate planners, trust officers? Somebody is going to have to sell this, because I don't think John and Jane Q. Public are necessarily going to warm up to this, obviously, and they probably don't have the dollars that would take advantage of this either. But have you talked to people in the investment community about this? [LB82]

SENATOR SCHUMACHER: For folks that have substantial tax obligations, know they're going to have substantial tax obligations, are in a position to understand the rules of the game, there's interest. Now how much of that interest translates into a check coming in on April 15, we won't know and I don't know if there's any way that you can know. But there is...you know, the people that would engage in this are not the people who look for the Christmas check back from the government. We're talking folks that have and know they will continue to have substantial state tax obligations and who have got money right now in a bank at zero percent interest. [LB82]

SENATOR GLOOR: Yeah, because you're basically giving the state money and you don't expect to get it back, and that's a concept that's only going to work with people who understand that they're moving funds around and a tax credit is money... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR GLOOR: ...as relates to their own portfolio and monies they hold. But that's obviously a small, small segment of the overall amount of money that gets invested in this state, I think. I'm just trying to decide whether it's going to be utilized to the extent that you would want it to, let's put it that way, and given the challenges of having it on the books. I'll sit down and listen. There's no reason for you to answer to my questions. I'm clearly thinking out loud, but I want you to know, Senator, I am thinking about your bill. It's interesting. Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Gloor and Senator Schumacher. Senator Avery, you're recognized. [LB82]

SENATOR AVERY: Thank you, Mr. President. I'm going to need some help with this so I'm going to ask Senator Schumacher to yield to a few questions. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

SENATOR SCHUMACHER: Sure will. [LB82]

SENATOR AVERY: Senator Schumacher, without being too harsh on this bill, because I think it's a brainteaser, if I were to describe this as a backdoor way to create a form of bonding for roads, would I be way off the mark? [LB82]

SENATOR SCHUMACHER: It would be a first cousin of bonding, but there's no state obligation to pay you back in cash. It's just a credit against your taxes. [LB82]

SENATOR AVERY: Okay. That's...I'm on the right track. So now stay with me because I do want to understand this. This is how I think it works. And you can at any point, when you...if you want to interject a correction or nod in agreement, let me know. We know that the roads in this state need money and they need it now. Correct? [LB82]

SENATOR SCHUMACHER: It would sure be nice to have them done. [LB82]

SENATOR AVERY: And we also know that construction materials are costing more every year. They are cheaper now than they will be, let's say, ten years from now. [LB82]

SENATOR SCHUMACHER: They're probably abnormally cheap because of the national economic situation. [LB82]

SENATOR AVERY: So it makes sense then to do the road work now, the express...statewide express system, south beltway around Lincoln, those projects. Correct? [LB82]

SENATOR SCHUMACHER: If we're going to do them, it makes sense to do them now. [LB82]

SENATOR AVERY: Okay. So if we finance road construction with this method, which is a creative method, then we would save money. Is that correct? [LB82]

SENATOR SCHUMACHER: We would have roads done that would have been done cheaper than before. And to the extent we're committed to doing it, we would save money. [LB82]

SENATOR AVERY: Okay. The payback is within 20 years, as described in the green copy, at a rate to be determined by a program rate. Correct? [LB82]

SENATOR SCHUMACHER: Right. That program rate adjusts to make sure you get a

Floor Debate  
April 29, 2013

---

dollar back in value for every dollar put in, plus whatever interest rate you locked into when you put the money in. [LB82]

SENATOR AVERY: And that's where the cost to the state will come in. That program rate is really critical. [LB82]

SENATOR SCHUMACHER: Not really the cost to the state. That program rate should offset and leave a little extra for the state, what it would have to come up with were it going to do the road then rather than having it already done. [LB82]

SENATOR AVERY: Okay. All right. So how confident are you that the program rate will do what you expect of it? Because that's a critical piece I think. [LB82]

SENATOR SCHUMACHER: And that is very important. Dollar in, in value; dollar out in value. That, the assumption there is that the federal Consumer Price Index numbers do an adequate job of reflecting that. Secondly, the T-bill rate of interest on a ten-year T-bill is really pretty low interest. It's a .75 right now, really pretty low. Testimony on Senator Conrad's bill, was point blank asked: Will a road at least pay back a 4 percent return on investment? The answer was emphatically yes. And one guy said, heck, it pays back a couple hundred percent because those people building roads in the community infuse the community with money and taxes and all kinds of good things. [LB82]

SENATOR AVERY: You've probably been asked this before and I didn't hear it, but do any other states do something like this? [LB82]

SENATOR SCHUMACHER: This is novel. [LB82]

SENATOR AVERY: This is novel. That's why we're having so much fun with it. All right. So I'll accept your argument that the program rate does... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR AVERY: ...what you think it does and that you trust it to be accurate. Now it seems to me that the attraction of this bill has to be in the payback that is the credit, because the credit has to be sufficiently attractive to the investor but not so attractive that it's going to drive up the payout by the state through those tax credits to the point where you are actually spending more at the far end there than you are at the point where you put the money into the road fund. [LB82]

SENATOR SCHUMACHER: You hit the nail on the head, Senator. [LB82]

SENATOR AVERY: All right, so I am understanding this. That's surprising. So at the...when the...if the Roads Department was going to be buying those materials at the

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

Floor Debate  
April 29, 2013

---

20-year maturity point for these credits, they would probably pay a lot more for that material than they would pay now. [LB82]

SENATOR CARLSON: Time. [LB82]

SENATOR AVERY: That's the savings. Thank you, Mr. President. [LB82]

SENATOR CARLSON: Thank you, Senator Avery and Senator Schumacher. Senator Pirsch, you're recognized. [LB82]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate the conversation. I would also describe it as a bold proposal. Sorry, Senator Schumacher, but I appreciate your thinking outside the box and that...appreciate your getting your fair debate. I would wonder if you'd yield to a couple of questions. [LB82]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

SENATOR SCHUMACHER: Yes, I will. [LB82]

SENATOR PIRSCH: The concept going forward, that it was timely now because of historic low rates right now. Is that right? [LB82]

SENATOR SCHUMACHER: That's right. Can't get much lower than zero. [LB82]

SENATOR PIRSCH: Without a sunset provision or some sort of a cap on the program, though, rates are sure to rise. Would it make sense to have then, if that's the justification, some sort of a sunset provision or cap, so that when rates are not historically low that this would...would you agree then this would not be an attractive option for the state then, or no? [LB82]

SENATOR SCHUMACHER: Yes, and that concept is introduced in the bill. It has a 5 percent cap. [LB82]

SENATOR PIRSCH: Okay. And with respect to...would you agree with the statement that we are enjoying money for roads today, subsidized what would otherwise be future tax revenues? Would you say true or false to that? [LB82]

SENATOR SCHUMACHER: Sorry. Could you repeat the question? The fan was blowing. [LB82]

SENATOR PIRSCH: Sure, that we are utilizing or enjoying dollars for roads today, subsidized by what would otherwise be future tax revenues. [LB82]

Floor Debate  
April 29, 2013

---

SENATOR SCHUMACHER: Yes. We're accelerating the tax payments so that we can buy things cheap. [LB82]

SENATOR PIRSCH: Okay. And so I think that Senator Avery kind of hit it on the head, that looking at what you referred to as a program rate is the money in terms of the tax credit that such investors will get back after a...is it 20-year run in all events? [LB82]

SENATOR SCHUMACHER: The taxpayer has got 20 years of him having a tax obligation in which to claim the credit. [LB82]

SENATOR PIRSCH: Okay. So knowing what that program rate is and how that compares to the real outside world, that differential is key, I think. And so your estimation (inaudible), and you pegged it to...now, after the amendment, what's it pegged to? The...so if you invest \$100 today, it's \$100 plus the interest you earn, is based on the what? It's not LIBOR. It's federal CPI? Is that...? [LB82]

SENATOR SCHUMACHER: There are two components of it. The first is the lesser of the United States government bond yield for ten-year notes on the last business day of the month in which the tax investment was made, or 5 percent per annum, the lesser of those two numbers. And the second component, the inflation adjustment, is pegged at the...by using the United States Department of Labor Bureau of Labor Statistics Consumer Price Index for all urban consumers, U.S. city average, or if that ever is replaced by some other federal number, a comparable number. [LB82]

SENATOR PIRSCH: Would you expect that whatever resulting product comes of that is somewhat sweeter, somewhat sweeter than what the outside market would give, say, a bank would...interest would pay if you had invested the money? [LB82]

SENATOR SCHUMACHER: Right now it would be the T-bill rate, which is not sweeter, 1.7 percent, and the inflation adjustment. If there is any sweetness in it, it would be the inflation adjustment to give a taxpayer credit in value against his taxes for what he put in, in value, knowing that that is being offset, probably more than offset, by the savings the state incurs by doing something now rather than waiting to pay the inflated cost later. [LB82]

SENATOR PIRSCH: Right. So, I'm sorry, if I heard that correct... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR PIRSCH: ...and I'm sorry, there's (inaudible). Was it the...was it some sort of tax preferential treatment at the outset that you think the program rate is pretty good in terms of mimicking the outside world but then the tax treatment, is that...and I apologize if I misheard that. [LB82]

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

Floor Debate  
April 29, 2013

---

SENATOR SCHUMACHER: Well, the program, the rate here is probably less than you could get on some corporate bonds. But in this particular case, what you are really doing is investing in your own tax ability at a point in the future. And that's...I'd feel more comfortable doing that than investing in a corporate bond over...that I had no control over. [LB82]

SENATOR PIRSCH: Mr. President, how much time do I have left? [LB82]

SENATOR CARLSON: Ten seconds. [LB82]

SENATOR PIRSCH: (Laugh) Well, I don't know any jokes so I'll thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Schumacher. Senator Nordquist, you're recognized. [LB82]

SENATOR NORDQUIST: Thank you, Mr. President and members. Probably my biggest concern initially with this bill is the impact to the General Fund. You know, we've talked about we don't know the dollar amount we'd be looking at, but essentially if we're talking about capping it at a 50-year or \$50 or \$50 million a year amount of credits, of investments to be made by Nebraskans into this program, that would be a \$50 million infusion into the Highway Construction Fund. And, you know, everyone can...there's certainly the ability to argue that those dollars are needed for our highway system. But there is a true impact to the General Fund, just like with any tax-reducing legislation. It will essentially equate to a shift of whatever amount of money goes into this program away from the General Fund to the Highway Construction Fund, just like with LB84 a few years ago. Those of you that were here know that I opposed that at the time, but it certainly is the law of the land right now in Nebraska, and that shifts or...I shouldn't say shifts because the money doesn't actually go into the General Fund anymore, but it diverted a quarter cent of our sales tax from the General Fund to the Highway Construction Fund at around...I think it's between \$60 million and \$70 million a year. That limited the revenue that was available for General Fund spending. Just like with LB, I believe it was, LB907 last year, a tax cut that this body enacted that phased in, it is now really in this next biennium, really phasing in fully. It was a slow phase-in. I think that gets up into the neighborhood of around \$50 million a year or so, and it was an income tax cut for low...or for middle, largely folks that are middle-income Nebraskans. That reduced the revenues that were available to the General Fund. So if we're talking about \$50 million a year that would go into this program, that would be along the same lines as an LB84 or an LB907 as far as the impact to the General Fund. Mr. President, could I ask Senator Schumacher a question or two? [LB82]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB82]

Floor Debate  
April 29, 2013

---

SENATOR SCHUMACHER: Yes, I will. [LB82]

SENATOR NORDQUIST: Senator, I know you mentioned there's no free lunch earlier, and certainly that is true. The revenues in the General Fund would be decreased with every dollar that was invested in this program. Is that...was your...I mean is your intent to get more money for roads? Is that the purpose behind this bill? [LB82]

SENATOR SCHUMACHER: Senator, you're only seeing half the equation. You're talking about money transferred from the...what would otherwise be in the General Fund to roads. Once the project is completed, instead of waiting 20 years to finish up LB84 projects, the transfer moves back because we won't have to be spending those money on roads 10 years down the road, assuming that that's where the math works out to be. And we will have more money to spend on baby boomers like me and Senator Gloor, who are looking for some help 10, 20 years out. [LB82]

SENATOR NORDQUIST: So the underlying assumption is that at some point we will be able to complete the backlog of road construction. And our gas tax or whatever revenue source we have for the roads at that time will be sufficient to meet the needs and we'll be able to move this and LB84 away from road construction? Is that the assumption? [LB82]

SENATOR SCHUMACHER: Right. This accelerates the program, freeing money for social and other programs down the road... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: ...when we're going to need it. [LB82]

SENATOR NORDQUIST: I appreciate that, Senator. I appreciate your optimism there that the road needs of the state won't continue to just perpetuate and that we would be able to get caught up on that. Real quick on the program rates, just so I have an understanding, I looked up CPI between January '12 and '13. It was about 1.6 percent. And then the ten-year bond rate, you said 1.7, I looked up, it was 1.67, somewhere around there. So right now if this program were into effect for the current year, I would be able to get a 3.27 percent return, roughly, on my tax investment? [LB82]

SENATOR SCHUMACHER: I think that would be probably pretty close. [LB82]

SENATOR NORDQUIST: And that does seem like a, you know, pretty good investment if you have tax liabilities that you do have to pay off for a consumer, certainly better than a savings account or a CD or anything like that would pay. But that also, correct me, would be a General Fund... [LB82]

Floor Debate  
April 29, 2013

---

SENATOR CARLSON: Time. [LB82]

SENATOR NORDQUIST: Sorry. Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Nordquist and Senator Schumacher. Senator Conrad, you're recognized. This is your third time. [LB82]

SENATOR CONRAD: Thank you, Mr. President. Again, good evening, colleagues. I've been enjoying the conversation and the debate and dialogue on this novel approach. And I did want to just clarify a bit, based upon the last exchange that Senator Mello and Senator Schumacher had about whether or not this situation presented in LB82 was analogous or distinguishable to the process that we have in place for the Nebraska Advantage Act or another tax credit program, wherein underlying that program there is indeed a legally binding contract. And there was some dialogue about the signature on your tax return creating maybe a similar component. To be clear, I believe that that is rather related to an attestation of the veracity of the components reported within the tax return rather than to be considered as any sort of intent to enter into a contract with the state. And just basic contract principles related to necessary elements for formation of a contract would have to be the intent, the author, the consideration, and acceptance, and I'm not sure if we could fairly read in the signature on a tax return to meet the requisite standard for contract formation. So with that, I am happy to give the remainder of my time to Senator Schumacher so he may respond. [LB82]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Schumacher, 3 minutes and 15 seconds. [LB82]

SENATOR SCHUMACHER: Thank you, Senator Conrad. With regard to the nature of the legal obligation, I think it's very similar to that created by the Advantage Act situation. It's also very similar to...except that it's not redeemable in cash, to the obligation of a state to give you a credit when you say, on your tax return, carry my fourth quarter payment forward into next quarter so I have to send in less estimated tax. To the extent that there's administrative regulations needed, the act provides for that. Or I'm very open to discussion, if a comfort level is reached that this is a good idea, to working on a detail of some type of a contract slip that you'd attach to your tax form that would have the same legal effect. Those mechanical procedural issues are way secondary to the overall issue here of, first of all, are we really serious about completing these roads? If the answer to that is yes, then does this offer a comparative advantage in money and resources to the state by accelerating some payments now, with the idea of lessening our obligations to those roads down the road, and also providing a place for our people to invest their hard-earned private capital in projects by the state of...done by the state of Nebraska? Is this a good way for us to get the roads built and our taxpayers a decent rate of return in these tough economic times? If the answer to that is yes, this is something that will save the state money in the long run, will complete the roads and,

Floor Debate  
April 29, 2013

---

if we are committed to completing the roads, will free up money for baby boomer and other social expenses down the road, when we're going to need it a whole lot more. And we would hate to have to face cut the roads or cut them. Then let's proceed... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: ...down this road. If we want to continue to do what we're doing and someday face an effort that says, look, we just can't afford these roads, we're being overwhelmed, and interest rates will have gone up or national economics changed and we're satisfied to just go along as we are, then we go along as we are. No hard feelings on anybody's part. But I think this is deserving of the kind of discussion to approve AM1078 and at least advance this so we can continue on with this discussion. There's a real potential here and it would be a shame to let it waste. Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Schumacher. Those still wishing to speak include Bloomfield and Avery. Senator Bloomfield, you're recognized. [LB82]

SENATOR BLOOMFIELD: Mr. President, I'd yield my time to Senator Schumacher. [LB82]

SENATOR CARLSON: Senator Schumacher, 4 minutes and 55 seconds. [LB82]

SENATOR SCHUMACHER: This is an opportunity to have Nebraskans invest in Nebraska. This is a prototype of what might very well be morphed to investments other than roads if we know the thing works for roads and if people are willing to use this as a vehicle of investing in Nebraska rather than sending their money away to Wall Street or investing in...with the federal government so the federal government can do whatever the federal government does with bond money. It's an idea that works for organizing our money. How much it will work nobody knows. How much risk is there? There is probably some risk if you're dead. But as long as you're living in Nebraska, making income in Nebraska, paying taxes in Nebraska, you're in fact investing in yourself and your own productivity and giving yourself an incentive to stay in Nebraska and be productive in Nebraska. To the extent that it is able to give a little extra to the folks over 62 a shorter term, it's some type of relief for them too. The state does not come out short on this, nor does the taxpayer, unless they have to transfer it and take the 10 percent hit, and they transfer that when they die. And if that's a risk you're willing to take, you take the risk. If not, you send your money to Washington. You send your money to Wall Street if you think there's less risk there. Or you let it sit in the bank at zero percent interest. But this is a vehicle. It's an experiment. It's entrepreneurship in government. It may not bring in a dime's worth of payment; it may bring in substantial amounts. If we think the substantial amounts are way too substantial for us to want to handle, it's perfectly fine with me to put a reasonable cap on it for the early stages of the experiment. But I feel obligated to bring the idea here. It has positive reception in the

Floor Debate  
April 29, 2013

---

investing community. It should have positive reception in the contractors and engineers, even though I don't see a whole line of lobbyists with their nose pressed to the glass. This is one where there's...this comes from within the body. It doesn't come from within the lobby or any special interest. So I'd ask your consideration for this measure, to move it ahead, keep this idea alive until we've had some more chance to digest it. I know it's a lot to digest, but it really is a pretty simple notion. Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Avery, you're recognized. [LB82]

SENATOR AVERY: Thank you, Mr. President. I want to inform Senator Schumacher I'm not going to take all my time, so get ready. I'm going to give you the rest of it. I am liking this a lot more, the more I hear about it and the more I think about it. I think it actually might work and it would put some much-needed money into road construction now. But I do have one concern and that is it's clear to me that as long as we have a Consumer Price Index that's low, and it is low now, and as long as the bond yield is low, this is really going to be beneficial to the state, because the money or the credits will be a lot cheaper in the out years than perhaps we might expect. But then what happens if you have inflation? If you have significant inflation and the Consumer Price Index goes up, the bond yield goes up, then this could blow the whole regime right out of the water. That would concern me. I'm sure that Senator Schumacher has an answer for that, because my experience with him is that he thinks things through before he speaks. But that, I would like to have Senator Schumacher address that. And another thing I'd like to have him address is this 60-year-old condition in here. What if you are already 62 or older and you want to participate in the program? You'd have to participate I guess at the five-year qualification. You don't want to wait until you're dead to participate. So you might want to address that, too, when you take the mike. Thank you, Mr. President. [LB82]

SENATOR CARLSON: Thank you, Senator Avery. Senator Schumacher, 3 minutes. [LB82]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Thank you for your consideration on what, admittedly, is a very novel idea. The question was, that Senator Avery raised, what happens when the bond yields go way up? Folks, they're going to go way up at some point. The fed cannot suppress them forever. That's why I do not want an interim study on this or any delay on this. This has value while the interest rates are low. They start taking off and going up, this program loses value. We may want to terminate it at that point. But right now they're low and when you make a payment now, you lock it in at the low rate of today's month's fed rate. So right now we know what they are. If next year we start seeing the fed easing up and they start going up, we might want to pull the plug on new deposits. Right now we're in a position to win. What about inflation? What happens if inflation takes off? Well, if inflation takes off,

Floor Debate  
April 29, 2013

---

presumably that's going to be reflected in what we got to pay for roads. So the fact that we will give the investor a little something back on the investment, it will be the amount that we've saved by not having to pay for a higher pay road at that time. Nobody loses on the deal. Investor gets something; we get a road at the cheaper rate. As far as the issue Senator Avery raised on 62, if you're 62, you can roll it over right the next year, put money in it on your 2013 return, take it back out with the adjustments on your 2014 return. Once you're 62, you're not bound to leave it in there for the five-year period. And if you can...if you don't have enough tax liability to use it up in one year, you can carry it forward. This is a way that we can look down the road ten years... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: ...and say mission accomplished with reference to our roads program, provided that people invest in this. We're no worse off than doing nothing, that's for certain. And when we can say mission accomplished on that roads program that we promised the people they would get in the 1980s, when we can say that, we will have reserves. We will have money that we can appropriate to what almost certainly every one of us, if we examine ourselves, will say will be more intense social obligations in ten years than we have now. Every year here we see the intensity of those obligations go up. And at some point, if you don't invest now, you may be precluded from investing ever. And if we're content with that, that's fine. But this is a vehicle for us to be able to try and hold our social obligations down the road together and get value for our money now. [LB82]

SENATOR CARLSON: Time. Thank you, Senator Schumacher. There are no other senators wishing to speak. You're recognized to close on AM1078. [LB82]

SENATOR SCHUMACHER: AM1078 in specific...thank you, Mr. President, members of the body. AM1078 in specific corrects the drafting problems which gave concern. In short, what they basically did in the drafting, in the initial interpretation of the algebra, was taken the number of years times the inflation adjustment and also times the interest rate. The inflation adjustment never should have been taken times the number of years. This fixes that particular problem. It also deals with a consternation that is...was there with regard to, gee, this would be very complicated if somebody was having a credit. How would you give them their credit against their sales tax? I mean, would you have to bring in your receipts from the Walmart store and start doing an itemization of your sales tax liability? And that did look like it would be overly burdensome and perhaps not worth it for the sales tax. This does it. It removes that entire classification of issues and makes it reasonably simple, the same type of math that if you send in too high a quarterly deposit or your employer holds too much, you take a refund that is calculated. You can calculate the date of investment and the inflation rate from simple charts that would be in the book, just like you calculate your charts now, and makes it very, very simple to administer. So AM1078 puts the bill in position to be voted up or down on, and

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

Floor Debate  
April 29, 2013

---

I'd ask for your support of AM1078 to get it in that position. [LB82]

SENATOR CARLSON: Thank you, Senator Schumacher. Members, you've heard the closing on AM1078. [LB82]

SENATOR SCHUMACHER: And I'd ask for a call of the house. [LB82]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB82]

CLERK: 25 ayes, 0 nays to...29 ayes, 0 nays, Mr. President, to place the house under call. [LB82]

SENATOR CARLSON: Thank you. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Harr, Lathrop, Pirsch, Nelson, Larson, Chambers, the house is under call. Senators Harr, Lathrop, Nelson, and Chambers, please return to the Chamber. The house is under call. Senators Harr and Chambers, the house is under call. Senator Schumacher. [LB82]

SENATOR SCHUMACHER: We can proceed now, a roll call vote or...yeah, a roll call vote in regular order. [LB82]

SENATOR CARLSON: There's been a request for a roll call vote in regular order. The question is, shall AM1078 be adopted? Mr. Clerk. [LB82]

CLERK: (Roll call vote taken, Legislative Journal pages 1167-1168.) 24 ayes, 13 nays, Mr. President, on the amendment. [LB82]

SENATOR CARLSON: The amendment is not adopted. We return to discussion on...call is raised. Mr. Clerk for an amendment. [LB82]

CLERK: Senator Mello would move to amend with AM753. (Legislative Journal page 1168.) [LB82]

SENATOR CARLSON: Senator Mello, you're recognized to open on your amendment. [LB82]

SENATOR MELLO: Mr. President, I'll speak briefly. And ultimately, I plan on withdrawing this amendment, colleagues, to kind of see where the bill goes. As I mentioned before, as we were discussing the previous amendment, what AM753

Floor Debate  
April 29, 2013

---

ultimately does is that it requires that these tax credits become an express obligation to the state in accordance with the statute that governs the income and sales tax rates as well as the minimal reserve that's part of our budget process. As I mentioned before, as you look at the amendment on your computer, Section 77-2715.01 is that section that deals with both income, sales tax, the Tax Rate Review Committee, and ultimately what an express obligation of the state is. And based on that statute, an express obligation of the state "shall mean an obligation which has a fiscal impact identifiable by a sum certain or by an established percentage or other determinative factor or factors." That's what this amendment does. You can't simply give tax credits out and not account for them fiscally, colleagues. It's a very basic fiscal policy 101 that however the scheme that we've been discussing of prepaying taxes for tax credits that you can then transfer to another entity at some later point in time, those tax credits have to be accounted for in General Fund. They are an express obligation, which means because they're transferable the state has to account for them in the General Fund revenues, which means it's a General Fund revenue loss. Looking at the fiscal note, both from the Department of Revenue and the Fiscal Office, they were unable to come up with a determinative amount because there were so many moving parts of the bill. There's not an identifiable and specific dollar amount of tax credits that would be given out over the next two years. It does say that the state Highway Cash Fund will see a dramatic increase of funding and the General Fund would see a big reduction in General Fund revenues, which equates this as a tax shift from General Fund to the Highway Trust Fund, very similar to the LB84 debate we had two years ago. The purpose, though, of this amendment, and I tried to briefly discuss it in the prior amendment, is that we have to account for this. So ultimately I want to see whether or not this has the support to move off General File, whether or not we need to have a long, protracted debate on AM753, because I can withdraw this and reintroduce it on Select File. But if not, this bill has significant problems and I believe, as we had polite dialogue, I think it's unconstitutional of trying to say it's not an express obligation of the state, where I think clearly it is and we have to account for it. We can't provide the Legislature and the state a General Fund financial status with not taking in consideration prepayments of tax credits that we ultimately have to pay back through revenue reductions when those credits are claimed. And that's what we're trying to do in AM753. But for the purposes of seeing where we are with an actual vote of whether or not there's enough support to move this off General File and, instead, maybe consider this under the LB613 Tax Commission or have the Revenue Committee explore this further over an interim study I think is probably a more appropriate path. But otherwise, if this bill does move forward, I'll bring this amendment back on Select, which I believe ultimately shows that it will be unconstitutional, the bill itself, because the state would be going into debt, and that's ultimately what we can't do under our constitution. Ultimately, I think if Senator Schumacher wants to see more funding for roads, we have bonding authority under the constitution and statute that we can revisit and look at that in a different way, which right now there's a \$50 million cap of bonding for highway construction. If that's ultimately the goal of trying to reduce the amount of, I would say, reduce the amount of inflation for

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

Floor Debate  
April 29, 2013

---

future highway construction, then bonding is a much more appropriate fiscal path to go, instead of creating an undetermined amount of tax credits that could be transferred to other taxpayers that ultimately we don't know how many we'll get every year. And we don't know the bottom line it has on the General Fund, which leaves all of us, I would say, in a very precarious situation when trying to pass a balanced budget every two years. So with that, Mr. President, I'd move to withdraw AM753. [LB82 LB613]

SENATOR CARLSON: Thank you, Senator Mello. Without objection, motion is withdrawn. Are there senators wishing to speak? Seeing none, Senator Mello...or, Senator Hadley, you're recognized to close on AM693. [LB82]

SENATOR HADLEY: This bill or this amendment just basically talked about the entities that the tax credit could be used against and how the formula was to be determined. But the problem is, as Senator Schumacher said, the formula is incorrectly determined in this amendment. So with that, I would ask for your vote. Thank you. [LB82]

SENATOR CARLSON: Thank you. Members, you've heard the closing on AM693. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB82]

CLERK: 18 ayes, 8 nays, Mr. President, on adoption of committee amendments. [LB82]

SENATOR CARLSON: The amendment does not pass. We return to discussion on the underlying bill, LB82. Seeing no one wishing to speak, Senator Schumacher, you're recognized to close on LB82. [LB82]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. In 1987, that freeway project would have cost \$200 million. Today we've spent over \$600 million on it and are only 60 percent completed. Most likely, social needs will supersede our ability to sustain the LB84 program. Some communities will be lucky enough to be able to get their roads done under the wire; some will not. As the bill is postured right now, there is, by virtue of a comma in the bill, a great deal of uncertainty whether or not the formula works at all. In fact, it probably is an unworkable formula without the corrective amendment that we voted down, one short of passing. The only way to salvage the situation now is to amend it on Select File with something similar to the amendment that we voted down. I bring this to you as an option for Nebraska to complete the roads program ahead of schedule, for Nebraska to have money freed up for social programs down the road, for Nebraska to be able to say to its savers, we've created a vehicle for you to invest in us, in yourselves. And it's an option. We do not have to take the option. We certainly can say to our future, you know, might have been interesting if we had done that, but right now, kids, you're going to inherit a state with less infrastructure than it could have had. And I'll wind it up with a sad story from a saver's point of view. Whenever the kids used to get \$10 from Grandma, we'd give them a choice. They could

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

Floor Debate  
April 29, 2013

---

spend it on Barbie dolls and candy, or they could put it in the bank. And when they put it in the bank, we'd double it, and they got a little interest and they watched their money grow. And that core of a strong economy--the saver instinct--we tried to breed into them. The other day my daughter called. She's 30 years old now, 31. She says, Dad, you know, my money isn't growing anymore; maybe I should just spend it. A state owes to its citizens the obligation of creating a mechanism with which they can invest and save and get at least some small modicum of return. If we engage in blatant consumerism--spend it now because it isn't worth saving--then we will have hard times to pay in the global economy. We will have a weakened situation. And we will be so engulfed in the pleasures of the present that we will not be able to enjoy the bounty of the future. Want to salvage this bill, I ask you to vote for it, advance it to Select File. And we can make the necessary amendments and adjustments to put the formula in correct shape then and also to satisfy what is... [LB82]

SENATOR CARLSON: One minute. [LB82]

SENATOR SCHUMACHER: ...very legitimate concerns as to how you keep track of the money, but no more difficult than how we're keeping track of many other tax credit programs that we have, some of which have outrageous bills attached to them. So it's a simple thing I lay before you and I ask you to vote what you think is best. Thank you. [LB82]

SENATOR CARLSON: Thank you, Senator Schumacher. Members, you've heard the closing. [LB82]

SENATOR SCHUMACHER: I'd ask for a call of the house and roll call vote in regular order. [LB82]

SENATOR CARLSON: We'll have the vote on LB82, and there's been a request for a roll call vote. Proceed, Mr. Clerk. Senator Schumacher, do you want a call of the house? [LB82]

SENATOR SCHUMACHER: Yes, I did ask for a call of the house. [LB82]

SENATOR CARLSON: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB82]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB82]

SENATOR CARLSON: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call.

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

Floor Debate  
April 29, 2013

---

Senators Gloor, Nelson, and Chambers, the house is under call. Senator Schumacher, would you like to proceed? [LB82]

SENATOR SCHUMACHER: Yes, please. [LB82]

SENATOR CARLSON: Roll call vote, Mr. Clerk. [LB82]

CLERK: (Roll call vote taken, Legislative Journal pages 1168-1169.) 22 ayes, 15 nays, Mr. President, on the advancement. [LB82]

SENATOR CARLSON: The bill does not advance. The call is raised. Mr. Clerk, items for the record? [LB82]

CLERK: I have no items. I have a priority motion. Senator Howard would move to adjourn the body until Tuesday morning, April 30, at 9:00 a.m.

SENATOR CARLSON: Thank you, Mr. Clerk. Members, you've heard the motion. All in favor say aye. Opposed, nay. We are adjourned until 9:00 a.m., April 30.