

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

Floor Debate
May 29, 2013

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the eighty-fifth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Pastor MaryEllen Gaither, First Presbyterian Church, Humboldt, Nebraska, Senator Watermeier's district. Please rise.

Pastor Gaither: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Gaither. I call to order the eighty-fifth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call.

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Please record, Mr. Clerk.

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

SPEAKER ADAMS: Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER ADAMS: Are there any messages, reports, or announcements?

CLERK: I have neither messages, reports, nor announcements at this time.

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR347, LR348, and LR349. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the certificate that reads: (Read re LB195, LB198, and LB199.) (Doctor of the day introduced.) Mr. Clerk, we'll move to Final Reading. Members should return to their seats in preparation for Final Reading. (Legislative Journal pages 1629-1632.) [LR347 LR348 LR349 LB195 LB198 LB199]

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Mr. Clerk, the first bill is LB97. [LB97]

CLERK: Mr. President, LB97; Senator Chambers, I have a motion to return the bill but with a note that you'd like to withdraw, Senator. [LB97]

SENATOR GLOOR: So ordered. [LB97]

CLERK: I have nothing further on the bill, Mr. President. [LB97]

SENATOR GLOOR: Mr. Clerk, first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB97]

CLERK: 40 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB97]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB97]

CLERK: (Read title of LB97.) [LB97]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB97 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB97]

CLERK: (Record vote read, Legislative Journal page 1633.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB97]

SENATOR GLOOR: LB97 passes. We now proceed to LB225. [LB97 LB225]

CLERK: Mr. President, Senator Chambers, I have a motion to return with a note you want to withdraw, Senator. [LB225]

SENATOR GLOOR: So ordered. [LB225]

CLERK: (Read LB225 on Final Reading.) [LB225]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB225 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB225]

CLERK: (Record vote read, Legislative Journal page 1634.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB225]

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SENATOR GLOOR: Thank you, Mr. Clerk. LB225 passes. We'll now proceed to LB298. [LB225 LB298]

CLERK: Senator Chambers, I have a motion to return, again with a note, Senator, you'd like to withdraw. [LB298]

SENATOR GLOOR: So ordered. Mr. Clerk, first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB298]

CLERK: 36 ayes, 5 nays, Mr. President, to dispense with the at-large reading. [LB298]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB298]

CLERK: (Read title of LB298.) [LB298]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB298e pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB298]

CLERK: (Record vote read, Legislative Journal page 1635.) 44 ayes, 2 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB298]

SENATOR GLOOR: LB298 passes with the emergency clause attached. We'll now proceed to LB326. Mr. Clerk. [LB298 LB326]

CLERK: Senator Chambers, I have a motion to return with a note you wish to withdraw, Senator. [LB326]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB326]

CLERK: 35 ayes, 2 nays to dispense with the at-large reading, Mr. President. [LB326]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, read the title. [LB326]

CLERK: (Read title of LB326.) [LB326]

SENATOR GLOOR: All provisions of law relative to procedure having been complied

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with, the question is, shall LB326 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB326]

CLERK: (Record vote read, Legislative Journal pages 1636-1637.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB326]

SENATOR GLOOR: LB326 passes. We now proceed to LB331. [LB326 LB331]

CLERK: Senator Chambers, I have a motion with respect to LB331 with a note you wish to withdraw. [LB331]

SENATOR GLOOR: So ordered. [LB331]

CLERK: (Read LB331 on Final Reading.) [LB331]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB331 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB331]

CLERK: (Record vote read, Legislative Journal page 1637.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB331]

SENATOR GLOOR: LB331 passes with the emergency clause attached. We now proceed to LB368. [LB331 LB368]

CLERK: LB368, Senator Chambers, a motion to return with a note you wish to withdraw at this time. [LB368]

SENATOR GLOOR: So ordered. [LB368]

CLERK: (Read LB368 on Final Reading.) [LB368]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question before the members is, shall LB368 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB368]

CLERK: (Record vote read, Legislative Journal page 1638.) 34 ayes, 7 nays, 6 present and not voting, and 2 excused and not voting. [LB368]

SENATOR GLOOR: LB368 passes. We now proceed to LB368A. [LB368 LB368A]

CLERK: Senator Chambers, a note to withdraw your motion, Senator. [LB368A]

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SENATOR GLOOR: So ordered. [LB368A]

CLERK: (Read LB368A on Final Reading.) [LB368A]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB368A pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB368A]

CLERK: (Record vote read, Legislative Journal page 1639.) 36 ayes, 3 nays, 8 present and not voting, 2 excused and not voting. [LB368A]

SENATOR GLOOR: LB368A passes. We now proceed to LB479. [LB368A LB479]

CLERK: Senator Chambers, I have a note, Senator, that you wish to withdraw your motion on LB479. [LB479]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB479]

CLERK: 35 ayes, 2 nays to dispense with the at-large reading. [LB479]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB479]

CLERK: (Read title of LB479.) [LB479]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB479 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB479]

CLERK: (Record vote read, Legislative Journal page 1640.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB479]

SENATOR GLOOR: LB479 passes. We now proceed to LB23. [LB479 LB23]

CLERK: Senator Chambers, a motion to return, Senator, with a note to withdraw. [LB23]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB23]

CLERK: 35 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB23]

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SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB23]

CLERK: (Read title of LB23.) [LB23]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB23 pass? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record. [LB23]

CLERK: (Record vote read, Legislative Journal pages 1641-1642.) 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting, Mr. President. [LB23]

SENATOR GLOOR: LB23 passes. We now proceed to LB23A. [LB23 LB23A]

CLERK: LB23A, Senator Chambers, I have a motion to return with a note you wish to withdraw. [LB23A]

SENATOR GLOOR: So ordered. [LB23A]

CLERK: (Read LB23A on Final Reading.) [LB23A]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB23A pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB23A]

CLERK: (Record vote read, Legislative Journal pages 1642-1643.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB23A]

SENATOR GLOOR: LB23A passes. We now proceed to LB93. [LB23A LB93]

CLERK: LB93, Senator Chambers, I have a motion, but a note to withdraw, Senator. [LB93]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB93]

CLERK: 37 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB93]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB93]

CLERK: (Read title of LB93.) [LB93]

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SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB93 pass? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB93]

CLERK: (Record vote read, Legislative Journal pages 1643-1644.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB93]

SENATOR GLOOR: LB93 passes. We now proceed to LB93A. [LB93 LB93A]

CLERK: Mr. President, I have a motion, Senator Chambers, with a note you wish to withdraw. [LB93A]

SENATOR GLOOR: So ordered. [LB93A]

CLERK: (Read LB93A on Final Reading.) [LB93A]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB93A pass? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB93A]

CLERK: (Record vote read, Legislative Journal page 1644.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB93A]

SENATOR GLOOR: Thank you, Mr. Clerk. LB93A passes. We now proceed to LB104e. [LB93A LB104]

CLERK: Mr. President, first of all, Senator Chambers, I have a motion with respect to LB104 that you had indicated that you would like to withdraw. [LB104]

SENATOR GLOOR: So ordered. [LB104]

CLERK: Mr. President, Senator Schilz would move to return the bill for a specific amendment, AM1494. (Legislative Journal page 1615.) [LB104]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your motion. [LB104]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good morning, seems almost like night in here already, but I could tell you this, I'm not going to complain about the moisture. We'll take it. I don't stand here today lightly. I don't like to do this. I don't like to be the one that has to bring stuff like this, but on this bill, the way it is set up and because of what I told people and what I said, I'm here to stand to try to get people to understand, to try to get enough folks to bring the motion back, to bring

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this bill back to Select File because we need to talk about this. First of all, I'd like to take a little time and just give a little history. You know, we heard the other day about questions about why wind development hasn't, possibly, happened in the state of Nebraska and we can go into a number of things. But having served on the Natural Resources Committee for as long as I have, since I've been in the Legislature, which isn't as long as some, but longer than others, we've worked on wind energy development. Senator "Cap" Dierks worked on C-BED legislation way before I even knew what wind energy was and he got it passed. Did it work exactly like we wanted it to? No, but there's a number of reasons. First of all, Nebraska produces and will produce enough electricity through 2017 to 2020; so there's no need for any more new generation (inaudible) to pay for it, that's one thing. Nebraska is the only public power state in the nation, and as such public power does not qualify for the production tax credit, so that's two. We had to figure out how to get past that. Before (LB)1048, and other bills, LB587 which Senator Lathrop passed, there was no vehicle for another company to come in and build an energy project to even sell the power to public power; that had to be created in Nebraska. And finally, the general economy itself, over the last seven years, as we talked about on this budget and this floor today, this is the first year we've had some extra money to do things with. Well, guess what, we weren't the only ones. Everybody in the United States was having trouble, including wind developers. So they pulled in their horns and they said, we're going to wait. Now don't get me wrong, they aren't still out there looking, but they're going to wait. So let's start with that. Now let me back up a little bit and dispel some of the things that we heard earlier. We heard from folks that the amendment, the stair step amendment, that goes 10 percent Nebraska inputs to 15 percent Nebraska inputs to 20 percent Nebraska inputs is protectionist. We heard that. And some could make that argument if they wanted to. But remember, what we're saying is that we understand, even at its strongest, AM1494 says you only have to use 20 percent of Nebraska investments. And let me tell you what those investments entail. Some of you might notice where this came from, and I'm going to just pick out part of it here and let's start here: goods and services including concrete, steel, gravel, towers, turbines, blades, wire contracting services, engineering services, geo technical services, environmental consulting services, meteorological services, legal services, financial fees paid to Nebraska financial institutions or other components, equipment, materials, or services that are necessary to permit or construct a project, if such goods or services are manufactured, assembled or fabricated in Nebraska or performed primarily by Nebraska residents, or by organizations that are organized under Nebraska law. I think everybody can understand that that means Nebraska businesses. That, my friends, came from Senator Lathrop's original LB104; the original LB104 looked to take C-BED and put it under the Nebraska Advantage Act, under what it called tier 7. Senator Lathrop called for Nebraska investment. Senator Lathrop introduced that bill. It's changed over time, I understand that. So to say that there isn't protectionism going on out there, I've heard it before, haven't you? You can say you were for it before you were against it, but there it is. So it's out there. So people do believe. And I'm guessing there were people that were telling Senator Lathrop that, hey,

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this is the right thing to do. Now I think it's a little heavy handed, I sure do. Now let's talk about this other concept that I talked about, the race to the bottom. Senator Lathrop goes from this bill, LB104, the green copy, to then a bill that says, oh wait, let's use tier 5 of the Nebraska Advantage, because then you only have to put a \$37 million investment in. And once you do that and you qualify under the program, you get a sales tax abatement. Not an exemption, an abatement that gets paid to you back at some point in time. Then when we found out that that wasn't going to be good enough for what they considered or what their tactic was to get to the smaller companies, they lowered that threshold from \$37 million to \$20 million. Okay, I coined a phrase, but I didn't think, I really didn't think that I would see it exemplified and pointed out in such a manner as it was right here on the floor of this Legislature and that was called "a race to the bottom." Heck, we're doing it right here on this bill. We go from wanting Nebraska investment, Nebraska inputs to say, hey, just spend \$20 million, please, and come here, please, don't leave, please. That's what we're saying. Oh, we also heard another argument the other day. The argument was is that if we have a policy in place that looks for Nebraska investment, our companies aren't going to get jobs out of state now. Well, guess what we have in place right now. It's called C-BED. It calls right now today for 33 percent ownership or Nebraska inputs in projects. Ask the people today, are there people in Nebraska that aren't getting jobs outside of the state because we already have this law in place? I think of that as a false argument as well. So why are we here and why are we talking about this amendment? Because if you look at the LB104 that was introduced by Senator Lathrop at first, it was way over here on the spectrum of what we need to do and what we should expect. Then when you look at LB104, as amended today, it's way over here with a very small step to get into it. I contend, members of the Legislature, and I hope...I hope that you're listening to me and I hope that you understand that AM1494 bridges the gap between those two and brings it to the center and says, look, we don't expect you to do everything in Nebraska. We don't expect you to even do a majority in Nebraska. What we expect is that you will be an equitable partner with Nebraska when you come to this. If this thing is located under LB104 as it is and it passes today without this amendment on there, there's another little sticking point that people have forgotten about. Two years ago I passed LB106 which gave counties an opportunity to pass a local option sales tax. There's one county in the state that has it right now, Dakota County. I don't know if Dakota County has wind opportunities or not, but they're right next door to Dixon County, which we've been talking about, which is where this project is going to go, so I would guess they would have some opportunities. Dakota County has a county option sales tax of a half a cent. We called the Department of Revenue. We asked them if there was a project located there and it was a \$300 million project so we were using the same numbers, and the members of the Revenue Committee can affirm this, I have worked on this issue as well with the sales tax and the... [LB104]

SENATOR GLOOR: One minute. [LB104]

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SENATOR SCHILZ: Thank you...Advantage my whole time. Dakota County, if they'd put in a \$300 million facility today, that county at some point, I don't know if it's 15 years, 22 years, whatever it is, is going to owe that project \$2.3 million from their county taxes to be paid to this project. When I started here, I told everybody that I would not go forward with another program that was a state incentive that looked to bring in county and local dollars and I am sticking to that through this. I am also sticking onto the fact that I signed onto this bill and when I did I told Senator Mello that I would help him get it passed. I have not let up on my word to him. And I have not let up on my word and my commitment to the Natural Resources Committee because of where LB402 and this subsequent amendment came from? [LB104 LB402]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR SCHILZ: Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Schilz. Members, you've heard the opening on the motion to return to Select File for amendment. We now turn to floor debate. Senator Larson, you are recognized. [LB104]

SENATOR LARSON: I'd yield my time to Senator Schilz if he needs it. [LB104]

SENATOR GLOOR: Senator Schilz, 4 minutes, 55 seconds. [LB104]

SENATOR SCHILZ: Thank you, Mr. President. Whew, I got it all in. I didn't know if I'd have time or not. So here's what I want to say to everybody. I don't want to take a whole lot of time on this because I know we have already. The other day when I backed it off of Select we had talked a lot and I didn't want people to have to go through and think about this even more. But I can tell you, I've got a letter here that was signed over the Memorial Day weekend by over 55 business people, organizations, and others from across the state that have said this approach makes sense. This approach, AM1494, is the middle of the road. It's what protects Nebraska and our resources. Senator Carlson every day talks about how important our water resources are. Absolutely. And have we done things that maybe have not been in the best interest of all of them over time? Have we taken the shortsighted approach when it comes to that and drilled thousand of wells where, possibly, other things should have been done? Let's make sure we don't make the same mistake with this natural resource, because here's the thing, we talked that we want wind; some of us in here want wind, green energy for our own consumption and I don't necessarily disagree. I'm more in the camp of wanting it for economic development for our small rural counties and I believe in that 100 percent. But I look at it this way, the whole state of Nebraska needs to benefit from this. This should not be an urban/rural thing, the whole state needs to benefit. And as such, we need to make sure that because they will only be export projects, every one of those export projects is going to have the best opportunity at the best resource that this state has to

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offer, because guess what, export is the only way to make money off wind energy in Nebraska. So let's make sure that we haven't taken that race to the bottom and given up a bunch of things that we shouldn't have had to give up. Our wind is a great natural resource. Our wind is ours. And I want to have partnerships, equitable partnerships with companies that want to come in and want to partner with us. So what this amendment does, and it's real simple, the first year we're looking for 10 percent of Nebraska inputs. The second year that it's in place, it jumps to 15 percent Nebraska inputs, not ownership. This is not the old C-BED, this is something completely different. The third year, it jumps to the final level of 20 percent Nebraska inputs. I believe in the people of the state of Nebraska; I believe in our businesses. I believe that they should be incented by these companies to have an opportunity at the table to get those jobs. I think it's the right thing to do. And I do, I commend everyone that has worked on the wind issue because it hasn't been easy this year. Senator Lathrop stepped out and has worked hard on this. Senator Hadley has stepped out and worked hard on this. Senator Mello has stepped out and worked hard on this. The Natural Resources Committee and the Revenue Committee all have worked hard on this. We didn't get to talk about them together. [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR SCHILZ: Hopefully, today we get to talk about them together and what it means. Remember, we moved both bills from General File and both bills were moved from General File because not only did they have support here on the floor, but there was support out behind the glass as well. And a lot of people didn't want to pick one or the other because they didn't want to seem that they weren't in favor of wind. So let's just ask the question, what if LB402 would have come up on the agenda first? What would that dynamic be now? Thank you, Mr. President. [LB104 LB402]

SENATOR GLOOR: Thank you, Senator Schilz and Senator Larson. Senator Lathrop, you are recognized. [LB104]

SENATOR LATHROP: Thank you, Mr. President, colleagues, good morning. As you might expect, I stand in strong opposition to the amendment. And, frankly, it comes as a bit of a surprise that it's been filed. We had this discussion on Select File and it was evident this was not going to move and so the amendment was pulled and it looked to all that it was gone, that we were done with this discussion about the advantages of one over the other and that LB104 would move to Final Reading. And then maybe you, like me, heard a rumor yesterday that Senator Schilz was going to offer an amendment. And this morning we get a letter from people who were, apparently, supportive of the amendment. Here's the difficulty with this, okay, here's the difficulty with doing stuff, sort of, bringing it the last minute, is that it's really hard for the Chamber of Commerce, the Nebraska State Chamber of Commerce who supports LB104 in its current form to call these people up and say, did you realize what LB104 does and what AM1494 does,

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how it changes it? I'm a little disappointed in the last-minute nature of this amendment, the letter, and the appeal because it doesn't allow for a dialogue, it doesn't allow for the State Chamber, the Omaha Chamber, and those people who have supported the Advantage Act over the years, and the amendments to that act, to visit with you about this letter, about AM1495, the pros and cons, but let me offer this to you: Senator Schilz correctly, I believe, correctly indicated that the future of wind energy development in the state is in export. Okay? When you consider that we are competing for export projects, then you have to ask which approach is going to make us competitive. You have...and we talked about this on Select File, when you have the open free market, anybody doing development can choose the person who offers to do the work for the least amount of money, that developer is going to be able to compete with Kansas and with Oklahoma. When you require that a developer spend a certain amount of money inside the state, and I get the idea behind it, I get the idea behind it, it sounds attractive, but when you require that they spend a certain amount of money, then the free market is not fully in play. And so the guy who is providing legal services or the engineer might have his price a little bit higher and now the project costs a little bit more. That's why, colleagues, the Advantage Act, which has been the tool in the state that made us competitive in the business environment, that's why it's never had protectionist measures attached to it because they diminish the effectiveness of the incentive. People look to Nebraska, Kansas, and Oklahoma and they say, Oklahoma, Kansas, all I got to do is go in, they'll embrace me and they will give me the tax incentives. But in Nebraska you have to jump through a hoop. And that hoop is buying some of the inputs in Nebraska. Now a lot of these things are going to get here anyway, right? The lease payments are going to the landowners regardless of which approach we take. [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR LATHROP: But once you get into the inputs, you're talking about requiring that they use up to 20 percent, that number has been lowered, it's currently at 33 (percent), the last amendment was at 25 (percent) and now we're down to 20 (percent). But when you require that, now you're asking them to choose from a smaller pool of people and the price is not going to be as competitive. That's just basic economics; it's basic economics. And you know what else, we've never done it before. We don't do this with any aspect of the Advantage Act which is why after somebody explained all that to me, I'm perfectly willing to abandon the idea that someone has to buy Nebraska to develop wind because we tried it, we tried it. We had C-BED and people weren't even using it because it...there wasn't enough there to make it worth it. [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR LATHROP: Did you say time? [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

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SENATOR LATHROP: Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Lathrop. Senators wishing to be heard: Hadley, Smith, Brasch, Davis, Schilz, Kintner, Lathrop. Senator Hadley, you're recognized. [LB104]

SENATOR HADLEY: Mr. President, members of the body, I have an article from the Journal Star, I won't bother you reading it, 2007, about how Nebraska was going to be the next Saudi Arabia in wind. We were going to be to wind what Saudi Arabia is to oil. Why did I pick 2007? That's when C-BED came in. Well, let's see what's happened since 2007, okay? We have some surrounding states: Iowa, 2007, had 1,115 megawatts of wind, and they have 5,137 megawatts of wind now, they've increased 3,982; South Dakota went from 98, just a little above Nebraska, to 784, an increase of 676; Wyoming, 288 to 1,410, an increase of 1,122; Colorado, 1,067 to 2,301, 1,234 increase; Kansas from 364 megawatts per year to 2,712 megawatts a year; Nebraska went from 72 to 459, we still lag every one of our surrounding states. Now you say what's different? Every state around us has tweaked their tax code to help companies. The state of South Dakota, the bastion of sales tax, right? rodeo clowns, you name it, they tax it; this year, this year they have a 2 percent contractors excise tax on anything that is built in South Dakota on every cost of that project. Guess what, they're going to waive it on wind projects. They're almost twice we are right now and they're going to waive it. There's been questions about the protectionism. We have a memorandum, I want to quote, it says that the 10 and 15 percent thresholds in year one and two will be easily satisfied if the opponents' own members are to be (inaudible). After year two they could reach 20 percent of the input by simply allocating one-half of 1 percent in stock to the employee ownership plan. Well, that certainly sounds like protectionism to me, but then you go down to the second to the next paragraph; some have tried to paint AM1494 as protectionist. This is false. No renewable energy company is forced to use Nebraska company's content or capital. Like all other sales tax abatement programs, if they want a sales tax abatement, they simply have to meet the criteria for the program. I'm sorry, that's inconsistent. They talk about using...requiring Nebraska inputs and then say that isn't protection. Do you really want to go down the road of protection? Is that what you want? Is the Advantage Act successful in Nebraska? I don't know...300 businesses have applied under the act; 19,000 new jobs; \$8.4 billion in new investment. In 2012 alone, the department received over 50 applicants that could result in over 2,000 new jobs and \$2.8 billion in new investment. It's been said that, well, this is kind of an empty process because they don't employ enough people and we're just getting the construction costs. Do you remember the data center bill we passed a couple years ago? [LB104]

SENATOR GLOOR: One minute. [LB104]

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SENATOR HADLEY: They called it Photon. It's in one of the senator's districts here right now, has about 30 employees, \$200 million investment, it's called the Fidelity Data Center. Well, if a wind energy product is an empty investment, why would we consider this? But I'll guarantee you, I think it's in Papillion; I think they're pretty happy about having Photon, now known as Fidelity, having their data center there. We have a proven way to do it; it's called the Advantage Act. We lowered it so any wind energy project can do it. I would like the opponents to get up and stand...tell me how you can require Nebraska inputs and not call it protectionist. That's an answer I would like to have. If you want to do it for these kinds of things, do you want to do it for labor? [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR HADLEY: Thank you, Mr. President. [LB104]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Smith, you're recognized. [LB104]

SENATOR SMITH: Thank you, Mr. President. And, Senator Hadley, I'm going to try to speak to that question you had as to how you can consider it not protectionist, but I'm going to get through some of my other points first. I do stand in support of Senator Schilz's amendment, AM1494. And I want to just touch briefly on my position on renewables and wind. I think I've said it before, I think renewables are necessary in a balanced energy portfolio in our state, very critical. But I'm not a huge fan of renewables or wind if it needlessly increases the cost to Nebraskans without the reliability that we need with energy. Now I know this is about export, but the issue of energy is much more complex than, I believe, data centers and manufacturing in the state are. We have to look at a number of things going on in our state when we talk about incentives for power generation. We have to look at the impact on our own citizens and their power rates. And we know, colleagues, that we are losing our competitive advantage slowly, but surely we are and we have to be careful of that. We also have to look at the economic side of this and I believe LB104 has some serious problems with it that I believe are addressed with AM1494. I agree with the original LB402 that was introduced by Senator Mello. And I know that's off the table now, but AM1494, colleagues, I believe takes that LB402 and it makes improvements to LB402. I'm going to go back and say, you know, I'm not a huge fan of either, but I do believe the citizens of Nebraska have called for renewable development in the state and I do believe there is an export market and we have to approach that very cautiously. Once again, I do have an interim study to look at that and make certain we take a thoughtful, comprehensive view of the development of renewables in the state and how do we balance it all with the other energy issues in our state. But what LB402 does, I believe, is it provides more benefits to Nebraskans. It sets a threshold that's low enough that the inputs can be met with some of the basic supplies, whether it's concrete, labor, etcetera, it does not require the manufacture of the turbines or the manufacture of the blades in this state. We can meet the thresholds

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in AM1494 with basic inputs. And I believe AM1494 is a more thoughtful approach to developing renewable resources in this state. Let me just touch briefly on this letter that came out and I had not seen this letter prior to today as well, and I'm extremely impressed with the cross-section of Nebraskans that signed this letter that said AM1494 is a good approach. There's an undersigned 55 people that urge our support of the amendment. And these are individual Nebraskans; these are Nebraskan environmental concerns; these are Nebraskan construction companies, Nebraskan contractors, these are Nebraskan agricultural concerns, business services in the Omaha area, in fact, take a look at the list. There are engineering firms, some in the Omaha area, some outside of the Omaha area, that are saying this is good legislation. [LB104 LB402]

SENATOR GLOOR: One minute. [LB104]

SENATOR SMITH: There are financial institutions, bankers that are saying, please consider, colleagues, please consider AM1494. And then there are numerous wind developers. I ask you, colleagues, please take a look at that list; read that letter, it's very telling. By supporting AM1494, we are not abandoning the development of renewable resources in our state; we're just saying, let's take a cautious approach to this. We are embracing the development of renewable resources in our state with the adoption of AM1494 and we will still have a plan for renewable development this year. We're not abandoning that plan. And those developers that wanted to come under LB104, they will come under this amendment to LB104. The conditions are still desirable there, they will come. If they planned to come under LB104, they will come under this amendment. [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR SMITH: Thank you, Mr. President. [LB104]

SENATOR GLOOR: Thank you, Senator Smith. Senator Brasch, you are recognized. [LB104]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues. I stand in strong support of AM1494. And the reason I do strongly, strongly encourage everyone in here to vote green and...on the amendment and the bill moving forward is this bill significantly impacts smaller wind producers, our agricultural communities, our rural communities who are very challenged with growing population; however, they can grow their tax base with this as one revenue outlet. And I wanted to go through a few slides here that were given at an October 23, 2012, wind conference, and it was the Burt County Wind, LLC. And I won't go through every slide, but it says a little bit about this...they call themselves the BCW. There are 22 members. All of them are engaged in farming. All of them are from Burt County. Oakland, Tekamah, Lyons, Decatur, and Craig are included. It's a very diverse group where 12 members are under the age of

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40. It's a young group trying to do what's best for their community, do best for the environment. And their goals are to create energy locally, create energy independence. They want to help the NPPD meet its rural economic development goals. They want to bring economic development back home. They want to reduce property tax loads. They want to help lock in long-term, low-cost energy rates for all Nebraskans. They want to create good-paying, U.S. jobs. And it helps create opportunities that keep the rural kids coming back home to those communities. They also have goals for over 20 years, and those goals are for net electricity revenues, local cash investor flow, property tax revenue, land leases, administrative accounting jobs, operations and maintenance fees. And they look at their total investment long range as one being locally based, a local effort, and doing for themselves. They see the power and the strength of being green power, allowing new wind energy development to occur without load growth. And they want to open it up for not just wind but moving forward also for solar. They have been deliberate. They have invested heavily. And these are not men and women who wake up and put on a suit and a tie everyday but a pair of jeans and they go out in the field. They work very, very hard and they are struggling to survive. Our rural communities need this growth. They have worked on a dialogue with NPPD, OPPD, BCPPD. They are monitoring the green power rate. They are doing their very best to provide for themselves and for their families and for their communities. A quote from the local Burt County Public Power District is that they support wind energy if it fits into economic development opportunities in the community as it does. An example in their slide program says that nearly \$97 million and counting, and this was back in the year 2012, well, last year... [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR BRASCH: ...has been fed into a Minnesota-based project since C-BED was passed in 2005. There are so many reasons that we need to vote green on AM1494. This is just one county of 93 counties of an entire state, an entire nation that can benefit with growing our wind energy. Thank you, Mr. President. Thank you, colleagues. [LB104]

SENATOR GLOOR: Thank you, Senator Brasch. Members in the queue include: Davis, Schilz, Kintner, Lathrop, Ken Haar, Murante, Hadley, Smith, and others. Senator Davis, you're recognized. [LB104]

SENATOR DAVIS: Thank you, Mr. President, members of the body. I stand in strong support of AM1494. Senator Lathrop indicated that it was kind of a shock that this was going to be up today. I'd like to remind you all that the day that we talked about this on Select, it was quite late and Senator Schilz said he was going to pull the amendment and reintroduce it at this time. So it's really not a surprise that this has come up. This amendment is an important amendment for Nebraska. We talk a lot about developing our economy, but what I see in Nebraska is a long tradition of what I call a colonial

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economy. And if you go back in your history books and look at mercantile states you'll find that what they did was they brought in a lot of raw materials, made the product, shipped it out back to the colonies and made a lot of money on that. Nebraska has the opportunity by putting AM1494 in place to bring some of that investment into Nebraska. You can't tell me that if we're going to put a \$600 million investment in Nebraska and you need to have an engineering firm in the state that's willing to work on the project that some firm in California is not going to say, let's build an office in Omaha, because that's going to be an important thing. We have the resources and we are in the driver's seat. Let's not be giving our resources away. And what I...the analogy I'd like to make with this is if you're going to remodel your house and you've worked with the guy before, you're probably going to hire that same guy if you like his work. So if we've got a company coming in from Texas and they've worked with Texas firms and they like the work they're going to do, they're going to continue that. We have firms in Nebraska. We've got Olsson in Omaha. They've got a contingent of people out in Mullen, Nebraska, who are going to work on the Cherry County project when that goes through. So we've got a lot of this in place already in the state. So what we're doing here is not really restricting anyone's ability. I think you've all heard that probably 17 percent of most investment is already here. So the way the bill is written today, it's not going to be a barrier for TradeWind. But if I were TradeWind I'd say, boy, I'm going to hold their feet to the fire and make them give everything they possibly can away to us because that's going to be good. That's a win-win situation, but it isn't a win-win situation for Nebraska. If you look at what's going on out in the rural part of the state and especially in my area, George Johnson is the president of the Cherry County Wind Association. He was kind enough to come down this morning and visit with some of the senators to try to make the case as to why this is a better approach. And you'll find that in the rural parts of the state, NPPD actually is in favor of some of the wind development there because it's going to push that wind, that energy back on the lines which are far out, reaching a far distance away. So that's a good thing. But these are going to be smaller developments. These aren't \$20 million projects; these are much smaller. So where is the incentive going to be for them? This is really good legislation. I hate to see us have to do this on Final Reading but I think it's important. Let's also remember we talked yesterday about incentivizing veterans which I think the body thinks is a good thing to do. We incentivize beer production in the state of Nebraska because we think that's a good thing to do. We can incentivize wind development in Nebraska. We can become sort of the epicenter for really good development because we have the raw materials here; let's not squander it by throwing everything away. Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Davis. Senator Schilz, you're recognized.
[LB104]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Just to start the dialogue now and what I've heard and to make sure that everybody stays on the same page, during the attempted negotiations we asked that the developers be able to sit

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down in the room with the senators and talk about stuff. We got the opportunity as senators to sit down with one side, and then we would have had the opportunities as senators to sit down on the other side. But we could never get the developers together that were on different sides of this. So don't think that it wasn't tried to get there, to have the dialogue, to discuss this because I know it has. And we hear the word thrown around again, "protectionism." Nebraska Advantage has been what's been there for a long time. We've used it. Before that was LB775. We've used that. Here's what I can tell you, and I want to explain this so that people understand. Within Nebraska Advantage if you have a local option sales tax that is there along with the state sales tax, part of that local option sales tax will be required to be used to pay a qualified project. Now we don't have many counties out there that have it. We have one, Dakota County, right now. But that opportunity is there. And let me start to name some of the places where it might, where it might become advantageous to have it, place where maybe there's state parks, state recreation areas like Keith County. Oh, Keith County has a group sniffing around there looking for leases called Orion Energy that's talking about a 775 megawatt project. Keith County would benefit greatly from passing a county option sales tax because of the many visitors we have come from Colorado. LB104 goes into place, they won't enact that. The people of Keith County then will not have that opportunity because Keith County can't afford to pay that to a developer that would bring that much. Let's see, where else is a state park? Ponca, Ponca. Dixon County. Isn't that where we're talking about? LB106 would give Ponca State Park the opportunity to put a county sales tax on that to maybe take in some money from people that are visiting the park and doing that. LB104 goes into place, they won't do that. A lot of you here on this floor voted for LB106 because you thought the counties needed a tool to be able to do that. LB104 could short circuit that the way it's written now. We must also remember, too, whenever I look at incentives because I've worked on economic development, I've worked in business, I always look at the simplest thing. And an outright exemption which this amendment would do is always the best way to go rather than have everybody pay the tax and then turn around and have the state rebate it back to them using some formula that figures out how much of local tax should go with it. Now I'm not throwing...I'm not throwing hypotheticals out there. Those two things are in law, those two things are being discussed in some of these counties that we're talking about. They haven't passed them yet but they're there. Let's talk about what Nebraska Advantage does expect. [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR SCHILZ: A certain level of investment and, oh yeah, guess what? It looks to protect jobs in Nebraska because almost every one of the Advantage tiers has jobs put to it, has jobs that are attached to it. And if you don't keep up with the jobs, then you don't get the money. Is that protecting Nebraska's resources? I think you can use the same question. Now here's the other issue. Are natural resources the same as expanding business in the state or should they be looked at differently? My contention is if they don't make any more land, the wind will blow, but only over the same pieces of

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ground. You can build buildings wherever you want. You're only going to be able to build these windmills where the best wind is and the export companies will get that, so let's make sure that we don't protect Nebraska... [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR SCHILZ: ...but that we have equitable partnerships. Thank you very much. [LB104]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Kintner, you're recognized. [LB104]

SENATOR KINTNER: Well, thank you, Mr. President. I've...you know, I am a Milton Friedman disciple. When he said, I will support any tax cut, any time, any place, I agree with that 100 percent. We look at LB104. I've gone back and forth on that a little bit, not sure the right approach to take. I do appreciate what's trying to be accomplished here by Senator Lathrop. I also appreciate what Senator Schilz is trying to do. I'm trying to look through and sort all this out. I did see on this letter the name former-Senator Roger Wehrbein. Well, he held my seat for a number of years. He was chairman of the Appropriations Committee and he thinks this is a pretty good idea, and I think that carries a little weight, actually carries quite a bit of weight with me. So I had a number of questions I was going to ask Senator Schilz and possibly Senator Lathrop. But I think right now I'm just going to yield my time to Senator Schilz. [LB104]

SENATOR GLOOR: Senator Schilz, 3 minutes, 52 seconds. [LB104]

SENATOR SCHILZ: Thank you, Mr. President. And we heard...and thank you, Senator Kintner. We heard Senator Hadley talk about what's different in other states. I mean, obviously the biggest thing is public power. We're the only one that has it. But let's look at Colorado. Colorado has what's called a renewable energy standard. They are required by statute to build so much renewable in their state. And their renewable energy standard right now is 30 percent, so whatever. Let's talk about the incentives. No, let's talk about forcing people to do things. Let's look at Iowa. Iowa since 1983 has required that their state come up with 105 megawatts a year of renewable energy--another renewable energy standard. So let's not talk about investment there, plus they also have the investment credit as well and they're giving sales tax back. And I think they're doing a couple of other things. But a lot of the reasons why this doesn't happen here is because this Legislature has said, hey look, first of all, we don't need the energy so why would we spend it on a renewable energy standard, which means the energy is only going to go out of state. And if we look at the trends that are happening right now with electricity rates and what's going on here in Nebraska, we have seen double-digit increases. Let's remember that because once all the best wind spots are gone in the state of Nebraska, and 90 percent of that has to be exported no matter

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what, what happens if that's cheaper than what we can produce it for ourselves? What, then, does Nebraska get? So let's think about this. When we talk about business and we talk about Advantage Act, I don't disagree, it's great. When we talk about C-BED and when it started out and what it used to be and what it was, yeah, it kind of fell on its face. I don't think there's anybody that can argue that. What AM1494 is, is the stripping of C-BED down to its most simple thing: you be an equitable partner with Nebraska and we will give you a straight on sales tax exemption. The model is already in place. It's been done once. The rules are there. If we pass LB104 like it is, all the work that went into C-BED will be done. We won't need to go back there again because that program will never be used. If we pass C-BED... [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR SCHILZ: ...and we do it this way and put it in LB104, here's the magic. It puts tax law about renewable energy where it should be, and that is underneath the Revenue Committee. I agree with that, I told Senator Hadley I agreed with that, and that's why it's important. But I also believe that if you're going to talk about tax policy when it comes to wind energy, natural resources, and things like that, that we make sure that we have a good understanding of how we got where we are. And how we got where we are is through years and years of negotiations. Heck, even on the original LB104 there were years of negotiations that even Senator Lathrop was in on. None of this stuff was just dreamed up overnight, folks. It's all been there. The difference is, is that AM1494 looked to listen to those that said LB402 wouldn't work for them. [LB104 LB402]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR SCHILZ: Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Lathrop, you're recognized. [LB104]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I have a lot of ground to cover so I'm going to do this rather quickly. First of all, with LB104 all development can take advantage of this. The only person that might not be able to would be someone with a project smaller than \$20 million. And I got to tell you, we picked \$20 million in the amendment because after meeting with Senator Schilz we thought we chose a number that would accommodate all the projects. But that brings me to the future of C-BED. LB104 is not the end of C-BED. C-BED is available. It's still there. It's on Select File. It can be amended next year. This amendment could go into C-BED. It would certainly help with the smaller...a project less than \$20 million. And frankly after meeting with Senator Schilz, I didn't know there were any, but if there are it will be available to them. We did have a meeting with Senator Schilz. We brought him to or he

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participated in a meeting with the developer of this \$300 million to \$400 million project. I don't know what other meeting, no one asked me to set anything up, so I'm not sure what that was about. But let me move to the local option sales tax for counties. If this project, if LB104 passes, and this TradeWind project comes to Dixon County, they won't need a local option sales tax for that county. They will be getting \$700,000 to \$800,000 a year--a year. Dixon County won't need this. And, by the way, they're never going to have to rebate this unless we have wind energy development that comes here. We are at a crossroads. This presents a question on basic economics. And here's the question. It is a...which way is going to lead to most development? If we open the door and allow this exemption, this incentive, will wind development take off in Nebraska? And then the industries that support that development will grow. That's what happened over in Iowa. They are way ahead of us and you know what? They have people building the components over in Iowa because they are building and developing the wind over there and we have stagnated. Can you, will you, by putting a requirement that somebody buy Nebraska, magically see someone who builds blades for these developments open shop? No. They're not going to open shop unless or until wind energy development takes off, and it'll take off under LB104. You will be saying, you need to buy Nebraska. So they'll look around and say, where are the blades? Where is the guy that builds the towers that I can buy in Nebraska? They're not here. The other thing you could have heard if you listened to Senator Schilz closely is that 17 percent, regardless of whether you have C-BED in place or not, 17 percent of the inputs are going into Nebraska anyway. We're talking about 3 percent. They use an Omaha engineering firm or a Lincoln engineering firm or a law firm or a construction company in Nebraska, you're there. Why are we doing this? Because when you put an incentive in place, it needs to be simple. If you're a developer, you look for simple, you look for is it a process that I can employ or take advantage of so that the numbers in Nebraska... [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR LATHROP: ...are competitive with Kansas. Did you say time? [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR LATHROP: That's...it's that simple. LB104 will take us to where Iowa is. It'll take us to where Kansas is. It'll take us to where Oklahoma and Texas are. And when we get there, the industries that support that kind of development will come. The Behlens, the Valmonts will start making towers. The company that makes blades will come in and start making blades in Nebraska. But you can't tell them to buy blades in Nebraska when the company isn't there that makes it. It'll happen. And, you know, I'll say this in the time I have left. Much of the wind energy development that's happened, starting of the ball rolling happened with the people who are now supporting C-BED. I appreciate all the work they've done. I've worked with them over the last seven years. But now we're ready for the big time. [LB104]

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SENATOR GLOOR: Time, Senator. [LB104]

SENATOR LATHROP: Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Ken Haar, you're recognized. [LB104]

SENATOR HAAR: Mr. President, members of the body, I've been a strong supporter of C-BED from the beginning. I was there when Senator "Cap" Dierks was supporting C-BED, and we ratcheted it down and we've ratcheted it down and we've ratcheted it down and C-BED has not been a key to making wind develop in this state. We're told...and C-BED will still be there. For people who want to use those particular benefits of C-BED, C-BED will still be there. It will still be the law. And if you look at all the states around us, it does make a difference what we put on the table. If we look protectionist, people are not going to come. To begin with, I went with a protectionism. We saw it in Minnesota how it worked so well with Dan Juhl and the people up there, but it hasn't worked, it hasn't worked. I want wind to be developed in this state. We're told that we need to build in and we need to put it right on the table you've got to invest in Nebraska. That's going to happen anyway. NREL, the National Renewable Energy Laboratory, tells us that somewhere between 15 and 20 percent, I think it's 17 percent, of the expenditure on these kinds of projects happens locally. We don't have to worry about putting that supposed...that barrier there. It is a barrier to companies who want to come into this state. We're going to get the spending anyway. Why throw it in their face? We still have C-BED. I see much of what's happening here as...and I recognize, too, and I'm glad Senator Lathrop said this, many of the people who signed the letter we got today, the first time I've seen it, first time anybody's talked to me personally about that, many of those people were the initial developers of C-BED, and I appreciate that. But we have to open up the doors now to wind development or, as that thing I passed out the first day, the pictures, the race is on. Iowa is number three and we're still tying our shoes. If we don't get in this race quickly, the race is going to be over and all the infrastructure, all the manufacturing will be in place in the other states and we're going to be left blowing in the wind. We need this development, and I think it's unfortunate now that the developer, the people who want wind in this state are fighting on opposite sides. I intend to vote against AM1494. Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Haar. Senator Hadley, you're recognized. [LB104]

SENATOR HADLEY: Mr. President, members of the body, I guess I've been listening and I'd like to make a few comments. We've been hearing that companies will...they'll meet these thresholds. There will be no problem. So then why do you need them in the bill? Why do...if this is a given that companies will meet these thresholds, why do you

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need the thresholds? I'm sure Senator Chambers would probably say you're muddying up the bill if you put in something that is going to happen anyway. I'm not going to read you the article I had from the Journal Star, but guess what? I can come up I can come up with about 10 to 20 companies that are quoted in there that said they were coming to Nebraska if you pass C-BED, just like the handout we had today. Folks, I don't think there's anything wrong with C-BED. It's sitting. There's a bill sitting on Select, bring it back next year, maybe both of them. The reason we didn't bring both of them was is because of the fiscal note. And I want to talk about that for a minute. This is talking about an exemption. I actually had an amendment drawn to give an outright exemption on sales tax for wind energy projects. Would you like to spend \$35 million on the fiscal note? That's what the fiscal note was giving an exemption for sales taxes--\$35 million. All those bills with A bills and fiscal notes...not all of them, half of them would have disappeared because an exemption costs the state \$35 million. Talked about how there aren't much in the way of local benefits. I would ask the senators that have gotten up and spoken so far, if it was your county that was going to get \$800,000 a year in property taxes, would you be excited? Do you think your county might be calling you and saying this is a pretty good deal? If you had landowners that were getting \$15,000 a year per turbine in rent payments, would they be calling you and saying, I think this is a pretty good deal? Folks, we got a choice and the choice is forced on us right now because of this amendment. You either try a proven product--LB775, the Advantage Act, we've given you statistics to show it works, I would love to listen to somebody tell me that it doesn't work--versus a bill that started out in 2007 and hasn't worked and we're still trying to tweak it and we have no idea whether it's going to work again. And this is too important just to punt the ball down the field. The numbers we gave of the states around us are fantastic. I know there are some people that don't believe it but I quoted Facebook going into Iowa and the fact that their goal is 2015 to have 25 percent of their energy for their data center to be from renewable energy. And two weeks later, I think it's MidAmerican, announced a \$1.8 billion project for renewable energy. Connect the dots. Connect the dots. If we don't get going on... [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR HADLEY: ...renewable energy both for export and in the state, there are companies out there now who believe the future is in renewable energy. And when they start looking at states, that's going to be one of the check marks they're going to be looking at. That's what they're going to be looking at. And you say that isn't true. Well, it was true in Iowa according to the sources that I have. And it goes back to a quote from the senior vice president of Greenpeace saying that they expected MidAmerican Energy and Facebook to work together, and two weeks later a billion-dollar project on wind energy was announced. I'm not saying C-BED is bad. I think that we can work on it, see what happens for next year. But we've got to make a decision this year. The energy tax credits are going away, the federal ones. [LB104]

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SENATOR GLOOR: Time, Senator. [LB104]

SENATOR HADLEY: We have a... [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR HADLEY: Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Smith, you're recognized. [LB104]

SENATOR SMITH: Thank you, Mr. President. And I did have some other points I wanted to make. But since Senator Hadley just left the mike, let me just address a couple of things he said. He was asking you, colleagues, if this was your county, what would you do. What would you do if you had that amount of investment? What would you do? Well, colleagues, I'm going to suggest to you that this is not any other type of manufacturing. This is not a data center. This affects energy policy for our state. This is a statewide issue. This is not a county issue. This is not a local issue. So please keep that in mind as you're considering the support on this amendment. Senator Hadley also brought up Facebook again. And I understand Senator Hadley is using information he's been presented, what folks from Facebook said. But let me tell you what our own people have said. These are the...our energy industry people in our state that spoke with Facebook. And this comes from NPPD, and this is what the Facebook representatives told our economic development. This is coming from NPPD. This is what the Facebook representative told our economic development staff regarding selection of Iowa over Nebraska: (1) the fiber optics in Kearney were not quite as robust as in Altoona, Iowa; (2) easier to fly into Des Moines from San Francisco than into Kearney from San Francisco; third point they made, access to green energy was more important than the site consultant realized. Had NPPD known that we would have...we would have offered them a green rate. NPPD had a green rate, a renewable rate to offer, but that did not seem to be an issue to them at the time of selecting a site. And then, finally, they said that electric rates did not seem to be an issue. Nebraska's rates were competitive with Iowa's rates. So, you know, they're telling a very different story in the media than what they were discussing with NPPD as they were looking for a site and considering the energy as an issue. Senator Lathrop said LB104 will take us to where Iowa is. Colleagues, LB104 is not going to take us to where Iowa is with energy development. Fifty percent of their renewable generation in Iowa is owned and purchased by that state's investor-owned utility company MidAmerican Energy. Fifty percent is owned and purchased by the investor-owned utility company in Iowa. They have made a decision to utilize those incentives, those tax credits to supplement their base load generation to meet their needs in that state. You could put up all of the energy in Nebraska...all the wind turbines in Nebraska you want, we're not going to consume half of that in Nebraska. There's something else going on there. And you talk

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about the surrounding states. Something very different about Nebraska than these surrounding states: We're public utility. We're public. The utilities in this state are owned by the citizens of Nebraska. And the surrounding states, they're making investment decisions. They are investor-owned. They're privately held. Stockholders own them. And I think that's what we're hearing from Senator Lathrop the direction he's willing to take us. I don't think he meant that intentionally but that's what I picked up in that conversation. We're wanting to be like Iowa. We're wanting to be like Kansas. [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR SMITH: We're different. We pride ourselves with our Unicameral system and we also pride ourselves with public power. But public power makes decisions differently than investor-owned utilities make decisions. And, colleagues, I'm here to tell you that the amendment AM1494 will take us in a more cautious approach to developing renewable resources in this state so that it doesn't get away from us. We don't want to lose the advantage we have with public power in this state. So I'm going to ask these that are opposing AM1494 to tell us, are you trying to take us towards the type of model the other states have for us? Is that what you're trying to do? You can't have it both ways. And protectionism? I'm going to come back on the microphone again and I want to talk about this talk of protectionism. Really? I don't think we're being sincere, colleagues. [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR SMITH: Thank you. [LB104]

SENATOR GLOOR: Thank you, Senator Smith. Senator Carlson, you are recognized. [LB104]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I haven't spoken yet this morning on AM1494 which came from LB402, but I have been listening. And for the most part I think that this is a good discussion this morning and it has and should focus on what is the best policy for the state of Nebraska. I'm not interested in beating anybody. I'm not interested in beating Senator Lathrop. I'm not interested in beating Senator Schilz. I'm interested in what's the best policy for the state of Nebraska. Senator Smith is going to comment some more concerning protectionism. I don't like protectionism. I like free enterprise and I think most of us in this body would subscribe to that. As Chair of the Natural Resources Committee, I have concerns about this process. And I start with the author of the bill, Senator Mello. If he brings a bill and he wants that bill to go through, then I think it's the responsibility for me as Chair of the Natural Resources Committee and the members of the committee to do everything we can to help put the bill in good shape, bring it forth, and help it pass. If the author changes his or her mind, then I think his or her recommendation should be honored.

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Senator Mello has specifically asked that LB402 be held over and not acted upon this session. If we ignore his request, could well be that other senators may hesitate bringing a bill to the Natural Resources Committee because maybe their request won't be honored. I don't want to go there. I also have a concern about C-BED and whether or not LB104 will be the death of C-BED. I would hope that LB104 could be good for C-BED. So I'd like to address Senator Lathrop if he would yield. [LB104 LB402]

SENATOR GLOOR: Senator Lathrop, would you yield? [LB104]

SENATOR LATHROP: I'd be happy to. [LB104]

SENATOR CARLSON: Senator Lathrop, would you take some time and indicate how you think that LB104 would be good for people who support C-BED? You've touched on that a little bit but I'm going to yield you the balance of my time for that question. [LB104]

SENATOR LATHROP: Okay. And thank you, Senator Carlson. How much time is that, Mr. Chair? [LB104]

SENATOR GLOOR: Two minutes, 28 seconds. [LB104]

SENATOR LATHROP: Okay. Those who want to develop and believe that the C-BED model offers them an opportunity to do that will be able to take advantage of LB104 in its unamended form and do the very development that they want to do with a C-BED approach. So in some sense LB104 allows for a broader or less...exemptions are the incentives without the impediments or without the requirements or the hurdles to clear. So if you are out in Cherry County or out near Ogallala and you want to develop a wind project, you don't have to have C-BED to do it. In fact, LB104 will be a better approach. Now does it mean that C-BED is dead? I don't believe it does. I think that there are two opportunities for C-BED next year. One is for the projects that don't meet the threshold under LB104. We can amend C-BED and it will allow those who have a project that's valued at less than \$20 million to take advantage of C-BED. The other is that we still have the opportunity I believe with an amendment to C-BED to say let's use the C-BED approach and then maybe we use C-BED to provide an additional incentive. [LB104]

SENATOR GLOOR: One minute. [LB104]

SENATOR LATHROP: We could perhaps provide some rebate at the county level of some of the nameplate taxes under a C-BED approach. So C-BED is available and it's sitting there on Select File and there are things that we can do with it next year and maybe even beef it up. But as Senator Hadley said, that the Advantage Act is proven, we know that when we tell out-of-state companies that want to come into Nebraska to do business we have the Advantage Act, this is the history of the Advantage Act, this is what you'll get if you come to Nebraska and invest, that they accept that and they come.

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And that's been the history. I've been here seven years. We passed every single one of these Advantage Act amendments because we know this is how economic development happens. And the simpler it is, the more straightforward it is, the more it works. And that's the advantage. And I...colleagues, when we throw the welcome mat out with LB104... [LB104]

SENATOR GLOOR: Time, Senator. Thank you, Senator Carlson and Senator Lathrop. Senator Burke Harr, you're recognized. [LB104]

SENATOR HARR: Question. [LB104]

SENATOR GLOOR: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB104]

ASSISTANT CLERK: 26 ayes, 10 nays to cease debate, Mr. President. [LB104]

SENATOR GLOOR: Debate does cease. Senator Schilz, you're recognized to close on your motion to return to Select File for an amendment. [LB104]

SENATOR SCHILZ: Thank you, Mr. President, and thank you to the members of the body for indulging me but it's not just me. There's a lot of folks out there that have invested a lot of time and a lot of effort into what C-BED was before, into what LB402 would have been, and what AM1494 is now. So, remember, everybody talks about this protectionism thing, including Senator Lathrop, but yet he says LB402 isn't dead. (Laugh) I'm sorry, I don't mean to laugh, but it's at 33 percent right now. Even with Senator Mello's bill it drops the inputs to 25 percent. So if you vote against this motion, then you're saying LB402 is dead, you're saying C-BED is dead, you're saying that all that body of work that Natural Resources went through in the negotiations with public power and negotiations with all of the developers and everything else that that should just be thrown to the side. Now, I'm not going to say that Nebraska Advantage hasn't worked. But I am going to tell you and I can give you a list, call Lance Hedquist, South Sioux City, and ask him how the Advantage has worked for them with their local option. Call Gary Person in Sidney and ask how that's worked. Call other people around the state and see how that's worked. And, Senator Lathrop, you say, well, if they get this they won't need that. Well, who are we to say, who are we to say what's going to happen in the next 20 years and what counties are going to need and what challenges they're going to come up to? I like a toolbox that's full and can be utilized. I don't like saying, well, don't worry about that because we're going to give you this. AM1494 gets us there without having to worry about any of that. AM1494 if you look at it is the middle ground. It doesn't ask for too much. Nebraska Advantage, a lot of them, look for employees, and if not employees they look for big, big investment. Oh, one other thing: If you can couple a data center with a wind project, you don't have to pay a property tax

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either. So if you've got a \$20,000 threshold for the Tier 5 and then you get a data center built right next to it, how would that help a county? And don't think that big, big companies don't think on those levels. They do. Should we protect Nebraska resources? Anybody that thinks we shouldn't protect our resources go ahead and vote against this motion. Natural Resources are different than business. They aren't making any more in Nebraska. And once you put a tower up there, there isn't going to be another opportunity to move it. It's there. There isn't going to be because of our laws another opportunity to change the statutes to make sure that we can get some of that. Remember, we are a public power state. We have found our way to this point through that. And as Senator Smith said, if you really want to move in the direction of Iowa, Kansas, Colorado, those are investor-owned utilities not public power. I've always been a proponent of public power and I believe that public power has served our state well. I want to make sure that we protect us the ratepayers as we move forward, and I think that that's what this discussion on AM1494 will do. And it will give people the opportunity to be equitable partners with the people of the state of Nebraska, with the counties within the state of Nebraska, and the state of Nebraska itself. Folks, I wouldn't do this if I didn't believe 100 percent that this was the right thing to do. I don't like getting into scuffling matches with people. It's really not my way. [LB104 LB402]

SENATOR GLOOR: One minute. [LB104]

SENATOR SCHILZ: Thank you. I like to work things out behind the scenes and get it done up front so that we don't have to have this kind of contentious stuff on the floor. But sometimes it is necessary. Today is one of those days. So just one more time: Please vote to the motion to bring this back to Select to talk about this specific amendment because it does matter to the state of Nebraska how we move forward and not just this year and next year but for 20, 30, 50 years down the road. That's the kind of view that we should have in this Chamber. How does this affect things when we're gone and our grandchildren or our children are sitting here trying to figure it out because they're the ones that not only we need to protect, but they're the ones that we need to give them the tools to be able to take Nebraska where it needs to go. And with that, I would humbly ask for your vote to the motion to return this to Select File. [LB104]

SENATOR GLOOR: Time, Senator. [LB104]

SENATOR SCHILZ: Thank you very much. [LB104]

SENATOR GLOOR: Thank you, Senator Schilz. Members, the motion before us is, shall the LB104 be returned to Select File for amendment? Senator Schilz, for what reason do you rise? [LB104]

SENATOR SCHILZ: I call for a roll call vote in reverse order, please. [LB104]

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SENATOR GLOOR: Thank you. Mr. Clerk, roll call vote. [LB104]

CLERK: (Roll call vote taken, Legislative Journal page 1645.) 21 ayes, 17 nays, Mr. President, on the motion to return. [LB104]

SENATOR GLOOR: The motion fails. Returning to Final Reading on LB104E. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB104]

CLERK: 38 ayes, 6 nays, Mr. President, to dispense with the at-large reading. [LB104]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB104]

CLERK: (Read title of LB104.) [LB104]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB104E pass with the emergency clause attached? All those in favor vote aye; those opposed vote nay. Mr. Clerk, please record. [LB104]

CLERK: (Record vote read, Legislative Journal pages 1646.) 38 ayes, 2 nays, 8 present and not voting, 1 excused and not voting, Mr. President. [LB104]

SENATOR GLOOR: LB104 passes with the emergency clause attached. We now proceed to LB211, Mr. Clerk. [LB104 LB211]

CLERK: Senator Chambers, I have a motion, Senator, with a note that you wish to withdraw. [LB211]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB211]

CLERK: 38 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB211]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB211]

CLERK: (Read title of LB211.) [LB211]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB211 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB211]

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CLERK: (Record vote read, Legislative Journal pages 1647-1648.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB211]

SENATOR GLOOR: LB211 passes with the emergency clause attached. We now proceed to LB211A. [LB211 LB211A]

CLERK: Mr. President, first of all, Senator Chambers, a motion to return with a note to withdraw. [LB211A]

SENATOR GLOOR: So ordered. [LB211A]

CLERK: (Read LB211A on Final Reading.) [LB211A]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB211A pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB211A]

CLERK: (Record vote read, Legislative Journal pages 1648-1649.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB211A]

SENATOR GLOOR: Thank you, Mr. Clerk. LB211A passes with the emergency clause attached. We will now proceed to LB216. [LB211A LB216]

CLERK: Mr. President, Senator Chambers, a motion with respect to LB216; a similar note to withdraw, Senator. [LB216]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB216]

CLERK: 37 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB216]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB216]

CLERK: (Read title of LB216.) [LB216]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB216 be passed with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB216]

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CLERK: (Record vote read, Legislative Journal pages 1649-1650.) 44 ayes, 2 nays, 2 present and not voting, 1 excused and not voting, Mr. President. [LB216]

SENATOR GLOOR: LB216 passes with the emergency clause attached. We now move to LB216A. [LB216 LB216A]

CLERK: Senator Chambers, I have a motion with a note to withdraw, Senator. [LB216A]

SENATOR GLOOR: So moved. [LB216A]

CLERK: (Read LB216A on Final Reading.) [LB216A]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB216A pass? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB216A]

CLERK: (Record vote read, Legislative Journal pages 1650-1651.) 43 ayes, 0 nays, 5 present and not voting, 1 excused and not voting, Mr. President. [LB216A]

SENATOR GLOOR: LB216A passes. We now proceed to LB269. [LB216A LB269]

CLERK: Senator Chambers, I have a motion with respect to LB269 with a note to withdraw, Senator. [LB269]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB269]

CLERK: 37 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB269]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB269]

CLERK: (Read title of LB269.) [LB269]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB269E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB269]

CLERK: (Record vote read, Legislative Journal pages 1651-1652.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB269]

SENATOR GLOOR: LB269 passes with the emergency clause attached. We'll now

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proceed to LB269A. [LB269 LB269A]

CLERK: Senator Chambers, I have a motion with a note you wish to withdraw, Senator. [LB269A]

SENATOR GLOOR: So ordered. [LB269A]

CLERK: (Read LB269A on Final Reading.) [LB269A]

SENATOR GLOOR: All provisions of law relative to procedure having been followed with, the question is, shall LB269A pass with the emergency clause attached? All in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB269A]

CLERK: (Record vote read, Legislative Journal pages 1652-1653.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB269A]

SENATOR GLOOR: LB269A passes with the emergency clause attached. We'll now proceed to LB296. [LB269A LB296]

CLERK: Senator Chambers, I have a motion with respect to LB296, Senator, with a note to withdraw. [LB296]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB296]

CLERK: 37 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB296]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB296]

CLERK: (Read title of LB296.) [LB296]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB296 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB296]

CLERK: (Record vote read, Legislative Journal pages 1653-1654.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB296]

SENATOR GLOOR: LB296 passes. We now proceed to LB306. [LB296 LB306]

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CLERK: Mr. President, Senator Chambers, I have a motion with LB306 with a note to withdraw. [LB306]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB306]

CLERK: 32 ayes, 7 nays to dispense with the at-large reading. [LB306]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB306]

CLERK: (Read title of LB306.) [LB306]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB306 pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB306]

CLERK: (Record vote read, Legislative Journal page 1655.) 41 ayes, 6 nays, 1 present and not voting, 1 excused and not voting. Mr. President. [LB306]

SENATOR GLOOR: LB306 passes with the emergency clause attached. We now proceed to LB306A, Mr. Clerk. [LB306 LB306A]

CLERK: Mr. President, Senator Chambers would move to return LB306A to Select File for a specific amendment, that amendment being striking the enacting clause. (FA130, Legislative Journal page 1585.) [LB306A]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your motion to return. [LB306A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Nordquist a question or two. [LB306A]

SENATOR GLOOR: Senator Nordquist, would you yield? [LB306A]

SENATOR NORDQUIST: Yes. [LB306A]

SENATOR CHAMBERS: Senator Nordquist, have you been observant as far as the way we have progressed this morning on Final Reading? [LB306A]

SENATOR NORDQUIST: Yes, I have. [LB306A]

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SENATOR CHAMBERS: Are you aware that I had a motion to return on every bill up to now and withdrew that motion without considering it? [LB306A]

SENATOR NORDQUIST: Yes. [LB306A]

SENATOR CHAMBERS: Did you expect that I would do the same thing on this bill? [LB306A]

SENATOR NORDQUIST: I was expecting that, yes. (Laughter) [LB306A]

SENATOR CHAMBERS: Senator Nordquist, sometimes our expectations go awry, don't they? [LB306A]

SENATOR NORDQUIST: That's correct. [LB306A]

SENATOR CHAMBERS: And some people pronounce that aree (phonetic), a coach did one time. But you know how coaches are. Senator Nordquist, I'm not going to ask you the questions that I asked of Senator Lathrop and I'm not going to ask him any questions at all. The fact that I'm going to proceed with this motion on your bill may be somewhat puzzling to you, is that correct? [LB306A]

SENATOR NORDQUIST: Yeah, I'm wondering. Yeah. [LB306A]

SENATOR CHAMBERS: I didn't understand you. [LB306A]

SENATOR NORDQUIST: Yeah, I'm wondering why, why you're proceeding. [LB306A]

SENATOR CHAMBERS: Okay. Have there been things in your life that you wondered why about and never got a satisfactory answer? [LB306A]

SENATOR NORDQUIST: All the time. [LB306A]

SENATOR CHAMBERS: Do you remember that somebody quoting an author said: Some people see things that are and ask why; I dream things that are not and ask why not. Have you heard that? [LB306A]

SENATOR NORDQUIST: Yeah, was that Robert Kennedy or did he steal it from somebody? [LB306A]

SENATOR CHAMBERS: Thank you. Mr. President, I will withdraw that motion. (Laughter) [LB306A]

SENATOR GLOOR: So ordered. [LB306A]

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CLERK: (Read LB306A on Final Reading.) [LB306A]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB306A pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record Mr. Clerk. [LB306A]

CLERK: (Record vote read, Legislative Journal page 1656.) 39 ayes, 6 nays, 3 present and not voting, 1 excused and not voting, Mr. President. [LB306A]

SENATOR GLOOR: LB306A passes with the emergency clause attached. We now move to LB308. [LB306A LB308]

CLERK: Senator Chambers, I have a motion on LB308 with a note to withdraw, Senator. [LB308]

SENATOR GLOOR: So ordered. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB308]

CLERK: 39 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB308]

SENATOR GLOOR: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB308]

CLERK: (Read title of LB308.) [LB308]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB308 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB308]

CLERK: (Record vote read, Legislative Journal page 1657.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB308]

SENATOR GLOOR: LB308 passes. We now proceed to LB363. [LB308 LB363]

CLERK: Senator Chambers, I have a motion with a note to withdraw, Senator. [LB363]

SENATOR GLOOR: So ordered. [LB363]

CLERK: (Read LB363 on Final Reading.) [LB363]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB363 pass? All those in favor vote aye; all those opposed

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vote nay. Have all voted who care to? Record, Mr. Clerk. [LB363]

CLERK: (Record vote read, Legislative Journal page 1657-1658.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB363]

SENATOR GLOOR: LB363 passes. We now proceed to LB363A. [LB363 LB363A]

CLERK: Senator Chambers, I have a motion, Senator, with respect to LB363A, but a note to withdraw. [LB363A]

SENATOR GLOOR: So ordered. [LB363A]

CLERK: (Read LB363A on Final Reading.) [LB363A]

SENATOR GLOOR: All provisions of law relative to procedure having been complied with, the question is, shall LB363A pass? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB363A]

CLERK: (Record vote read, Legislative Journal page 1658-1659.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB363A]

SENATOR GLOOR: LB363A passes. [LB363A]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB97, LB225, LB298, LB326, LB331, LB368, LB368A, LB479, LB23, LB23A, LB93, LB93A, LB104, LB211, LB211A, LB216, LB216A, LB269, LB269A, LB296, LB306, LB306A, LB308, LB363, LB363A. Mr. Clerk. [LB97 LB225 LB298 LB326 LB331 LB368 LB368A LB479 LB23 LB23A LB93 LB93A LB104 LB211 LB211A LB216 LB216A LB269 LB269A LB296 LB306 LB306A LB308 LB363 LB363A]

CLERK: Mr. President, new resolutions: LR360 by Senator Coash, LR361 by Senator Sullivan. Those will both be laid over at this time. Confirmation report from Natural Resources Committee. (Legislative Journal pages 1659-1661.) [LR360 LR361]

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

SPEAKER ADAMS: Members, you've heard the motion to recess until 1:30. All those in favor indicate with aye. Opposed. We are in recess.

RECESS

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SENATOR KRIST PRESIDING

SENATOR KRIST: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I do. New resolution, LR362 by Senator Davis. That will be laid over. Bills read this morning at Final Reading were presented to the Governor at 12:02 (re LB97, LB225, LB298, LB326, LB331, LB368, LB368A, LB479, LB23, LB23A, LB93, LB93A, LB104, LB211, LB211A, LB216, LB216A, LB269, LB269A, LB296, LB306, LB306A, LB308, LB363, and LB363A). A communication from the Governor on Engrossed Legislative bills. (Read re LB66, LB140, LB341, LB410, LB497, LB563, LB623.) That's all that I have, Mr. President. (Legislative Journal pages 1662-1663.) [LR362 LB97 LB225 LB298 LB326 LB331 LB368 LB368A LB479 LB23 LB23A LB93 LB93A LB104 LB211 LB211A LB216 LB216A LB269 LB269A LB296 LB306 LB306A LB308 LB363 LB363A LB66 LB140 LB341 LB410 LB497 LB563 LB623]

SENATOR KRIST: Thank you, Mr. Clerk. We will move to Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, the first bill is LB366 and the first vote is to dispense... [LB366]

CLERK: Excuse me, Mr. President. I have just one matter to clear up. Senator Chambers, the motion with respect to LB366, with a note to withdraw, Senator. That's all that I have, Mr. President. Thank you. [LB366]

SENATOR KRIST: So moved. Thank you. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; opposed, nay. Please record. [LB366]

CLERK: 34 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB366]

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB366]

CLERK: (Read title of LB366.) [LB366]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB366 pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB366]

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CLERK: (Record vote read, Legislative Journal pages 1663-1664.) 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting, Mr. President. [LB366]

SENATOR KRIST LB366 passes with the emergency clause attached. We will now proceed to LB366A. [LB366 LB366A]

CLERK Senator Chambers, may I assume you want to withdraw your motion? (Read LB366A on Final Reading.) [LB366A]

SENATOR KRIST All provisions of law relative to procedure having been complied with, the question is, shall LB366A pass? All those in favor vote aye; all those opposed, nay. Please record, Mr. Clerk. [LB366A]

CLERK: (Record vote read, Legislative Journal pages 1664-1665.) 41 ayes, 0 nays, 2 present and not voting, 6 excused and not voting, Mr. President. [LB366A]

SENATOR KRIST: LB366A passes. We will now proceed to LB429. [LB366A LB429]

CLERK: Senator Chambers, I have a motion...two motions, actually, with respect...withdraw both, Senator? Thank you. (Read LB429 on Final Reading.) [LB429]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB429 pass? All those in favor, aye; all those opposed, nay. Please record, Mr. Clerk. [LB429]

CLERK: (Record vote read, Legislative Journal 1665-1666.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB429]

SENATOR KRIST: LB429 passes. We will now proceed to LB429A. [LB429 LB429A]

CLERK: Senator Chambers, I have motions against...Senator, withdraw? Thank you. (Read LB429A on Final Reading.) [LB429A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB429A pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB429A]

CLERK: (Record vote read, Legislative Journal pages 1666-1667.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB429A]

SENATOR KRIST: LB429A passes. We will now proceed to LB483. [LB429A LB483]

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CLERK: LB483, Senator Chambers, a motion to return the bill. Note to withdraw. Thank you. (Read LB483 on Final Reading.) [LB483]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB483 pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB483]

CLERK: (Record vote read, Legislative Journal pages 1667-1668.) 41 ayes, 1 nay, 2 present and not voting, 5 excused and not voting, Mr. President. [LB483]

SENATOR KRIST: LB483 passes. We will now proceed to LB483A, [LB483 LB483A]

CLERK: Senator Chambers, I have a motion to withdraw. Thank you, Senator. (Read LB483A on Final Reading.) [LB483A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB483A pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB483A]

CLERK: (Record vote read, Legislative Journal page 1668.) 42 ayes, 0 nays, 3 present and not voting, 4 excused and not voting, Mr. President. [LB483A]

SENATOR KRIST: LB483A passes. Next item, LB507. [LB483A LB507]

CLERK: Senator Chambers, I have a motion on LB507 with a note that you'd like to withdraw. [LB507]

SENATOR KRIST: Withdrawn. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye. All those opposed vote nay. Please record, Mr. Clerk. [LB507]

CLERK: 37 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB507]

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB507]

CLERK: (Read title of LB507.) [LB507]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB507 pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB507]

CLERK: (Record vote read, Legislative Journal pages 1669-1670.) 42 ayes, 1 nay, 2

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present and not voting, 4 excused and not voting, Mr. President. [LB507]

SENATOR KRIST: LB507 passes with the emergency clause attached. We will now proceed to LB507A. [LB507 LB507A]

CLERK: Senator Chambers, I have a motion. Like to withdraw? [LB507A]

SENATOR KRIST: So moved. [LB507A]

CLERK: Thank you. (Read LB507A on Final Reading.) [LB507A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB507A pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB507A]

CLERK: (Record vote read, Legislative Journal pages 1670-1671.) 43 ayes, 1 nay, 1 present and not voting, 4 excused and not voting, Mr. President. [LB507A]

SENATOR KRIST: LB507A passes with the emergency clause attached. We will now proceed to LB517. [LB507A LB517]

CLERK: Mr. President, Senator Lathrop, I have an AM1308 with a note that you wish to withdraw. Okay. [LB517]

SENATOR KRIST: Withdrawn. [LB517]

CLERK: And, Senator, I also have from you AM1396 with a similar note to withdraw. Okay. Senator Chambers, I have a motion from you, too, Senator. Withdraw. Thank you. [LB517]

SENATOR KRIST: Withdrawn. [LB517]

CLERK: (Read LB517 on Final Reading.) [LB517]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB517 pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Mr. Clerk, please record. [LB517]

CLERK: (Record vote read, Legislative Journal page 1671.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB517]

SENATOR KRIST: LB517 passes with the emergency clause attached. We will now proceed to LB517A. [LB517 LB517A]

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CLERK: Senator Chambers, I have a motion, Senator, with a note to withdraw. [LB517A]

SENATOR KRIST: Withdrawn. [LB517A]

CLERK: (Read LB517A on Final Reading.) [LB517A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB517A pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB517A]

CLERK: (Record vote read, Legislative Journal page 1672.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB517A]

SENATOR KRIST: LB517A passes with the emergency clause attached. We will now proceed to LB530. Mr. Clerk, the first vote is to dispense with the at-large reading. [LB517A LB530]

CLERK: Mr. President, if I may. Senator Chambers, may I withdraw your motion? Thank you. [LB530]

SENATOR KRIST: Withdrawn. [LB530]

CLERK: Thank you. [LB530]

SENATOR KRIST: Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye and all those opposed, nay. Record, Mr. Clerk. [LB530]

CLERK: 39 ayes, 4 nays to dispense with the at-large reading, Mr. President. [LB530]

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB530]

CLERK: (Read title of LB530.) [LB530]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB530 pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB530]

CLERK: (Record vote read, Legislative Journal page 1673.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB530]

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SENATOR KRIST: LB530 passes with the emergency clause attached. We will now proceed to LB530A. [LB530 LB530A]

CLERK: Senator Chambers, LB530A. Withdraw your motion, Senator? Thank you. [LB530A]

SENATOR KRIST: Withdrawn. [LB530A]

CLERK: (Read LB530A on Final Reading.) [LB530A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB530A pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB530A]

CLERK: (Record vote read, Legislative Journal page 1674.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB530A]

SENATOR KRIST: LB530A passes. We will now proceed to LB556. [LB530A LB556]

CLERK: Senator Chambers, may I withdraw your motion, Senator? [LB556]

SENATOR KRIST: Withdrawn. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB556]

CLERK: 37 ayes, 6 nays, Mr. President, to dispense with the at-large reading. [LB556]

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB556]

CLERK: (Read title of LB556.) [LB556]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB556 pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB556]

CLERK: (Record vote read, Legislative Journal page 1675.) 42 ayes, 0 nays, 3 present and not voting, 4 excused and not voting, Mr. President. [LB556]

SENATOR KRIST: LB556 passes. We will now proceed to LB556A. [LB556 LB556A]

CLERK: Senator Chambers, may I withdraw your motion? Thank you. [LB556A]

SENATOR KRIST: Withdrawn. [LB556A]

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CLERK: (Read LB556A on Final Reading.) [LB556A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB556A pass? All those in favor vote aye; all opposed vote nay. Please record, Mr. Clerk. [LB556A]

CLERK: (Record vote read, Legislative Journal page 1676.) 42 ayes, 0 nays, 3 present and not voting, 4 excused and not voting, Mr. President. [LB556A]

SENATOR KRIST: LB556A passes. We will now proceed to LB561. [LB556A LB561]

CLERK: Senator Chambers, I have motions on LB561. Senator, withdraw those? Right? Thank you. [LB561]

SENATOR KRIST: Withdrawn. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB561]

CLERK: 38 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB561]

SENATOR KRIST: The at-large reading is dispensed with. Please read the title. [LB561]

CLERK: (Read title of LB561.) [LB561]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB561 pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB561]

CLERK: (Record vote read, Legislative Journal pages 1678.) 44 ayes, 1 nay, 4 excused and not voting, Mr. President. [LB561]

SENATOR KRIST: LB561 passes with the emergency clause attached. We will now proceed to LB561A. Mr. Clerk, do we have to remove a motion? [LB561 LB561A]

CLERK: No, I'm sorry. [LB561A]

SENATOR KRIST: Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB561A]

CLERK: 40 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB561A]

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

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title. [LB561A]

CLERK: (Read title of LB561A.) [LB561A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB561A pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB561A]

CLERK: (Record vote read, Legislative Journal pages 1678-1679.) 45 ayes, 1 nay, 3 excused and not voting, Mr. President. [LB561A]

SENATOR KRIST: LB561A passes with the emergency clause attached. We will now proceed to LB573. [LB561A LB573]

CLERK: Mr. President, Senator Chambers would move to return the bill to Select File for specific amendment. (FA150, Legislative Journal page 1679.) [LB573]

SENATOR KRIST: Senator Chambers, you're recognized. [LB573]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I would like to engage Senator Harr in a colloque, if I may. [LB573]

SENATOR KRIST: Senator Harr, will you yield? [LB573]

SENATOR HARR: Of course. [LB573]

SENATOR CHAMBERS: Senator Harr, you served at one point in the capacity of a prosecuting attorney, is that correct? [LB573]

SENATOR HARR: Douglas County Deputy County Attorney, that's correct. [LB573]

SENATOR CHAMBERS: In order to do that, hold that position, you had to have a license to practice law in Nebraska, is that correct? [LB573]

SENATOR HARR: That is correct. [LB573]

SENATOR CHAMBERS: And you handled cases, some of which were routine, some which may be more difficult than others, is that correct? [LB573]

SENATOR HARR: That is correct. [LB573]

SENATOR CHAMBERS: You made many decisions based on your discretion after you looked at the facts of the case presented to you, is that correct? [LB573]

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SENATOR HARR: That is correct. [LB573]

SENATOR CHAMBERS: Senator Harr, whenever an issue is presented to a judge, the judge is in a position where he or she must render a decision one way or the other, is that correct? [LB573]

SENATOR HARR: Yes. They can take it under advisement for a short period of time if they so wish, but, yes. [LB573]

SENATOR CHAMBERS: But ultimately the judge must render a decision, is that correct? [LB573]

SENATOR HARR: That is correct. [LB573]

SENATOR CHAMBERS: Senator Harr, may a judge on occasion be required, based on the law and the facts, to render a decision which may be contrary to that judge's personal predilections? [LB573]

SENATOR HARR: Yes, they take an oath to follow the constitution and the law of the land. [LB573]

SENATOR CHAMBERS: And in order to carry through on that oath, a decision on occasion may have to be reached which the judge would prefer not to have to render. [LB573]

SENATOR HARR: That is correct. [LB573]

SENATOR CHAMBERS: Senator Harr, a dilemma exists if a person is presented with two alternatives, both of them bad, or neither of them good. Would you agree that that's a simplified definition of a dilemma? [LB573]

SENATOR HARR: Yes, I would. [LB573]

SENATOR CHAMBERS: I will give you one. If you were presented with the choice of being roasted or fried, which would you choose? [LB573]

SENATOR HARR: Probably fried. [LB573]

SENATOR CHAMBERS: But it would be a difficult decision because whichever way you went, the ultimate outcome is the same, would you agree? [LB573]

SENATOR HARR: That is correct. [LB573]

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SENATOR CHAMBERS: And in order to reach that outcome there would be considerable pain, maybe excruciating even, correct? [LB573]

SENATOR HARR: That's correct. [LB573]

SENATOR CHAMBERS: Senator Harr, this bill of yours is on Final Reading and the number is LB573, if I'm correct. Am I correct? [LB573]

SENATOR HARR: That is correct. Yes, you are correct. [LB573]

SENATOR CHAMBERS: Senator Harr, was this bill supported by a Chamber of Commerce or Chambers of Commerce? [LB573]

SENATOR HARR: Including, hopefully, these "Chamber." Yes, but, yes, Chambers of Commerce, yes. [LB573]

SENATOR CHAMBERS: Chambers of Commerce. Now, Senator Harr, if we drop down on the agenda, there's another bill, LB574, which says on our agenda it was introduced by you. It provides that certain assessments are levied and collected as special assessments. Is that bill yours also? [LB573 LB574]

SENATOR HARR: Yes, it is. [LB573]

SENATOR CHAMBERS: Senator Harr, that bill was supported by the League of Municipalities, is that true? [LB573]

SENATOR HARR: That is correct. [LB573]

SENATOR CHAMBERS: And the first one was supported by which group or organization? [LB573]

SENATOR HARR: The workers of America. No, it was supported by, among others, the Chambers of Commerce, yes, and individual companies that had employee stock ownership plans. [LB573]

SENATOR CHAMBERS: Senator Harr, if you were on a ship which is sinking and you have a life raft, a life jacket, and you've got to throw one of these others overboard, which one would you throw overboard, the Chamber of Commerce or the League of Municipalities? (Laughter) [LB573]

SENATOR HARR: Oh, I don't like to play the part of King Solomon. [LB573]

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SENATOR CHAMBERS: And that is a dilemma, isn't it? [LB573]

SENATOR HARR: That would be dilemma, yes. [LB573]

SENATOR CHAMBERS: Now, let's make it simpler. If you had to choose between these two bills as to which one would be given a hard time, which one would you choose not to have receive a hard time? [LB573]

SENATOR HARR: Probably the weaker of the two bills. [LB573]

SENATOR CHAMBERS: That doesn't help us. (Laughter) For the record, which would you choose not to receive a hard time? [LB573]

SENATOR HARR: Oh, I don't like to play the part of King Solomon. [LB573]

SENATOR CHAMBERS: Which would you rather have receive a hard time? [LB573]

SENATOR HARR: Well, seeing as how this is on Final Read and closer to the finish line, I would probably argue, let's go after door number two, LB574. [LB573 LB574]

SENATOR CHAMBERS: Which is farther down on the agenda. [LB573]

SENATOR HARR: Yes. [LB573]

SENATOR CHAMBERS: Thank you, Solomon. Those are all of the questions that I would ask you. [LB573]

SENATOR HARR: Thank you. [LB573]

SENATOR CHAMBERS: Mr. President, I will withdraw that motion after I make a comment. Sometimes things are obscured, but if people are patient and allow circumstances to unfold, everything will be answered, every dark path will be lighted, every riddle will be solved, and there will be peace in the valley for everybody. I will withdraw that motion now, Mr. President. [LB573]

SENATOR KRIST: Withdrawn. Thank you, Senator Chambers. [LB573]

CLERK: (Read LB573 on Final Reading.) [LB573]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB573 pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB573]

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CLERK: (Record vote read, Legislative Journal pages 1679-1680.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB573]

SENATOR KRIST: LB573 passes. We will now proceed to LB579. [LB573 LB579]

CLERK: Senator Chambers, I have a motion with respect to LB579. Withdraw? Thank you. (Read LB579 on Final Reading.) [LB579]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB579 pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB579]

CLERK: (Record vote read, Legislative Journal pages 1680-1681.) 42 ayes, 1 nay, 3 present and not voting, 3 excused and not voting, Mr. President. [LB579]

SENATOR KRIST: LB579 passes. We will now proceed to LB579A. [LB579 LB579A]

CLERK: Senator Chambers, I have a motion with respect to LB579A. Note to withdraw. (Read LB579A on Final Reading.) [LB579A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB579A pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB579A]

CLERK: (Record vote read, Legislative Journal pages 1681-1682.) 41 ayes, 1 nay, 4 present and not voting, 3 excused and not voting, Mr. President. [LB579A]

SENATOR KRIST: LB579A passes. We will now proceed to LB583. [LB579A LB583]

CLERK: Senator Chambers, I have a motion from you. Senator would like to withdraw. Mr. President, Senator Larson would move to return LB583 to Select File for specific amendment. (AM1502, Legislative Journal page 1682.) [LB583]

SENATOR KRIST: Senator Larson, you're recognized. [LB583]

SENATOR LARSON: Thank you, Mr. President. AM1502 is an amendment that would return LB583 to Select File to strike, on page 3, lines 8 through 18. Essentially, it strikes, By September 1, 2014, they should prepare an initial report on cyclical climate change in Nebraska which includes a synthesis and assessment of the state of knowledge on: historical climate variability and change; climate projections; the possible impacts of key sectors of the state such as agriculture, water, wildlife, ecosystems, forests, and outdoor recreation. The report shall include key points and a summary of the findings. By December 1, 2014, review such initial report and provide a final report to the Governor

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and electronically to the Legislature which includes key points, overarching recommendations, and options that emerge from the initial report. Colleagues, I view LB583 and the \$44,746 that it hopes to spend as feel-good legislation, in terms of, we're going to create this report that's going to be an all-knowing, all-encompassing report that does what? And I don't think it does anything. It's \$44,746 of taxpayer dollars, not our money, that is going to produce something that I don't see as worth it. To put in context what \$44,746 is, is, in the state of Nebraska, a company, a business taxable income...a company that has, roughly, \$600,000 in taxable income--not gross sales, taxable income--will have an income tax bill of \$44,630. That company's entire tax bill for the year of 2013, as we're going on it now, will go to pay for a single report. Is that being good stewards of the taxpayer dollar? Now I'm sure Senator Haar will say that this is very important, and that it's just a disagreement on our policies, our political beliefs, in terms of how taxpayer dollars should be used in government. I think, when many of us pay taxes, we view it to go to things that do look to build government and offer the types of services that government needs. Safety is one of those prime services that we look to offer. I hope we have a good discussion on this motion to return to Select File, and I think we probably will. And we can continue to move on, on whether this is a worthwhile attempt to spend taxpayer dollars. I think there are a number of other organizations, there's a number of other entities, within state government that do these things already, that are looking at Nebraska's historical climate data. Senator Carlson, I think we just passed a water study that will probably look at a lot of these things, very similar to the possible impacts of, especially, water, in terms of agricultural wildlife, water, ecosystems, forests. The university...this will be housed in the university, but I'm sure the university does numerous things of this nature as well. Is this good spending? And I think that's the key question we have to ask ourselves and will have to answer as we move forward. Is \$44,746 or, a company that has taxable income of \$600,000, is their entire tax bill worth this? I don't own a business that has that much taxable income. And a few of us in this room probably do own businesses that have that much in taxable income. And you guys can ask yourselves, is this something you want to see your tax dollars go towards? Me, if I had a tax...that much taxable income in a business, I'd say, no, I don't see this as a necessary function of this state government. And as we move forward with this, I'd like to hear what other members have to say about it, if they do view it as a necessary income, and why. And maybe my mind will change that this is necessary spending. We look at the green sheet. There's money there now to spend. But does that mean we have to spend it? You spend all of the money in that this year, there might not be any left next year. Or you spend all the money this year, revenue projections go down, you might not have...we might be back here in special session. There's a number of things that could happen as we move forward. So, Mr. President, I appreciate the conversation that will, hopefully, come. If not, then I guess we'll continue on and I'll continue to talk a little bit and we'll see where we go on whether this is or is not necessary state spending. Thank you, Mr. President. [LB583]

SENATOR KRIST: Thank you, Senator Larson. You've heard the opening to AM1502.

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Those wishing to speak: Senator Ken Haar. [LB583]

SENATOR HAAR: Mr. President, members of the body, I will not change Senator Larson's mind and he will not change mine. But the issue is not \$44,000. On Thursday Senator Larson approached me and he said, are you going to filibuster LB57? And I said, yes. Then he said, then I'm going to dump a bunch of amendments on your bill and, by the way, Senator Schilz may not vote for 140 (phonetic). So I said, you know, do it if you have to, but...that's about all I have to say. This is not about the money; it's about the fact that not only myself but some others are going to be filibustering LB57, the attack on the NET, on the Nebraska Environmental Trust. So that's all I have to say, and I will listen intently to Senator Larson's filibuster. Thank you. [LB583 LB57]

SENATOR KRIST: Thank you, Senator Haar. Senator Schilz, you're recognized. [LB583]

SENATOR SCHILZ: Thank you, Mr. President, and, members of the body, good afternoon. This came through the Agriculture Committee. It was voted out of committee, came to the floor. We had discussions here and, during the discussions in committee, I took the opportunity not to vote on it. And there were some reasons for that. And I understand people's wanting to know and people's desire to see what happens when, you know, you look at climate change and things like that. But as I looked at the Agriculture Committee and I look at what agriculture has to deal with every day, here's the problem you run into: It doesn't matter what a report says, it doesn't matter where things are, climatewise, whether it's getting warmer or getting hotter. That's for the theorists. That's for the academics to look at. But day by day, on the ground, people in agriculture, people in other businesses that rely on the weather, that rely on taking those risks, they have to deal with whatever comes and from one day to the next, whether you have climate change, things get warmer, things get colder. Thank goodness. Without it, who knows where we'd be? But I think it's true. So as I look at this and at a report to Agriculture for the people of the state of Nebraska, I'm not sure it is the best thing. So I had questions, and that's why I didn't vote then. And that's why I would...I'll go ahead and listen to this conversation today and see where we're at. This isn't about any other bill. This is about LB583 and this is about how this came out. And we'll have the discussion here. And I think everybody can see by the way I conduct myself that I take each bill at its own merit and move forward from there. Thank you very much, Mr. President. [LB583]

SENATOR KRIST: Thank you, Senator Schilz. Senator Larson, you're recognized. [LB583]

SENATOR LARSON: Thank you, Mr. President. I think...Senator Haar says that it's not about money, and he can think what he wants in terms of that. I had a floor amendment on this bill, on General File, and let...didn't continue what I thought was a bad bill at that

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point, and I think it cost significantly more at that point. But in the end, whatever he says, the point is still the same. And the point...and that's the point that you have to ask yourselves when you return home to your districts and you talk about wasteful spending or spending that is not necessary or spending that doesn't need to occur at the state government level, those little projects that get lumped into...what's considered pork or what's considered...why are you spending my tax dollars on this? I would be heavily criticized when there's many more priorities within state government, in terms of growing business, changes in the tax code that we have to consider when we look at things of this nature. And this is just unnecessary. I sit on the Appropriations Committee, and I voted for the budget. I didn't vote for the overrides. But there are things in there that I disagreed with that went into the budget that were small or considered insignificant. And each one of you may now stand and say, well, it's \$44,000, it's insignificant, it's irrelevant, we have an \$8 billion budget, biennium budget, what's \$44,000, what does that really matter? Well, to 1.8 million people, out of those 1.8 million, probably, over 1.7 million, \$44,000 is a significant sum. And to go back to them and tell them--or, at least, the 37,000 in Legislative District 40 that are very prudent and conservative with their money--that I voted to spend \$44,000 on this is not...would not be--and what I have already said--good spending. We have already the Climate Assessment and Response Committee. They already provide the Governor and other interested persons with information relevant to federal disaster declarations and use other types of funds and assistance available to...for these declarations. They already deal with assessing and responding to drought and other climate emergencies. They provide organizational structure that assures information flow and defines the duties and responsibilities of all agencies during these times of climate-related emergencies. [LB583]

SENATOR KRIST: One minute. [LB583]

SENATOR LARSON: They provide other coordination and communication between federal and state agencies and, under LB583, even with this amendment adopted, they provide the Governor and other interested persons with information and research on the impact of cyclical climate change in Nebraska, including the impacts of physical, ecological, and economic areas, in an attempt to anticipate the unintended consequences of climate adaptation and mitigation. This is really about whether we need to spend \$44,000. If...is this worthwhile to spend that money? This probably won't end up on campaign flyers or TV ads or radio ads of anything like that. It's just where are our priorities as a state? And is this a priority? [LB583]

SENATOR KRIST: Time, Senator. Senator Bloomfield, you're recognized. [LB583]

SENATOR BLOOMFIELD: Thank you, Mr. President. I agree with Senator Larson that this had ought to be looked at a little bit more. Forty-four thousand dollars, the way we've been throwing money around here, doesn't amount to a lot, but it's still \$44,000. And I think this information is available already, elsewhere, and a great deal of it is

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available at the university where this would rest. I just...I don't think there's a whole lot of chance we're going to get this pulled back, but I'm going to vote to pull it back because it's just \$44,000 there we don't have to spend. But given the mood of this body, I believe we're going to. Thank you. [LB583]

SENATOR KRIST: Thank you, Senator Bloomfield. Senator Lautenbaugh, you're recognized. [LB583]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this motion. And I don't know that I've ever supported this bill upon our prior votes, and I don't intend to. A little bit of history that really has nothing much to do with this bill at all: There was a spectacular letter in my hometown paper's Public Pulse yesterday, and it called our attention to something that I think we all, probably, have forgotten, that today is the hundredth anniversary of the premier of Stravinsky's "Rite of Spring" in Paris, 100 years ago today. And the letter was spectacular. I don't know if it was written by Frasier Crane or Niles Crane but, either way, it really took the Omaha Symphony to task for failing to do something to commemorate the 100-year anniversary. And the writer was scandalized, and I was trying to get into the spirit of it and I failed. But it meant something to him. And I can...I was thinking back to when I was an undergrad. I did have to take a music appreciation class as part of...I think I was an econ major from the arts and sciences side, but you had to have classes like that to be more well-rounded. Insert your joke there if you'd like to. So I took the music appreciation class, and I think I wrote a paper on the "Rite of Spring." And it was remarkable because it really was a very groundbreaking piece of music and an even more radical ballet, I guess. And when it premiered in Paris that night 100 years ago, a near riot broke out in the opera house. Grown men, modernists versus traditionalists, were slapping each other in the aisles and fighting over whether this was an affront to the traditions or whether it was time to make way for something new and different. And there's...some accounts say that the police had to be called to--well, I don't speak French, the gendarmes, or whatever the term is--to break up the melee. Some say that didn't happen and that, somehow, the men all managed to calm down on their own accord. But in any event, it's instructive to note that, 100 years ago, people were at the premiere of a ballet and a fight broke out over a ballet. And I...this might make me sound like an uncouth oaf, but I think a lot of the things that we deal with here are much more significant than whether or not a ballet is good or bad or an affront to traditionalist tastes, and we've never come to blows in the time I've been here. Senator Lathrop and I had to be separated once, but that's...actually, that's not true. That never happened. And that's my point. People's passions run deep, sometimes, about things that we don't even understand how anyone could feel so strongly about. I can't imagine getting into a fistfight or, I guess, as this was recounted, a slap fight over a ballet that I found insufficient or, somehow, insulting. But there are things that I do care passionately about. And we will--I do, and, hopefully, we all do--from time to time, fight and get very excited about them. I've read a lot about how, this session, there has supposedly been

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more rancor than anyone can remember and more filibusters than anyone could remember and we're all just getting along horribly. But we aren't meeting in the middle of the aisle and slapping each other around, I can't help but notice, and that puts us ahead of the Paris ballet goers of 100 years ago today. [LB583]

SENATOR KRIST: One minute. [LB583]

SENATOR LAUTENBAUGH: Thank you, Mr. President. So on balance, it hasn't been a bad session. Compare it, again, to the Paris ballet goers of 100 years ago today and how they comported themselves, and I think we're all ready to go sine die. So I guess I'd better not say that with a motion attached, or else something might happen. So I'll just yield the rest of my time and sit down. Thank you, Mr. President. [LB583]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Ken Haar, you're recognized. [LB583]

SENATOR HAAR: Mr. President, members of the body, Senator Lautenbaugh, having just had a mild heart attack, I can't take slapping around, so I'm not going to do that either. I need to follow through. After that exchange telling me that, if I was going to filibuster, there were going to be amendments, I did go to Senator Schilz and I said, does Senator Larson speak for you? And he said, no, he doesn't. He said, I vote on the issue itself. And I respect that and I appreciate that. And so whichever way Senator Schilz votes, I know it will be on the merits of the bill as he sees it. I just wanted to clarify that and I'd like to give the rest of my time to Senator Larson. [LB583]

SENATOR KRIST: Senator Larson, you're yielded four minutes. [LB583]

SENATOR LARSON: Am I the only...last one in the queue? [LB583]

SENATOR KRIST: No, there's one more. [LB583]

SENATOR LARSON: Oh, you...I'll waive it. [LB583]

SENATOR KRIST: Okay. Senator Hansen, you are recognized. [LB583]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. To Senator Lautenbaugh's remarks I also...I went to a fight night earlier this spring, and a hockey game broke out. So it was interesting there, too, so. This bill was heard in the Ag Committee in...which I am a member of. And when they produced the bill and we went into Exec a few days later and we talked about it, one thing, on line 9, where the bill reads now "historical climate variability and change," I added the word "historical." And I think that the bill was written without that word in there, and I think that makes quite a bit of difference. John Wightman has seen a lot of temperature changes in his

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life, but he's probably not noticed climate change. Climate change takes a long time, and there are thousands of scientists in the world right now arguing over which the climate is changing, either warmer or cooler, and those arguments will go on, I'm sure. But I do think that...and I don't know how they can. I don't know if \$44,000 can do a study on historical climate change and variability, as far as those two things go together. They're important. They're important in the long run, I'm sure. We do have this committee already set up. This is an additional person. It did start out at well over, I think it was, \$140,000, and Senator Haar did get it cut down to \$44,000. I'm not sure it's worth the money either but, I mean, the university has a...they have things that they want to do, and this is one of the things that they think is important. I'm not sure I agree, but I will probably...since we have the historical part in there it made me happy in the Ag Committee, and it still makes me tickled. Thank you. [LB583]

SENATOR KRIST: Thank you, Senator Hansen. Still wishing to speak: Senator Davis and Senator Lautenbaugh. Senator Davis, you are recognized. [LB583]

SENATOR DAVIS: Thank you, Mr. Chairman and members. I think, if we had been sitting where we were a year ago today, we probably wouldn't be having this discussion which, I think, talks a lot about weather and about climate. Senator Hansen has seen a few more summers than I have, too, but I think I like the idea of the word "historical" in there. And I think it's time...I think it's important that Nebraska have a, sort of, a foothold in where climate is today in the state. I'm not sure \$44,000 is enough to do that. But I think it's important for us to begin looking at that because Nebraska is a very vulnerable state. And if we're going to have climate issues that are going to be changing, we'll get a baseline here and go forward. I recognize the concern of Tyson Larson, Senator Larson, on the funding. He's a good fiscal conservative, which I appreciate. This is a time when I think, maybe, it's important for us to go forward. Thank you. [LB583]

SENATOR KRIST: Thank you, Senator Davis. Senator Lautenbaugh, you're recognized. [LB583]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I couldn't agree with Senator Davis more. A year ago, at this time, we wouldn't be here having this discussion because it was a short session, so we'd be adjourned. So we'd have to e-mail each other about this topic. And I wouldn't have done that then and I don't intend on doing it next year either, so. One thing that does interest me about this report though is: How is it going to be transmitted? And the reason I ask is there's a lot...lots of ways to get information out. You could just, you know, e-mail it to everyone. You could mail it to some designated recipient. One of the more innovative ways I heard of: There was a person who had a burning desire to get some news out. So what did she do? She found out that there...she was going to be speaking at an American Bar Association meeting later in the week. So she planted a question with an attendee to ask her so she could bring up the information that she had to get out. Now I'm referring,

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of course, to the Internal Revenue Service. And we've all been busy down here, doing what we do. But I've been trying to follow that story in my off hours, and it is a remarkable story and an evolving story. And sometimes, the weirdest little details stick with me, and that was the one that really caused me to stand up and take notice. If it was important to get that information out, why would you plant a question at a bar association function and...so you could respond and say, oh, and by the way, this happened, too, on a Friday afternoon, I thought I would tell you all about it. That strikes me as bizarre. So whoever does this report, I'm hoping they don't sit on it until, you know, maybe, they have a conference to speak at and they go to one of their buddies in the audience and say, hey, ask me about this report I've prepared for \$44,000, I really want to tell someone about it, because that doesn't seem like how reasonable people would behave. And I think, if you look more and more at the evolving IRS story, you see more and more patently unreasonable behavior or explanations that just don't really seem to explain what went on. And it's frightening, if true, what's being alleged and what seems to be coming to light. And it should be, sort of, chilling to all of us if it is the case that certain people are being targeted and certain people are not being targeted and this was going on and it was known but, well, we...finally, we have to fess up to it, so I'm just going to leak it out on a Friday afternoon at a bar association. Thank goodness someone found a good use for a bar association. I've been looking. But it's an important story. It has nothing, really, to do with our duties here. But we are in government, and there is a lesson to be taught. It was a great article I read not too long ago by a columnist from one of the Chicago papers about the Chicago way and how he learned the Chicago way and how his family used to get together and have these dinners and whatnot. And they would have a vigorous discussion. They had monarchists, socialists, well, people of every political philosophy there. Family was huge and diverse, politically. And finally, this...the author, when he was a young boy, 10 or 11 years old, finally said, well, these conversations are great, why don't any of you ever get involved in politics? And this silence came over the room. Nobody in the family wanted to talk until, finally, someone explained, don't you know what happens if you're a business man and you get involved in politics? [LB583]

SENATOR KRIST: One minute. [LB583]

SENATOR LAUTENBAUGH: You have to start paying money to the people in charge, and they'll come around and shut you down if you do the wrong thing. That's the Chicago way. That's not okay. It's not okay to think that the IRS may be doing things like that, too, making life more difficult for people who don't say the right things politically. And I think this is an important story, and it's not just me. But I hope we're paying attention. And if it comes...continues to play out like it has, I hope you're kind of frightened by it because I know I am. Thank you, Mr. President. [LB583]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Seeing no one else in the queue, Senator Larson, you are recognized to close on your motion. [LB583]

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SENATOR LARSON: Thank you, Mr. President. And I'll close on this one and we'll see where we go from there. Again, colleagues, this doesn't take away the Climate Assessment and Response Committee. It doesn't take away the duties that they're currently doing when it comes to climate-related emergencies or drought. It doesn't take away what the High Plains Regional (Climate) Center is doing now in terms of collecting weather data. This is really about whether or not you want to spend \$44,000 on a report. This data is out there already. There are other entities doing it; there are other entities in state government that are already collecting this data. From the Department of Natural Resources to our NRDs to the university, High Plains, this information is being collected already. They already report to the Governor. What does this \$44,000 get us? And if it stays in and the bill passes and the Governor signs it, I'll be extremely interested in reading that report to see what this \$44,000 bought the taxpayers of the state of Nebraska and whether or not the three-quarters of a full-time employee that's going to the University of Nebraska to compile this report for a year, what their findings were in this report that are going to come to the Governor and the Legislature. What new data are we going to find that this committee is going to get that hasn't been out there before, that hasn't been collected by somebody else, that we can already go find? This is not a good use of taxpayer dollars. Thank you, Mr. President. I'd ask for everybody to check in, roll call vote, reverse order. [LB583]

SENATOR KRIST: Are you asking for a call of the house? [LB583]

SENATOR LARSON: I don't think we can call the house. We're on Final Reading. [LB583]

SENATOR KRIST: Okay. [LB583]

SENATOR LARSON: I think we're check in. [LB583]

SENATOR KRIST: Members, please record your presence. Senator Hadley, could you check in, please? Thank you. You've heard the closing on AM1502. All those in favor of returning the LB583 from...or to Select File...and there's been a call for roll call vote, regular order (sic)...reverse order. Sorry, Senator Larson. [LB583]

CLERK: (Roll call vote taken, Legislative Journal pages 1682-83.) 13 ayes, 31 nays, Mr. President, on the motion. [LB583]

SENATOR KRIST: Motion fails. Mr. Clerk. [LB583]

CLERK: (Read LB583 on Final Reading.) [LB583]

SENATOR KRIST: All provisions of law relative to procedure having been complied

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with, the question is, shall LB583 pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB583]

CLERK: (Record vote read, Legislative Journal pages 1683-1684.) 32 ayes, 12 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB583]

SENATOR KRIST: LB583 passes. We'll now proceed to LB583A. [LB583 LB583A]

CLERK: Senator Chambers is...you have a motion pending, would like to withdraw. (Read LB583A on Final Reading.) [LB583A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB583A pass? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB583A]

CLERK: (Record vote read, Legislative Journal pages 1684-85.) 40...excuse me. 33 ayes, 7 nays, 5 present and not voting, 4 excused and not voting, Mr. President. [LB583A]

SENATOR KRIST: LB583A passes. We'll now proceed to the next item, LB634. [LB583A LB634]

CLERK: Mr. President, Senator Chambers, I have a motion from you, Senator, would like to withdraw. (Read LB634 on Final Reading.) [LB634]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB634 pass with the emergency clause attached? All those in favor, aye; all those opposed, nay. Please record, Mr. Clerk. [LB634]

CLERK: (Record vote read, Legislative Journal page 1685.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB634]

SENATOR KRIST: LB634 passes with the emergency clause attached. We'll now proceed to LB634A. [LB634 LB634A]

CLERK: Senator Chambers, LB634A, would you like to withdraw your motion? Thank you. (Read LB634A on Final Reading.) [LB634A]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB634A pass with the emergency clause attached? All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB634A]

CLERK: (Record vote read, Legislative Journal page 1686.) 44 ayes, 0 nays, 1 present

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and not voting, 4 excused and not voting, Mr. President. [LB634A]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: LB634A passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB366, LB366A, LB429, LB429A, LB483, LB483A, LB507, LB507A, LB517, LB517A, LB530, LB530A, LB556, LB556A, LB561, LB561A, LB573, LB579, LB579A, LB583, LB583A, LB634, LB634A. [LB634A LB366 LB366A LB429 LB429A LB483 LB483A LB507 LB507A LB517 LB517A LB530 LB530A LB556 LB556A LB561 LB561A LB573 LB579 LB579A LB583 LB583A LB634]

SENATOR KRIST PRESIDING

SENATOR KRIST: Next item on the agenda, Mr. Clerk.

CLERK: Mr. President, Select File, Senator Murante, I have Enrollment and Review amendments to LB255. (ER112, Legislative Journal page 1613.) [LB255]

SENATOR KRIST: Senator Murante for a motion. [LB255]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB255]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. They are adopted. [LB255]

CLERK: Mr. President, Senator McGill would move to amend with AM1536. (Legislative Journal page 1616.) [LB255]

SENATOR KRIST: Senator McGill, you are recognized. [LB255]

SENATOR MCGILL: Thank you, Mr. President, members of the body. This is a quick amendment. It is a new white copy of the whole draft of the bill because there were so many little E&R-like changes but were bigger than what would normally go in an E&R amendment. Those are largely on pages 3, 9, and 16, dealing with things like replacing the word "victim" with "trafficking victim," as defined in Section 28-830. And then we also made a change to the bill based on Senator Pirsch's feedback--that's on page 5, starting at line 19--that it shall be an affirmative defense to the charge of solicitation if the individual is found to be a victim of human trafficking. Like I said, that was in response to the discussion that Senator Pirsch started on General File and was glad to work it into this amendment. Thank you, Mr. President. [LB255]

SENATOR KRIST: Thank you, Senator McGill. Mr. Clerk. [LB255]

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CLERK: Mr. President, Senator Pirsch would move to amend Senator McGill's amendment. (FA149, Legislative Journal page 1687.) [LB255]

SENATOR KRIST: Senator Pirsch, you're recognized. [LB255]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. And I do appreciate the discussion that we had last time the bill came through. It wasn't originally on my radar, and so there was a lot of questions I had. And I...with respect to this particular state statute, we...having been a prosecutor in Douglas County, we did not utilize the state statute but, rather, a city ordinance. The State Legislature confers power upon cities of the metropolitan class, like Omaha, to enact misdemeanors up to a year in jail and the city of Lincoln up to, I believe, six months in jail. And so we utilize different language with respect to our prostitution, soliciting prostitution. But it is in keeping with the language and the scheme and the paradigm of that language which did exist before, I think, in looking at that language that Senator McGill differentiates between prostitution and soliciting prostitution. And so I don't have...I appreciate all the feedback in that area. I don't really have any more questions with regard to that. This particular floor amendment, FA149, does deal with the concept that was embedded in Senator McGill's LB255. And the amendment, AM1536, now utilizes that in a couple of places. What this amendment would do is, simply, clarify, flesh out, and make precise the intent, I think, for judges attempting to know when this affirmative defense would come into play. And there's a couple of alternatives, and so this language is one attempt to make definite or clear what the legislative...what this body's intent is. And so what it would, essentially, say is--in both cases there's the language--it's an affirmative defense to prosecution under the section that such a person was a trafficking victim as defined in Section 28-830. And so in those two places where this language exists it would add the language so it would read thusly: It is an affirmative defense to prosecution under this section that such person was, at the time of the alleged offense, a trafficking victim as defined in Section 28-830. So it brings back to a point in time the analysis of whether, at that point in time, the individual was a trafficking victim. To not have it in would result in the, possibly, the interpretation that trafficking victim...if you were once, ever, a trafficking victim--say, for example, earlier in your life, age 14 or 15--that that affirmative defense, even if you were to cease being a trafficking victim at that time--14 or 15 or 16--and then, as you age into your 20s and 30s, should you ever receive another charge of prostitution that, because you were, at one point in time in your life, which could be decades and decades ago, a trafficking victim, that would still present an affirmative defense and you could not, thus, be prosecuted decades later, even if that were not currently your status anymore. And so that's the intent and concept behind the bill, to define what this legislative body's intent is with respect to that particular phrase. So thank you. [LB255]

SENATOR KRIST: Thank you, Senator Pirsch. You've heard the opening on FA149.

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Senator McGill, you're recognized. [LB255]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I, unfortunately, am not rising in support of this floor amendment. And we've been having a little discussion over here about affirmative defense. And I do not have a law degree, and so I've been consulting with Senator Ashford and our staffs. Senator Ashford, would you yield to a question? [LB255]

SENATOR KRIST: Senator Ashford, will you yield? [LB255]

SENATOR ASHFORD: Yes, I will. [LB255]

SENATOR MCGILL: Can you help me create a record of our intent here, in terms of human trafficking and the affirmative defense? [LB255]

SENATOR ASHFORD: Yes. I think, to Senator Pirsch's point, I mean, it's possible that a defense attorney would come in and argue that the...his client or her client has a history of trafficking that dates back several years. I think, however, that the...well, I don't think. I know the intent of this language is to say that it is a defense for a defendant to establish to the court that there has been trafficking, that this person has been a victim of sex trafficking in the past. However, it is not the intent that it go back unlimited period of years. I think though that it would not be the intent to suggest that only this occurrence is...would be the effective language because, if it were just this occurrence where the defendant is a victim of sex trafficking, it would take away, really, the defense of this individual having a pattern of being used in sex trafficking. And I think it really is up to the court to determine whether that...the evidence produced by the or put forth by the defense attorney or the defendant would amount to that, to affect this person's activities at the time. So I think it's really a fact question. But it's not the intent of this legislation, I believe, to allow the defendant to avail him- or herself of activities that occurred years in the past. It would have to be a pattern of sex trafficking at or near the time of the alleged offense. But to disregard the pattern that has evolved over several months or whatever prior to the occurrence, I think, would be...defeat the underlying purpose of the bill. [LB255]

SENATOR MCGILL: I appreciate that, Senator Ashford. What's so tricky about human trafficking is there are so many different types and forms and it's so based on manipulation of a vulnerable woman. As I said before on General File, the age of getting into human trafficking is between 12 and 14 years old. And so you have a 13-year-old recruited into prostitution by an older figure who starts them down a path. They may be able to prove that they were a human trafficking victim back when they were 13, 14, 15 by a certain person. But maybe they're 17 now and been picked up, and those circumstances before do directly relate to their life at that point and the road that they have been led down. And maybe they have a new pimp because it is, you know,

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women...these women move and are sold and exchanged and all kinds of things to somebody new. And maybe the evidence isn't there in the current case, but it could have been in the immediate previous case. There are just so many ways, shapes, and forms that human trafficking is taking place that I would hate to be too restrictive. And it could be that, next year, after we think through this a little bit more, maybe, we come back with some amendment to this language. But right now I don't feel good about this particular floor amendment. But I do thank Senator Pirsch for thinking through these things so thoroughly and adding a new perspective to the debate. [LB255]

SENATOR KRIST: One minute. [LB255]

SENATOR MCGILL: Thank you, Mr. President. [LB255]

SENATOR KRIST: Thank you, Senator McGill. Seeing no one else in the queue, Senator Pirsch, you are recognized to close on your floor amendment. [LB255]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. In closing I'll be brief. I do...first of all, I do want to thank Senator McGill for her bill and addressing trafficking. And I think it is a growing threat and a growing concern throughout the state of Nebraska. And I don't want to, in any way, shape or form, minimize that. So with respect to the particular amendment, the floor amendment that I've put up, I think it's pretty well-framed. It is what it is and I'm not going to belabor the point. Essentially, what this would do is give further definition, further clarity, that we're talking about...when we're talking about the point in time where one can successfully invoke an affirmative defense to prosecution of prostitution--I believe, now, soliciting prostitution as well--that that, if you vote yes on FA149, that that would be specifically clarified to mean that, at the time of the alleged offense, that the person was being trafficked. To vote no would mean that that language would not be included. That's clarifying language. So with that, I'd just urge you to vote yes. Thank you. [LB255]

SENATOR KRIST: Thank you, Senator Pirsch. You've heard the closing to FA149. The question is, shall FA149 be adopted, amended to AM1536? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB255]

CLERK: 2 ayes, 17 nays, Mr. President, on the amendment to the amendment. [LB255]

SENATOR KRIST: The amendment fails. Returning to debate, Senator McGill, I see no one else wanting to speak on AM1536. Senator McGill waives closing. The question is, shall the amendment to LB255 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB255]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB255]

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SENATOR KRIST: The amendment is adopted. [LB255]

CLERK: I have nothing further on the bill, Mr. President. [LB255]

SENATOR KRIST: Senator Murante for a motion. [LB255]

SENATOR MURANTE: Mr. President, I move to advance LB255 to E&R for engrossing. [LB255]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. (Visitors introduced.) Mr. Clerk. [LB255]

SENATOR KRIST: Mr. Clerk. [LB255]

CLERK: Mr. President, LB90, no E&Rs. Senator Smith would move to amend the bill. (FA151, Legislative Journal page 1687.) [LB90]

SENATOR KRIST: Senator Smith, you are recognized. [LB90]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, the amendment I have here is a rejection of the bill. I regret doing this on Select. I seem to have been the lone voice on General. My antennas went up. This was not a bill that went to the Natural Resources Committee because, well, I would have thought that it probably should have since it dealt with net metering, but it went through the Revenue Committee. So it really not was on my radar until the discussion on the floor, and my antennas went up on it. And I had a brief discussion with Senator Haar and, colleagues, I believe very strongly that this is a tax exemption for electric customers that have some form of renewable generation on their home. And I reluctantly bring this forward because I know that we've had a long day of Final Reading and we're probably not ready to get into the weeds, but this bill has some serious flaws in it. I hope that you follow me just briefly here, please. I'm going to ask Senator Ken Haar a question, if he would yield, please. [LB90]

SENATOR KRIST: Senator Haar, will you yield? [LB90]

SENATOR HAAR: Yes. [LB90]

SENATOR SMITH: Senator Haar, I hate to hit you with this out of the blue on Select, but I'd like to find out from you what the basis is for providing this exemption. Let me ask you--I'm going to give you two alternatives and tell me if there's something else I'm missing--is it because they're generating their own electricity because they're renewable, they have some form of renewable generation on their home? Or is it because they are realizing, via the net meter, a net amount of energy reading that is

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less than what, of course, the gross is? What is the basis for providing the exemption?
[LB90]

SENATOR HAAR: Yeah, could I have the gavel? I'm sorry, I'm having trouble hearing. The basis for this is...the concept of net metering is that electricity generated by, let's say, my neighbor, Bill Arfmann, if he takes one unit of electricity off the grid and he generates the same amount, that there's no billing for that. It's a trade-off. There's no taxing on that. That's the concept of net metering generally. And when this was passed, it was overlooked, I believe--it was my bill--it was overlooked that the Department of Revenue would charge a sales tax on all the electricity that Bill Arfmann gets, irrespective of the trade-off of the net. [LB90]

SENATOR SMITH: All right. Thank you, Senator Haar. Let me continue on here with a line of questioning, if you don't mind. Whenever they pay their bill for electricity, a consumer that may have net metering, what are they paying for? What is the product they're purchasing? What are they paying for? [LB90]

SENATOR HAAR: So when I pay my electric bill, what's on the bill? [LB90]

SENATOR SMITH: Yeah, what are you paying for? [LB90]

SENATOR HAAR: Well, obviously I'm paying for the electricity. I'm paying for administrative costs. I'm paying for transmission. And did I mention the electricity itself?
[LB90]

SENATOR SMITH: Yes. And you're paying for the power plants and the peak generating capability of those power plants. So whether you take it or not, those investments remain. And as you mention accurately, you're paying for administrative costs as well. They remain regardless of whether you're taking that electricity or not. Thank you, Senator Haar. The charge for the energy on that customer's bill includes the flow of the electrons that are consumed by that customer as well as the guarantee of delivery and the administrative activities that stand behind that. So if you sell energy back, you still have benefited from the guarantee of the delivery of that energy. I see no reason that those customers that are privileged enough to have generation on their home or some form of generation, it may be photocells, it may be wind, just because they have a net metering capability that they should be exempt from paying the taxes on the same services that their neighbor, who does not have that capability, must pay. It just does not seem to be fair to me. You know, I just totally disagree that we should be giving exemptions willy-nilly. Once again, what is the energy policy here? We've already talked about this once on the floor today. When it doesn't come through the Natural Resources Committee, is not well vetted, not well understood, why are we giving these tax exemptions to homeowners that have net metering capability? Just doesn't seem fair to me, colleagues. Thank you, Mr. President. [LB90]

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SENATOR KRIST: Thank you, Senator Smith and Senator Haar. Senator Schilz, you're recognized. [LB90]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Thank you, Senator Smith. I appreciate everything that you've said and I agree with you on this. Would Senator Haar answer a question, please? [LB90]

SENATOR KRIST: Senator Haar, will you yield? [LB90]

SENATOR HAAR: Yes, of course. [LB90]

SENATOR SCHILZ: Senator Haar, thank you. And I must apologize, I haven't had a chance. I've read the statement of intent. But as this...as we go through this and as this, for lack of a better word, exemption occurs, who does that for these folks that would fall under this? Would the electric utility itself figure that out or would this come from the Department of Revenue? [LB90]

SENATOR HAAR: This would come from the electric utility. It's a matter of billing. [LB90]

SENATOR SCHILZ: Okay. So this is...so...oh, so this is a net metering bill then. Is that correct, Senator Haar? [LB90]

SENATOR HAAR: Say that again, please. [LB90]

SENATOR SCHILZ: This is a net metering bill then, not a taxation bill. [LB90]

SENATOR HAAR: This is about sales tax on net metering. [LB90]

SENATOR SCHILZ: No, you said it's about billing, correct? [LB90]

SENATOR HAAR: Yeah. [LB90]

SENATOR SCHILZ: Thank you. All other sales tax exemptions that we have come through the Department of Revenue. I believe that what's happened here, and I hate to admit this, Senator Haar, but what's happened here is somebody has made this and created this bill and put it in place so that it would go to the Revenue Committee as a tax bill rather than come to the Natural Resources Committee as a net metering bill, in which it most definitely is. The Department of Revenue is not even involved in what goes on here. This is all internally within the electrical supplier, the electrical utility that's sending this out. And I think that we need to really start paying attention to this, folks, because this is a net metering bill and every net metering bill that has happened before

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has come in front of the Natural Resources Committee. And I don't know about you, but without paying for all that stuff that gets to the house or gets to the building where the net metering occurs, there would be no way to get it back to the grid. And let's remember, if those folks that are doing that and doing the net metering don't pay that sales tax, well, that sales tax is charged anyway to the utility. Somebody else is going to pay that and somebody else is going to have to make up those costs. And it may not look...it may not look like a sales tax charge, but it will show up someplace else in the billing, because all of those costs have to be paid for. Senator Smith is right on target here and I hope that everybody...once again, I'm saying this again, Senator Smith is on target here and I want people to listen to him. I want people to understand that we are still in session and we need to pass laws and we need to make sure that we're keeping a good eye on what's happening here and where this is going. So I hope that everybody is listening to what was said first. First of all, it came up as a sales tax bill. Now we're finding out it's a net metering billing bill that's been disguised as a sales tax exemption bill. Let's think about that, folks. We all talk about the committee process and how that should work. We all talk about how important it is. Then let's make sure that when we put bills to a committee that we put bills to a committee that has the history, that has the expertise, and has the understanding to understand the ramifications... [LB90]

SENATOR KRIST: One minute. [LB90]

SENATOR SCHILZ: ...of what happened and what will happen. And while I appreciate Senator Haar's enthusiasm to try to get this in place, because he's been a champion of net metering his whole time here in the Legislature and I commend him for that, I don't believe that this bill goes in the right direction. I will support FA151. Thank you very much, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Schilz. Senator Hadley, you are recognized. [LB90]

SENATOR HADLEY: Mr. President, members of the committee, would Senator Carlson yield to a question? [LB90]

SENATOR KRIST: Senator Carlson, will you yield? [LB90]

SENATOR CARLSON: Yes, I would. [LB90]

SENATOR HADLEY: Senator Carlson, how long have you been on the Natural Resources Committee? [LB90]

SENATOR CARLSON: This is my seventh year. [LB90]

SENATOR HADLEY: Have you dealt with net metering in the committee before? [LB90]

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SENATOR CARLSON: Yes. [LB90]

SENATOR HADLEY: How long ago? [LB90]

SENATOR CARLSON: Oh, it seems to me probably about every year. [LB90]

SENATOR HADLEY: Okay. Thank you. That's interesting, because we've had this bill before the Revenue Committee before, either once or twice, before our committee. So if there's a concern about it coming to the Revenue Committee, this is not the first time. And it was sent to us because it deals with whether or not you charge sales tax on the transactions. Now if the Natural Resources Committee wants to get in...more into the tax...sales tax concern, then that's fine. But this is not the first time this bill has been before the Revenue Committee. And in the times we've had it before, we've had some of the electrical providers come in and testify in favor of the bill. So I guess I'm concerned as to what the problem is here. Do we...should we basically run things through the Natural Resources Committee to see if they want them, and then see if any other committee comes up? It seems to me when you're dealing with sales tax, it ought to go through the Revenue Committee. And that's what this bill deals with. Do you take the net amount and charge sales tax on it, or do you charge sales tax on the gross amount that they bring in? So I'm sorry, I see it as a sales tax issue. If you see it differently that's absolutely fine. But this is not the first time we've seen this bill in the committee. In fact, I think we've passed it out before but it didn't get prioritized. So I guess I'm just concerned as to what this body wants the Revenue Committee to do when it deals with sales tax. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Hadley. Senator Ken Haar, you're recognized. [LB90]

SENATOR HAAR: Mr. President, members of the body, I am not on the Referencing Committee and, frankly, I don't know who is, so I had no point in putting this bill, you know, into the Revenue Committee, although it has been there twice before in previous years because it does deal with sales tax. So I can't argue about which committee should have had this. I simply want to tell you that, for example, the letter we got from Rick Nelson, general manager of Custer Public Power, if you charge sales tax on all the electricity that my neighbor takes from the grid, then you either have to have a smart meter or you have to have two meters--one that runs electricity in, one that runs electricity out. Someway you have to be able to determine the net. That's expensive for the small amount of net metering that we have. And he gave an example. You know, I think some public power districts are just coming up with their own solution to this, but Custer Public Power was trying to do absolutely the right thing and so they installed a meter that cost \$600. The manual calculating of the sales tax and the final bill takes \$100 worth of time each month. Sales tax that was collected was \$27. And so in the

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long run, it's my contention, it's my opinion that trying to do the billing in a gross sense for all electricity that comes out, separate that from the electricity...I'm sorry, all the electricity that comes in from the grid to Bill's house and to differentiate that from the electricity that he's generating is much more expensive than using the true net metering concept, which is for every one unit you generate and one unit you take off the...it's a wash. Now in Bill Arfmann's house, obviously he's getting a lot more electricity from the grid than he's putting back on the grid, so, you know, he's paying the bill every month. By the way, the original net metering bill does say that the public power district can charge for administrative costs no matter what. So some are using it; some are not. So in my opinion, this is simply a way of saying you can put one meter up. It will run...it will run forward when you're taking electricity from the grid; it will run backward if you're putting electricity on to the grid. That's the easiest way to do it. I think it makes sense from the...not only from the customer's standpoint but from the public power district's standpoint. So this is not a bill whether net metering is good or bad. It's simply how...the revenue, it's the sales tax issue. So I would encourage you to vote against FA151. This year I brought the bill. It's been brought by different people but it's really to fix a problem, I believe. And when you look at our current net metering bill, the caps are very low so we're not having somebody putting in megawatts of electricity. We're talking about a cap here of 25... [LB90]

SENATOR KRIST: One minute. [LB90]

SENATOR HAAR: ...kilowatts of electricity. And you wind up with the sort of thing like in Custer Public Power. It costs Custer Public Power \$100 a month to charge the sales tax to figure out which electricity is coming and going, when the total tax, sales tax, they collected from the customer was \$27. So again, I would...I take Senator Smith very seriously. I know where he's coming from. I disagree and I would encourage you to vote against FA151 and for LB90. Thank you. [LB90]

SENATOR KRIST: Thank you, Senator Haar. Senator Carlson, you're recognized. [LB90]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm going to address a question to Senator Haar in a minute. First of all, I want to say that in the years that I've been on the Natural Resources Committee and Senator Haar has been on there, he's been a very, very good member and certainly he is a champion for renewable energy and puts a lot of effort in that direction. But I would like to address a question to him. [LB90]

SENATOR KRIST: Senator Haar, will you yield? [LB90]

SENATOR HAAR: Yes. [LB90]

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SENATOR CARLSON: Senator Haar, I think I know the answer to this because of your earlier response, but you said you didn't even know who was on the Referencing Committee. Is that true? [LB90]

SENATOR HAAR: That...I said I'm not on and I don't know who's on it, yeah, you're right. [LB90]

SENATOR CARLSON: Which tells me that the answer to this question is no. You didn't make any attempt to have that bill referenced in any direction, did you? [LB90]

SENATOR HAAR: No, I've never done that on any bills. [LB90]

SENATOR CARLSON: Okay. All right. Thank you. And, Mr. President, I'd like to direct a question to Senator Hadley, if he would yield. [LB90]

SENATOR KRIST: Senator Hadley, will you yield? [LB90]

SENATOR HADLEY: Yes. [LB90]

SENATOR CARLSON: Senator Hadley, you've been on the Revenue Committee how long? [LB90]

SENATOR HADLEY: This is my fifth year. [LB90]

SENATOR CARLSON: All right. And this is your first year as Chair. [LB90]

SENATOR HADLEY: That's correct. [LB90]

SENATOR CARLSON: In the other four years...and you may have done this, I don't know, because I didn't do it in Natural Resources. Did you study bills on other committees to see whether some of them should have been referenced to Revenue? [LB90]

SENATOR HADLEY: No. [LB90]

SENATOR CARLSON: Neither did I. And I think what happens is that the Revenue Committee...or not the Revenue but the committee in charge of assigning, Reference Committee, they do the best job they can. I looked at the title of this bill and I think I can see why it was probably referenced to Revenue. And I think this is a little bit of a perhaps a warning to me that we should ask staff to really review bills on other committees as they're referenced to see if we would have a question, because I really...I really would think this bill could very well have gone through Natural Resources. And feelings get a little bit high when somebody kind of seems to think you may have done

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something wrong. You didn't do anything wrong. I didn't do anything wrong. But I think Senator Smith brings up a pretty good point. And this is a bill that brings with it kind of a fundamental of taxation, and to bring the question up now whether or not it's really fair and really a good bill I think is appropriate. So I'm trying to remain calm on this and I may have a tendency to vote for it on Select File and then really give it some serious thought before Final Reading. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Carlson. And, Senator Mello, you are recognized. [LB90]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I conferred with the Fiscal Office to the same point that Senator Hadley just made, which is this bill is in response to an administrative ruling made by the Department of Revenue. So I understand that Senator Schilz and Senator Smith sit on the Natural Resources Committee, but if you look at the Legislature's Web site, you'll see the jurisdiction under each committee. I don't think the Department of Revenue is under the jurisdiction of the Natural Resources Committee. And Senator Hadley made the point, which only needs to be further emphasized, colleagues, that this is a tax bill. Using a very simple analogy, what Senator Haar is trying to do, because of an administrative ruling that follows our existing sales tax law, is that if you purchase three units of electricity, you pay sales taxes on those three units of electricity. But if you generate two units or even generate three units back through net metering, under our current law you still pay sales tax on those three units you purchased. So you, in likelihood, could not be purchasing any electricity but you would be paying sales tax, because that's what our sales tax law states. Senator Hadley mentioned this is the third time this bill has come to the Revenue Committee. So I argue and will contend with Senator Schilz, this is not a net metering bill. This is, purely simple, a revenue bill. It is a taxation bill. Any bill that involves taxes doesn't just go to the basic policy area. If it involves the sales tax code or income tax code, it goes to the Revenue Committee. I sit on Reference. Now, granted, I don't get to vote, as the Chair of the Appropriations Committee, but I raise red flags if I think and read a bill that seems to be muddying the waters between a policy area in one committee and a policy area in another. Unfortunately, Education, HHS, and Appropriations deals with this all the time. So with all due respect to Senator Smith and Senator Schilz, they may not like this bill because they think it involves net metering, which it does in the simple sense that it deals with sales taxes and sales tax policy in relationship to net metering. But the underlying policy, colleagues, is whether or not we should charge sales taxes on electricity purchased up-front, knowing that that customer is generating electricity back into the grid. And to use my very simple analogy, the tax policy question in front of us is whether or not you do not purchase any electricity after you generate your own electricity but yet you still have to pay sales taxes on that. That's the underlying sales tax policy discussion that we're having. I support the bill because I think if, one, you're generating your own electricity, you're using it from the public utility first and then generating it back into it, you shouldn't have to pay sales taxes even

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though you're not utilizing electricity. So that's the policy, colleagues, that we need to keep in the front of our mind. There can be disagreements in regards to whether or not this bill, over the last three sessions, has been not referenced to the committee that Senator Schilz and Senator Smith feel it should have been referenced to. They have the right, as a member, when that happens to put a motion into the Exec Board to ask it to be rereferenced. As members of the Natural Resources Committee, they could have done that two years ago when the bill was referenced to Revenue, but they didn't. So let's just keep things, I think, in perspective. They may disagree with the policy, which is fine. We have disagreements on policy all the time, colleagues. But the underlying point is this has been referenced to Revenue because it's in response to an administrative ruling the Department of Revenue has made in reference to net metering. When we did a revenue bill change in reference to an administrative ruling the Department of Revenue made in regards to youth sports activities,... [LB90]

SENATOR KRIST: One minute. [LB90]

SENATOR MELLO: ...that didn't get referenced to Health and Human Services because it involved the YMCA or it didn't get referenced to the Education Committee because it involved after-school programs. It was referenced to the Revenue Committee because it dealt with sales taxes on admissions to youth sporting events. That was the underlying policy issue. This, the underlying policy issue was sales tax payments in regards to electricity that is currently being generated back into the grid. I think the bill speaks for itself. That's why I support it. And I'd urge the body not to adopt FA151. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Mello. Senator Karpisek, you are recognized. [LB90]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I may have come to the conclusion on the problem here. I am on the Referencing Committee. (Laughter) That may be the whole problem. The Referencing Committee is the Exec Board, which changes into the Referencing Committee, chaired by Senator Wightman. I'll throw him under the bus on this one. Looks like he has his light on, though. All bills that come into the Referencing Committee first have a reference on it from Joanne Pepperl and her group. She looks into them, they look into them and say where they would recommend that they go by previous experience, those sort of things. Sometimes we change where they go. Especially this year with Senator Chambers back, a lot of things maybe didn't go where they went the last four years because of some other ways that things got moved around. Just for my wanting to get something out there, the Judiciary Committee complains about how many bills they get, but try to get a bill through there to a different committee. You won't. So I tease Senator Chambers about that all the time, but he said that's where they belong. And as Senator Mello gave some examples, Senator Larson had a bill on slaughterhouses and people who would be

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working there and trying to...maybe from PETA, to look. It deals with slaughterhouses but there was a penalty involved, so it went to the Judiciary Committee. I disagreed with that. I thought it should have gone to the Ag Committee. And Senator Chambers took his, about one of the first days back, and let me have it for about 20 minutes in committee. Now he sits on the Ag Committee so he could have done whatever he wanted with that bill there, too, but he felt it went there. We don't always agree in Referencing or on Exec Board, much like any other committee here, but that's how it works. And as Senator Mello said, if you don't like where something goes, then you can put in and have it changed. We had one bill this year that went back and forth maybe three times. And when we just met on all of these interim studies, I don't know how many of them the introducer asked for two, or one was even three, different committees to look at them because there is overlap on all of these committees and it is hard to decide sometimes. So again, I agree with Senator Mello, if you don't like what's in the bill, fine, but I think it was referenced the right place. If you look at the summary of the bill, it says: The bill as drafted would create a sales tax exemption for net energy billings for customer generations...generators of electricity service. To me, it says a sales tax exemption, so that would go to Revenue. If you don't agree with that, again, fine. But I don't think that that has anything to do right now with whether this bill should be killed or not. Either like it or not. If you don't like it, go after it for why you don't like it, not because you think it was referenced to the wrong committee, because I don't think it was. [LB90]

SENATOR KRIST: One minute. [LB90]

SENATOR KARPISEK: Again, a lot of bills sometimes are written a specific way to go to a specific committee and I will tell you that this year Senator Chambers sniffed all that out and he really stood his ground and didn't let things go anywhere where he didn't think it should. So if there was any shenanigans, I don't know on this bill if it was referenced somewhere by Joanne--I'm going to go try to find that out--and we changed it, or if that's what she said and we did. But I think it did go to the right place in the end. Again, don't like it? Let's hear why you don't like it, whether that...other than the referencing. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Karpisek. Senator Johnson, you are recognized. [LB90]

SENATOR JOHNSON: Thank you, Mr. Chairman and members of the body. I didn't tune in on this. I read through it a little bit. When I think of net I think of the result of two activities. You net them together and you have an answer, in this case, the amount of sales tax. I think the Referencing Committee did a good job. It is a Revenue Committee, whether that sales tax stays there or whether it is net back. So I haven't had an issue on it. But I do have some questions now, if Senator Haar would yield to a question. [LB90]

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SENATOR KRIST: Senator Haar, will you yield? [LB90]

SENATOR HAAR: Yes. [LB90]

SENATOR JOHNSON: I'm going to use a couple examples, one in my own instance. I have a building that I have electricity in during the summer when I'm around, but during the winter I don't occupy it at all and I shut everything off. So I do not use any electricity in the winter. Thus, normally...or sales tax is charged on a commodity. I don't look at my statement in the wintertime, but I get a bill. Do I get charged sales tax then if I don't use any electricity, such as sales tax on the administration or other things that are on your electric bill? [LB90]

SENATOR HAAR: Senator Johnson, I...you know, we have 160-some public power entities in this state and they do things differently. So on that question, I really don't know. [LB90]

SENATOR JOHNSON: Okay, that's fine, and I don't know either because I didn't look at my statement to see if I pay sales tax in the wintertime. I'm going to use an example that's probably not apples to apples, but to me it explains net. If I have a facility and I'm using energy and this energy happens to be propane and it's for heat and it's not for livestock, which would be exempt, or for farming, but if I use it for a shop and I pay sales tax when I'm billed for that propane. Then I have excess propane, I don't need that propane anymore, and my supplier comes out and I return that product back to them. I get a credit back and the sales tax comes off of that, and so I have a net sales tax cost of the actual product that I used. I think that's kind of a scenario of where we're at with net metering. You purchase product and in this case you generate a product to come back. You don't really return something that you're not using. But to me, that's a net cost and the person or the entity should only pay sales tax on the net. So I do believe the Referencing Committee made the right choice in it going to Revenue and I still believe that it should be a net exemption back. I don't think they should make money off of what they have and get sales tax back, but I think if it at least goes to zero on the net metering, they should not pay the sales tax on it. Thank you. [LB90]

SENATOR KRIST: Thank you, Senator Johnson and Senator Haar. Senator Larson, you're recognized. [LB90]

SENATOR LARSON: Thank you, Mr. President. I'm trying to understand everything that is LB90 and how it takes shape. And if Senator Smith would yield to a few technical questions, if he would, I'd really appreciate it. [LB90]

SENATOR KRIST: Senator Smith, will you yield? [LB90]

SENATOR SMITH: Yes, I will. [LB90]

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SENATOR LARSON: Thank you, Senator Smith. Do NPPD, the REAs, OPPD, if you know, LES, do they pay...I live in an REA, Niobrara Valley. When they buy energy from NPPD, do you know if they pay sales tax or do they pay taxes at all or anything of that nature? [LB90]

SENATOR SMITH: Senator Larson, I do not know the answer to that. I'm not familiar with how the REAs handle those transactions. [LB90]

SENATOR LARSON: Or do you know do...I'll try to phrase it...do they pay...what type of taxes do they pay, not just REAs but NPPD or LES or...? [LB90]

SENATOR SMITH: Well, I believe there are certain taxes on inputs, but there's...in terms of sales taxes, I believe that they are...many of the utilities use something they call payment in lieu of taxes, so they'll pay it to the communities where they are delivering the services. [LB90]

SENATOR LARSON: So they are paying these payment in lieu of taxes, essentially, maybe not necessarily sales taxes all the time. [LB90]

SENATOR SMITH: Yes. [LB90]

SENATOR LARSON: Thank you, Senator Smith. Would Senator Haar yield? [LB90]

SENATOR KRIST: Senator Haar, will you yield? [LB90]

SENATOR HAAR: Yes. [LB90]

SENATOR LARSON: Thank you, Senator Haar. And Senator Smith talked about how our public power do pay in lieu of taxes, and I understand that your bill is more of the billing side. That these people that...I get that they have to purchase energy and they get charged for the energy they use, and then they sell it back and they get a credit. Is NPPD or the REAs paying extra in lieu of taxes from what they are buying from these customers? In essence, these customers are essentially selling it back to NPPD or the REAs or whatnot, and they're purchasing it. Are those public power entities having to pay extra in lieu of taxes because of what they're buying back from the consumers? [LB90]

SENATOR HAAR: Senator Larson, I'm not...I'll try to answer your question but I don't know the intricacies of especially the exchanges, like if your REA buys power from NPPD. My understanding is...my guess would be that your REA does not pay any taxes to NPPD but they charge sales tax when they...to the customer. [LB90]

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SENATOR LARSON: I know they charge sales tax. I guess my question is focused on my REA, Niobrara Valley, is buying off of this net metering customer. They're obviously charging him sales tax for the energy that he's used, but then they're...but I have a big windmill in my little backyard at 104 East Windsor and I'm selling the energy back. I don't charge that...I don't charge my rural electric association sales tax when I sell it back to them. So...but we do know that that REA is...or more than likely and maybe I might have to ask Senator Hadley on how the tax code works. But if that REA is paying in lieu of taxes and they...because of how much their gross sales are, whatnot, I think that's an important question that needs to be answered. Essentially, me, the customer, if this bill passes, I don't have to pay sales tax on any of the energy that I use, and then I'm selling energy back to...into the grid forcing that REA to pay more in lieu of taxes... [LB90]

SENATOR KRIST: One minute. [LB90]

SENATOR LARSON: ...is kind of what I'm understanding, because they're selling it back. You know, if the REA or NPPD has to pay so much in taxes or based on, you know...and that's kind of what I'm saying, that they need to...we need to figure out how they pay their taxes or how they pay in lieu of taxes. Because essentially, me as a consumer, if I put up a windmill I can just say, well, I don't have to pay any sales tax and I'm going to use the grid of the REA or NPPD and all their infrastructure for free, and they're going to pay in lieu of taxes because I'm selling them energy as well. I think you're essentially using all the electrical grid, all the infrastructure for free at that point, which is wrong. I have a grandfather that worked for the REA for 46 years. I understand these issues on a very elementary level. But local taxpayers or local ratepayers, Niobrara Valley's... [LB90]

SENATOR KRIST: Time, Senators. [LB90]

SENATOR LARSON: Thank you. [LB90]

SENATOR KRIST: Thank you, Senator Larson, Senator Haar, and Senator Smith. Senator Nelson, you're recognized. [LB90]

SENATOR NELSON: Thank you, Mr. Speaker or Mr. President and members of the body. I have a question for Senator Haar if... [LB90]

SENATOR KRIST: Senator Haar, will you yield? [LB90]

SENATOR HAAR: Oh, I'm sorry. I was talking to the side. Could you ask me that question again, please? [LB90]

SENATOR NELSON: Yes, I have a good...do you have this diagram that you showed

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us? [LB90]

SENATOR HAAR: (Laugh) Please throw the diagram away. No, yes, I do. [LB90]

SENATOR NELSON: All right. And I know I recall it because there was a mathematical error on there and we got that corrected. But you're talking about Bill Arfmann, who has solar panels. [LB90]

SENATOR HAAR: He does. I'm jealous, yes. [LB90]

SENATOR NELSON: All right. Is he using any of this electricity furnished by Norris Public Power in those solar panels? [LB90]

SENATOR HAAR: He is taking a lot more electricity off the grid than his solar panels...the electricity that he's using doesn't actually...it just goes into his house use,... [LB90]

SENATOR NELSON: Right, so... [LB90]

SENATOR HAAR: ...it doesn't go back on to the grid. [LB90]

SENATOR NELSON: So they have sold him three units and he's being charged sales tax on that. Now he's generating electricity with his solar panels, right? [LB90]

SENATOR HAAR: That's correct. [LB90]

SENATOR NELSON: Is he using some of that in his house? [LB90]

SENATOR HAAR: Oh, yes. In fact, he'll be using much more than he gets off the grid. [LB90]

SENATOR NELSON: So it may have generated six units and he only needed five, so he's selling one back. Is that correct? [LB90]

SENATOR HAAR: It would be the other way around. I would say more like he's taking 20 units from the grid and maybe putting 3 back. [LB90]

SENATOR NELSON: Okay. Well, let's just say he needed 25 altogether to heat his house. He took 20 from the grid. He generated six, so he has one unit to sell back. He is selling it back to the public power district, isn't he? I mean he's generated electricity and... [LB90]

SENATOR HAAR: He is generating electricity. [LB90]

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SENATOR NELSON: And under ordinary circumstances, if he's a seller and they are a purchaser, so to speak, then there would be tax on that, wouldn't there? [LB90]

SENATOR HAAR: If he went on vacation, for example, and wasn't using any electricity in his house, and his solar panels were still generating, let's say, three units, that would be going back to the grid in exchange for three units he took from the grid. [LB90]

SENATOR NELSON: Okay. So it's an exchange and this is... [LB90]

SENATOR HAAR: Exactly. [LB90]

SENATOR NELSON: ...what's puzzling to me and what perhaps we can clarify as to the rationale then as to why, I guess, perhaps tax isn't paid on that if it's going back to the grid maybe because they're a public utility? And with regard to the other question that was asked, if you're not using electricity, I think Senator Johnson referred to his shed where he didn't use it. I think there's still a basic charge that has to be paid to the utility, right? [LB90]

SENATOR HAAR: That's up to each public power district. It's in the original net metering bill that they can decide whether or not to charge. [LB90]

SENATOR NELSON: Okay. All right. Well, perhaps...I'll continue to listen and maybe this will become a little clearer to me in figuring out, you know, whether public power should give a credit for that one that's coming back to them or whether the purchaser ought to pay the sales tax. Thank you, Senator Haar. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Nelson and Senator Haar. Senator Wightman, you are recognized. [LB90]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I rise, as Chair of the committee that's catching all the heat here today, so I thought that I would say that this bill was originally expected to be or referenced by the Referencing...to the Referencing Committee. It was brought to the Referencing Committee and suggested that it be under...assigned to the Revenue Committee. There was never anything that later came on from anybody, as far as I know that...and we just looked, that suggested it go to any other committee. So all we did was assign it as was originally suggested by the Bill Drafters, which we did. And that's what we would normally do. I think that probably Senator Karpisek covered it about as well as it needs to be covered, and I think looking at the bill, if you just read it, it would be fairly obvious that it would be assigned to the Revenue Committee. It starts out, even the title: For an act relating to revenue and taxation; to change provisions relating to sales and use taxes on the furnishing of electricity service. So as far as where this was assigned, it was assigned

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based upon what the committee was originally suggested. And if you had read it, I think it would have been assigned to the same committee. So again, I just don't think there's much question about where it was assigned. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Wightman. Senator Smith, you're recognized. [LB90]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, I want to kind of clear the air here a little bit. I think we've gone off on the referencing process as opposed to the merits of this bill. And I certainly didn't mean and, yeah, as I was on the mike in my opening, I didn't mean to suggest that this tax exemption bill is not appropriate for the Revenue, but it was referenced there. And certainly I'm not suggesting that there's something sinister in the way Senator Ken Haar wrote the bill to get it referenced to Revenue. And Senator Hadley has pointed out that there has been a number of net metering bills before Revenue. So I just want to clear the air. Evidently, I ruffled some feathers in my comments about the referencing process, and I'm just saying that this topic, discussing this topic on the floor, we're at a bit of a disadvantage because of the subject matter. I wanted to touch basically on, just real briefly here, on something Senator Nelson said about basic service charge. Typically, a basic service charge covers the process of reading the meter, a small amount of administrative activity there. There's still the generating plants, the delivery system. The costs for that are absorbed in the energy charge that we are exempting taxation on with this class of customers. And then, Senator Johnson, I think you mentioned that as well, so you gave a scenario there of propane. But that person has to drive their truck out. They have a building. They have to deliver the propane tank to you. They have to return the propane tank. Those types of charges, I imagine even if they gave you a refund on the amount of propane in your tank, they're still going to charge you for the services of delivery. And that's what's being included in the energy charges. Would Senator Mello yield to a question? [LB90]

SENATOR KRIST: Senator Mello, will you yield? [LB90]

SENATOR MELLO: Of course. [LB90]

SENATOR SMITH: Thank you, Senator Mello. You made some comments on the mike. I just want to ask, do you believe we should give tax preferences to this class of customers that have net metering and generation capabilities? [LB90]

SENATOR MELLO: What other kind of...I guess I would ask...answer the question in the sense of what other kind of customers are there in the sense of customers who generate their own electricity and/or... [LB90]

SENATOR SMITH: No, customers... [LB90]

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SENATOR MELLO: ...utilize electricity from a public utility? [LB90]

SENATOR SMITH: Customers that are simply taking energy and they're paying for it and they're paying taxes. Here we have a class of customers that have net metering capabilities, and so they are passing some energy back. [LB90]

SENATOR MELLO: So they're utilizing it first and then generating it and passing it back into the grid, correct? [LB90]

SENATOR SMITH: Yes. [LB90]

SENATOR MELLO: Okay. [LB90]

SENATOR SMITH: Do you believe in giving them a tax preference? [LB90]

SENATOR MELLO: In the sense of them not having to pay taxes on electricity that they're generating back into the grid, I do. I think we're asking them to pay double taxation actually. [LB90]

SENATOR SMITH: That's totally incorrect. But let me ask you this question. What if they don't give any energy back? Let's say none of it moves back onto the lines. They're only taking it. Now they have the capacity of net metering. They have the capability of generating but they're not doing it. They're just taking. Should they be given some type of tax preference because they have that capability? [LB90]

SENATOR MELLO: If they're not putting electricity back into the grid? Is that...just to clarify... [LB90]

SENATOR SMITH: Yes, that's my question. [LB90]

SENATOR MELLO: So they're essentially like every other customer who utilizes electricity but is not putting any new electricity back onto the grid, correct? [LB90]

SENATOR SMITH: That's my question, yes. [LB90]

SENATOR MELLO: Then, no, they would not...they should not get a preference, only if they're using electricity and putting it back onto the grid. They should not have to pay sales taxes on the electricity they're putting back onto the grid. [LB90]

SENATOR SMITH: Okay. Then I'm going to suggest to you, Senator Mello, that that... [LB90]

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SENATOR KRIST: One minute. [LB90]

SENATOR SMITH: ...that net amount that's going back onto the grid is the cost of a few electrons, but that customer has benefited from the generating plants that are in place, the lines that are in place, the delivery system that's in place, and the administrative costs that have been incurred by those utilities. And you're exempting this class of customers from those taxes on that amount. So once again, I do not believe it's fair and I believe this is a bad policy. And in my closing I'll hit a few more points. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Smith and Senator Mello. Senator Bloomfield, you are recognized. [LB90]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Karpisek said a little bit ago that he was going to probably throw Senator Wightman under the bus, but I don't think there's any buses left here. They've all been dispatched to Washington where they're throwing people under the bus left and right. But I am going to take a little change here from what you normally see. I'm going to be supporting Ken Haar on this. I don't believe we should be paying taxes on what we don't use. If I go to Walmart and buy something, I buy five pencils and I take a pencil back later, they refund not only the price of the pencil but also the sales tax, and that's what we're doing here. I don't see all the heartburn. The companies aren't keeping this money. This money is being passed on from the company, when they collect it, to the state. Why we should expect the people that are giving back to pay sales tax on what they are returning is beyond me, and I can't go there. So I will not be supporting FA151. Thank you. [LB90]

SENATOR KRIST: Thank you, Senator Bloomfield. Senator Ken Haar, you're recognized. [LB90]

SENATOR HAAR: Mr. President, members of the body, thank you, Senator Bloomfield, for that. I'm going to go back to a minute of the cost of things, and it gets complicated. It does. But with my neighbor Bill's solar panels, if he just puts up solar panels and, of course, there's electronics in there, but he has one electric meter. When he takes stuff off the...when he takes electricity off the grid, it runs forward; when he puts electricity back on the grid, it runs backwards. So he can take one meter reading. It's the net amount that he took off the grid. That's one transaction; he's charged sales taxes. Now some...or public power districts, in accordance with the Revenue Department's ruling, now they see that there have to be two transactions. You have to know exactly how much electricity went in and then how much electricity went out so that you can charge a sales tax on everything that went in. And let me tell you the cost of doing that. In this case with Custer Public Power, first of all, they had to buy a special meter that could tell them how much electricity went in versus how many electricity...how much went out. And in the net metering bill that we passed several years ago, it says that the public

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power district can't charge the customer extra for a special meter. So in the case of Custer Public Power, they had a 3.4 kilowatt unit. That's a very small unit. First of all, they paid \$600 for this special meter to tell them how much electricity was going in versus how much electricity is going out. And then, since it's a rare occurrence, they spent \$100 a month figuring out how much sales tax to charge. If...and they're saying the total sales tax would be \$27 a month. That's, you know, the total amount going in. So they're spending \$600 up-front for this special meter, \$100 worth a month of time because their computer system doesn't deal with this particularly, and almost no sales tax is involved. So I didn't invent this bill. The public power districts actually came back, those that wanted to be conscientious, and said, you know, it's really tough administering this net metering the way the Revenue Department is interpreting the law. So this really...you know, some people like what we call distributive generation, like solar panels and wind and stuff like that. That's not what this bill is about. This bill really won't...we haven't had...we haven't had complaints from the customers. The problem has been that it costs so much to separately meter how much electricity goes into a system versus how much electricity comes out. So it is an incentive, there's no question about it. Some people disagree that we should in any way incent renewable energy that's generated by private customers, but that's what net metering is about. We do that. And this is to save money on the billing for the public power district for a very small amount of additional sales tax that would be generated. Thank you very much. [LB90]

SENATOR KRIST: Thank you, Senator Haar. Senator Carlson, you're recognized. [LB90]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And again, I'm going to go over a little bit of history here that I found out. And this isn't to lay blame on anybody. It's not to throw Senator Wightman under the bus or anything like that. It's just to illustrate how things happen here and they do happen this way. Many of you have probably learned by now if your bill comes up at 11:45 in the morning, you feel kind of lucky most times. It's going to go through pretty quickly. This bill, LB90, was on May 23, Thursday, and we have a recess the next day. We started at 9:00 and I think the Speaker told us that we were expected to stay a while in the afternoon. But the bill was voted on at 3:00 in the afternoon. By that time, 12 people were gone. Seven people, including myself, were present and not voting, and I normally am not voting very often. I don't know where I was Thursday afternoon at 3:00. Senator Smith voted against the bill; 29 people voted for it. I think all 29 plus Senator Smith were anxious to get out of here. And the voting took place at 3:00; we adjourned at 3:02. And so at the end of the day, if the bill doesn't have any controversy, you're pretty glad that that's when it came up and there was a limited amount of discussion and the voting takes place and away you go. Since 1999 there have been 11 net metering bills. Ten of them have been assigned to the Natural Resources Committee; one, this bill in 2010, went to the Revenue Committee. Two thousand ten is the second year of the biennium. It was Senator Haar's bill. It was voted out of committee. It didn't have a priority. It wasn't

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debated and it died because it's the second year of a biennium. That's what happens. So maybe it's kind of a wake-up call to all of us that we really need to be paying attention when bills come up, whether it's 11:45 or 11:55 in the morning, or whether it's 3:00 on a Thursday afternoon when all of us want to get out of here. But that's why sometimes things happen the way they do and we have a discussion like we're having this afternoon, which I think is okay. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Carlson. (Visitors introduced.) Back to debate. Senator Wallman, you are recognized. [LB90]

SENATOR WALLMAN: Question. [LB90]

SENATOR KRIST: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; all those opposed say nay. Record, Mr. Clerk. [LB90]

CLERK: 26 ayes, 0 nays to cease debate. [LB90]

SENATOR KRIST: Debate does cease. Senator Smith, you're recognized to close on your amendment. [LB90]

SENATOR SMITH: Thank you, Mr. President. And at the conclusion of my remarks, I will request a call of the house. I appreciate Senator Carlson running the stats, just like...just like a sports figure, just like the baseball stats. You run those stats really well, Senator, and kind of put things in good perspective. By the way, REAs did come in and testify on that bill and I see from the committee report that they testified in a neutral capacity. Colleagues, don't believe that you're exempting, by supporting this underlying bill and opposing my amendment, don't believe you are exempting a net amount of electrons that are being transferred back and forth. You're exempting net meter customers from the full complement of services that they're receiving. This, colleagues, pure and simple, it's an exemption, is a tax exemption for a class of customers. I mean we're getting confused here with, you know, well, we're exempting just the net amount that goes back onto the grid. No, there are services that that customer is still taking and they're not paying taxes on it, and we're treating this class of customers in a unique way. I don't think it's appropriate. If we're looking to provide tax exemption status, there's probably other ways we can...other places we can find to do that, that provides a better effect on our communities and our state. These customers, once again, are receiving benefits from the gross amount of energy received and should pay taxes on the gross amount of energy that they receive and that is metered. I am not hopeful that we're going to pass this amendment. And for Senator Wightman, if you find anyone on the Referencing Committee that you want to throw overboard, I understand Senator Murante has already offered that there's an opening as Chair on the E&R Committee. But once again, Senator Wightman, I hope you don't take offense. I did not mean in any

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way that you've done a poor job with the referencing. I think you guys have done a fantastic job and I appreciate the work you've done on that committee. I'm asking you to support FA151. This is to strike the enacting clause, which is a rejection of the bill. I believe there are better ways of doing this. I do not believe we should provide a tax exemption to this class of customers for services that they receive. Thank you, Mr. President. [LB90]

SENATOR KRIST: Senator Smith, did I understand, did you want a call of the house? [LB90]

SENATOR SMITH: Yes, please. [LB90]

SENATOR KRIST: 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 aye; opposed, nay. Please record, Mr. Clerk. [LB90]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB90]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Smith. [LB90]

SENATOR SMITH: And, Mr. President, a record vote is sufficient. Thank you. [LB90]

SENATOR KRIST: Thank you, Senator. Senator Burke Harr, please check in. Senator, thank you. Senator Nordquist, Senator Lathrop, please return to the Chamber. Senator Kolowski, please check in. Thank you, Senator. Senator Lautenbaugh, please return to the Chamber. Everyone is accounted for. You've heard the closing on FA151. The question is, shall the amendment to LB90 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB90]

CLERK: 12 ayes, 20...I'm sorry, Senator, did you request a record vote? Did I hear...? [LB90]

SENATOR SMITH: (Inaudible). [LB90]

CLERK: Okay, thank you. 12 ayes, 26 nays, Mr. President, on the amendment. [LB90]

SENATOR KRIST: The amendment fails. Mr. Clerk. [LB90]

CLERK: I have nothing further on the bill, Mr. President. [LB90]

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SENATOR KRIST: Senator Murante for a motion. [LB90]

SENATOR MURANTE: Mr. President, I move to advance LB90 to E&R for engrossing. [LB90]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Would you raise the call, please. And the motion passes. The bill advances. I'm sorry. Mr. Clerk. [LB90]

CLERK: Mr. President, the next bill is LB224. I have Enrollment and Review amendments, first of all, Senator. (ER113, Legislative Journal page 1617.) [LB224]

SENATOR KRIST: Senator Murante for a motion. [LB224]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB224]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It's adopted. [LB224]

CLERK: Mr. President, the first amendment to the bill. Senator Mello, I had AM1447. I have a note you want to withdraw. Is that right, Senator? [LB224]

SENATOR MELLO: That is correct. [LB224]

SENATOR KRIST: Withdrawn. [LB224]

CLERK: Mr. President, the next amendment I have is by Senator Janssen, AM1540. (Legislative Journal page 1688.) [LB224]

SENATOR KRIST: Senator Janssen, you are recognized. [LB224]

SENATOR JANSSEN: Thank you, Mr. President and members. AM1540 represents the work done between General File and Select File to address members' requests during General File debate and afterwards. AM1540 simplifies LB224 and would become the bill. AM1540 would remove the veterans preference language entirely from the existing resident bidder statute. The veterans preference language will stand on its own as a new section of Nebraska Revised Statutes. It makes clear that LB224 will only apply to state contracts. Again, LB224 with the adoption of AM1540 will only apply to state contracts. This also ensures that service-connected disabled veterans are residents of Nebraska and have majority ownership of the business and have majority control of the management and daily operations of the business. The language regarding majority ownership and the majority control is based on language from the committee that they

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found in federal language. I'd like to reiterate my thanks to several senators who have worked with me to resolve their concerns. I'd also like to thank committee legal counsel and the Revisor's Office for their quick work, and a thank-you to the Department of Administrative Services for their timely review and consent. Members, I'm pleased with the end product. LB224 is meaningful state policy, public policy, and indicates our state's appreciation for our veterans and provides them with encouragement and opportunity to secure certain public contracts in recognition for their abilities and their service. I also appreciate Senator Mello cosponsoring the bill, and I'd appreciate your support for AM1540 to LB224. [LB224]

SENATOR KRIST: Thank you, Senator Janssen. Mr. Clerk. [LB224]

CLERK: Mr. President, the first amendment to the Janssen amendment is by Senator Mello: AM1544, Senator. (Legislative Journal page 1688.) [LB224]

SENATOR KRIST: Senator Mello, you're recognized. [LB224]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM1544 would amend LB224 and ultimately through the Janssen amendment, AM1540, to provide the same treatment that the bill gives to veteran-owned businesses, to businesses located within an enterprise zone. Enterprise zones, which are codified in Chapter 13 of Nebraska Revised Statutes, are areas of economic distress in the state where unemployment and poverty levels are significantly higher than the state and national averages. Under the Enterprise Zone Act, a maximum of five enterprise zones were eligible to be designated by the Nebraska Department of Economic Development, with two zones designated in 1994, and the other three designated in 1995. The following areas are currently designated as enterprise zones: portions of north and south Omaha; portions of Scotts Bluff County, surrounding Scottsbluff but excluding Scottsbluff and Gering city limits; portions of Dawes County, surrounding and including Chadron and Crawford; inside the corporate limits of Newman Grove and Meadow Grove in Madison County; and portions of Hall County, surrounding Alda, excluding the inner portion of the city of Grand Island. Like the provisions in the committee amendment, preferences given under AM1544 would only be given if all other factors are equal in the event of a tie bid. In the event of a tie between two entities given the preference, a veteran-owned business and a business in an enterprise zone or two veteran-owned businesses or two businesses located in an enterprise zone, existing rules and regulations in the Department of Administrative Services provide for ties to be broken by the drawing of lots. With that, I'd urge the body to adopt AM1544. As I discussed, and to make sure to clarify to the body, I brought this amendment to both Senator Janssen and the Chairman of the committee, Senator Avery, prior to introducing this amendment to get their feedback on it before I introduced it, because I didn't want this to be seen as a hostile amendment to the underlying bill, since I cosponsored the bill, in part because I've introduced a number of pieces of legislation to

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the Government Committee over the last five years in reference to our state procurement statutes. While this I think is a very watered down version of some of the previous bills I've brought to the Government Committee, I think it provides and highlights the need to give preference to state businesses in high poverty, high unemployment areas when there is a tie. And that's the underlying premise of what Senator Janssen's bill does, and what the committee ultimately kicked out was not giving any more preference in regard to trying to add any costs to any state contracts only when there's a tie between certain kinds of entities, and in this specific case with my amendment, a business located outside of a high poverty area, an out-of-state business, or versus a business located within a very high poverty, high unemployment area, that the tie be given to that business located in a high unemployment, high poverty area with the hopes of trying to encourage more economic growth with the awarding of that bid and that contract. With that, I'd urge the body to adopt AM1544. Thank you, Mr. President. [LB224]

SENATOR KRIST: Thank you, Senator Mello. You've heard the opening on AM1544 to AM1540. Senator Chambers, you are recognized. [LB224]

SENATOR CHAMBERS: Mr. President, it's not on this amendment so I will pass. [LB224]

SENATOR KRIST: Senator Kintner, you are recognized. [LB224]

SENATOR KINTNER: Well, thank you, Mr. President. I'm very familiar with enterprise zones. I remember Jack Kemp was a champion of enterprise zones in the '90s. I'd like to ask Senator Mello a question or two. Could Senator Mello be available for a question? [LB224]

SENATOR KRIST: Senator Mello, will you yield? [LB224]

SENATOR MELLO: Yes. [LB224]

SENATOR KINTNER: Senator Mello, exactly what do enterprise zones have to do with disabled veterans? How do we get the two together? [LB224]

SENATOR MELLO: Well, Senator Kintner, the underlying bill is not about disabled veterans. The underlying bill is about state procurement and state contracts and giving preference to certain kinds of businesses under our state contract procurement law. What Senator Janssen's bill does is to try to give a preference to veteran-owned businesses in cases of a tie between two entities that are applying for the same state contract. What my amendment does is that if a business is located in this enterprise zone, which you seem to be well aware of--it was created in the 1990s, championed by former Senator Jack Kemp, amongst others--which are high poverty, high

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unemployment areas, which are laid out in our Nebraska state statute, Chapter 13, which provides an awful lot of legislative finding of why enterprise zones are needed to try to spur economic growth in areas that have been left behind. It gives the same kind of preference that Senator Janssen is trying to give under his amendment AM1540 and the underlying bill. [LB224]

SENATOR KINTNER: Well, offhand, can you think of a business in north or south Omaha that might benefit from this? [LB224]

SENATOR MELLO: I don't...there's not one specific business in mind of why I introduced this. I would argue to some extent there are small businesses in maybe Senator Chambers', Senator Cook's district, Senator Nordquist or mine, that may apply for a state contract. Let's say it could be for recycling, it could be for data entry, it could be for janitorial services at the Omaha State Office Building, a variety of different kinds of different state contracts that are bid out, that if they're competing against, let's say, an out-of-state company or some other entity for that matter, if there is a tie in regards to the dollar amount that they put forward in their bid, they would be given preference over that out-of-state or that other company that's not located in an enterprise zone. [LB224]

SENATOR KINTNER: Well, are there any other groups down the line that we might want to give a preference to or geographic areas or some combination of the two, or is it going to stop right here? [LB224]

SENATOR MELLO: Well, Senator Kintner, actually our state statute already gives preference to businesses that actually employ visually impaired workers. So a visually impaired company, in theory that's owned or operated that employs visually impaired Nebraskans, are also given preference in our existing state law. So that's something that we've looked at in regards to looking at state preference, state contract preferences over the last couple of years and last couple of sessions I've done bills on. And it seems like this is one area that has a very specific niche and specific policy focus that the Legislature created awhile back to provide an incentive in very high poverty, very high unemployment areas. That's why there's only five areas in the state where there are enterprise zones, because of the high unemployment and the high poverty. [LB224]

SENATOR KINTNER: Well, you know, my gut tells me I was smelling a stinker here, but you've done a very good job answering the questions. Thank you so much. And thank you, Mr. President. [LB224]

SENATOR KRIST: Thank you, Senator Kintner and Senator Mello. Seeing no one else in the queue, Senator Mello, you're recognized to close on your amendment. [LB224]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I want to reiterate I appreciate Senator Janssen and Senator Avery in the sense of discussing

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this amendment with them at length. Once again, I support the underlying concept that Senator Janssen is trying to do as I cosponsored the bill and ultimately talking with both of them and trying to make the argument on the floor, we have an existing law in the books now in reference to five enterprise zones in Omaha, in Scotts Bluff County and in Dawes County, Madison County, in parts of Hall County, that are very high poverty areas and very high unemployment areas. And these areas ultimately, if given the chance that a business applies for a state contract and in the event of a tie with another business, what this amendment would do is to give preference to that business with the hopes that maybe that \$25,000 contract would lead them to employ another person in that high poverty, high unemployment area. Yes, it has a benefit in some of the highest poverty areas in north and south Omaha. But as I want to reiterate, four other areas across the state in rural Nebraska also benefit from this amendment as well. With that, I'd urge the body to adopt AM1544. Thank you, Mr. President. [LB224]

SENATOR KRIST: Thank you, Senator Mello. You've heard the closing on AM1544 to AM1540. The question is, shall the amendment to the amendment be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB224]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment to Senator Janssen's amendment. [LB224]

SENATOR KRIST: The amendment is adopted. [LB224]

CLERK: Senator Chambers would move to amend Senator Janssen's amendment with FA152. (Legislative Journal page 1688.) [LB224]

SENATOR KRIST: Senator Chambers, you're recognized. [LB224]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I had a few words with Senator Janssen. I assured him that I'm not trying to kill his bill. Any amendment that I offer, if it seems like it's not suitable, don't adopt it and I'm not going to take offense at all. This is not one of those kind of bills. And Senator Janssen's staff is observant more so than I am, maybe mine is a Freudian slip, but his staff had noted that if I'm wearing a blue shirt, then I'm not as mean, but when I have on a black shirt, watch out. So now I've got to kind of mix up what I do. But to be frank, I just have two color of shirts. Well, I have some other off colors. But I just take the one, just so it's clean, and I don't even pay attention. If you asked me in the middle of the day what color is the shirt I have on, and you wouldn't let me look at it, I would have a 50-50 chance of getting it right, unless I had one of the off colors. So don't count on that. But now that I know, maybe you should. Here's what my amendment is trying to do: This particular one is going to strike some language from the bill. Rather than draft it the way it would be done upstairs by saying on page 1, on line 16, strike beginning with the

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lower case (i) in parenthesis through the word "subsection" on line 18. Instead of doing that, I wanted you, if you follow it on your gadget, to see the language that I'm striking, then it's easier for me to explain why. The language I'm striking says, "not less than fifty-one percent of which is owned by one or more individuals described in subdivision (a) of this subsection." The individual described is the disabled resident veteran. The person to qualify as being disabled must have a service-connected disability. It's either established by a letter from a certain agency or by some other paper from the Department of Defense, but you establish the service-connected disability, and the person must own a business. If you left it there, then we could move forward. But when you say that person must own the business, the language I'm striking says the business, at least 51 percent of it, must be owned by this person or others who are holding the 51 percent. So others could hold more than 51 percent of the company, which would go against the language that says the disabled individual would have to own it. If somebody else holds a greater percentage of the company, those others are the owners. So I think we ought to strike this language that talks about not less than 50 percent is owned by one or more of these other individuals. It doesn't say that all of them have to be disabled necessarily. If one among that group which holds at least 50 percent ownership is disabled, then that satisfies this language. But it could contradict that which went before that says the disabled veteran that we're basing everything on has to own the business. Now I'm going to say it a different way, more simply if I can. Senator Kintner is the disabled veteran--I happened to see him standing up. We say he owns the business. You can grasp that. But then if we add that 51 percent of the business has to be owned by one or others, maybe 12 of us together own the 51 percent; and let's say all of us are disabled. Well, who owns the company? That individual who would be Senator Kintner, or the ten of us who own the 51 percent? So if we strike that language about the 51 percent, then we're on the road toward getting to where we can help this individual we say we're interested in. This person owns the business. When the contract is sought, then whoever is letting that contract will determine if this individual, in fact, owns the business. And the part about the disability would not be that much of a problem to establish. Residency would not be that difficult to establish. But when we get to ownership and start dividing it among people, and we don't even know whether all those who are holding some of the ownership have to be disabled, that's not determinable from the language. That's what my amendment will do. If you strike that language, here is what remains: If this is a publicly owned business, then 51 percent of the stock of this publicly owned business must be owned by one or more individuals. When it comes to the stock ownership, it's different, because you're not really talking specifically about the ownership of this private company. This is a publicly owned company and that's separate, and I think it can be discussed apart from what I'm talking about here. The amendment, in my view, would add clarity by taking away confusion. And maybe I'm the only one confused by it. Maybe I'm the only one who spent all this time reading it, because I was so disturbed when I read, first, the green copy. That was out of the question. Then I read the committee amendment, and the committee amendment added to the confusion. So I was trying to work my way

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through that, complaining to Senator Davis and Senator Schumacher about the fact that the more I read it, the more I analyzed it, the more confusing it became. Then Senator Schumacher showed me the amendment that we're dealing with now; so all that other work was for nothing, but at least it kind of familiarized me with what it is that we're talking about in this bill. I was able to focus just on this one sheet of paper that comprises Senator Janssen's amendment. I didn't have to go back and forth between two items. And when I read it straight through, then it's like going on one of the streets in Omaha. When you get at one end and you're looking all the way to the other end, it looks as straight as an arrow and as a smooth as a sheet of glass, and you're driving along thinking that's what is happening. Then your right wheel goes into a chuckhole or a pothole, whichever you want to call it. And then as you're trying to maneuver out of that, you're left wheel goes into another one and you say, I'd better stop and look at this. And while I'm on that subject, to add a bit of levity, had you noticed that when they use the term "pothole" to describe it, or "chuckhole," they could be talking about a roast either way? It could be a pot roast or a chuck. So that's how you can remember if you're familiar with one but not the other. Think about food--which may be on the docket for this evening. I'm not sure. But if it is...how much time do I have, Mr. President? [LB224]

SENATOR KRIST: One minute. [LB224]

SENATOR CHAMBERS: Maybe I can get this in. I watched a cartoon about this dog, and if he scratched then he was going to have to take a bath. So his owner was watching him like a hawk, and this little flea had a little miner's getup...a getup of a miner. And he had a little pick axe and he was just chopping, and that's how he made the dog itch. And the dog, from the end of his tail up to his nose, turned all the colors of the rainbow and he made that excruciating...that expression of one suffering excruciating pain; but he wouldn't scratch. And the little flea was singing, "Food around the corner, food around the corner, food around the corner for me. Glory hallelujah." And when I thought about that, I thought about the way the lobbyists feed you all. So there might be food around the corner and put you in a good mood, and maybe we can get through this bill. Thank you, Mr. President. [LB224]

SENATOR KRIST: Thank you, Senator Chambers. Senator Janssen, you are recognized. [LB224]

SENATOR JANSSEN: Thank you, Mr. President. And when I read through the amendments, the floor amendments came up as I was preparing for this bill, and the two Chambers' floor amendments. And I was waiting for the other 15 to show up, but there was only two. And I said, well, what's going on here? And I've looked through it and I said...I went through it, just looking for all the angles. And I said, well, he's really...on my original bill that I had, I did have it. I didn't have the 51 percent in there. That was something the committee did, and I went along with the committee. I talked to the Committee Chair Senator Avery, and I got the impression he's not married to the

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idea of that being in there and that it does clarify a little bit. I'm still checking with our legal clerk to find some things out. And I know Senator Chambers is going to continue to speak on this a little bit. In that case, would Senator Chambers yield to a question? [LB224]

SENATOR KRIST: Senator Chambers, will you yield? [LB224]

SENATOR CHAMBERS: Yes, I will. [LB224]

SENATOR JANSSEN: Thank you, Senator Chambers, and thank you for wearing a blue shirt today, unknowingly. What would...if this amendment were to be, this floor amendment adopted, would it be your understanding as I think it would be my understanding that DAS then would determine the veteran-owned business, if it qualified or not, and whether or not...whatever percentage that is? [LB224]

SENATOR CHAMBERS: Yes, because when we say "own" it, then that gives them a framework within which to operate. And Senator Murante and Senator Carlson are looking at some language when we get to the public company where you use majority instead of the 51 percent, and they'll explain that. But I think when we come to this particular company of this individual, then they will know how to determine ownership. And if more...if somebody else or another group owns more than this individual, then this individual is not indeed the owner. So I think we could leave it to DAS if they're the ones doing the examination to determine if this person in fact owns the company, because even with this language they'd have to make that determination anyway. [LB224]

SENATOR JANSSEN: Would there be a case you could see for abuse in this, where somebody maybe is 1 percent owner of a company, that that could happen to that person that is service-connected, but they claim that they had control? [LB224]

SENATOR CHAMBERS: Well, I think you take words in their ordinary meaning, unless a statute says that this is a term of art and you define it differently from the way it's ordinarily used. The one who controls is the one who owns. If I don't own the company, I'm not going to be allowed to control it, because there are others who can countermand anything I say. The one who owns it is the one with the final word. And I think you always have to be careful when you're giving preferences, whether it's described like this or you give a number or percentage, you have to make sure you're not dealing with a sham or a shell operation; and they would have to make that determination, I think even if this language were left in it. [LB224]

SENATOR JANSSEN: Thank you, Senator Chambers. And I agree with what you're saying there, that DAS would make that determination, and where there's always going to be...if somebody is going to go out and try to set their business up in shape to qualify

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for this particular legislation, I would probably advise them that they shouldn't be in business, because that probably would not be a very sound business practice or really even a profitable one, in all honesty with you. So I'm thinking I'm leaning supportive toward this amendment, and I can't find a reason not to be supportive of it yet, and I should probably talk to legal counsel more before I fully sign on with that,... [LB224]

SENATOR KRIST: One minute. [LB224]

SENATOR JANSSEN: ...but I'll yield the balance of my time to you and...thank you...to Senator Chambers; I'm sorry. [LB224]

SENATOR KRIST: Senator Chambers, you have 50 seconds. [LB224]

SENATOR CHAMBERS: Thank you, Senator Janssen. Thank you, Mr. President. And I say again I'm trying to bring clarity, because when I read it over and over and over, it wasn't saying what it ought to say. When you start with your point of reference, it's a disabled veteran who has to be the owner. Then when you add this other language, a group can possess a greater percentage of the company than that disabled veteran, which creates in my mind a contradiction. Thank you, Mr. President. [LB224]

SENATOR KRIST: Thank you, Senator Chambers and Senator Janssen. Senator Schumacher, you are recognized. [LB224]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. A couple of things I think maybe we need to touch up or at least discuss. The definition of the people that are eligible for this particular preference starts out, it says for purposes of this section, "Resident disabled veteran means an individual." And I think if nothing else, either a floor amendment or maybe something in the record here, that that individual can be a corporation or an LLC. Would Senator Janssen yield to a question? [LB224]

SENATOR KRIST: Senator Janssen, will you yield? [LB224]

SENATOR JANSSEN: Yes. [LB224]

SENATOR SCHUMACHER: Senator Janssen, is it your intention that this benefit applies to businesses, a corporate entity such as LLCs or limited partnerships or corporations, as well as to individuals? [LB224]

SENATOR JANSSEN: The individual veterans that would own and control those businesses, yes. [LB224]

SENATOR SCHUMACHER: So it applies to the businesses they control and not just

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themselves individually. [LB224]

SENATOR JANSSEN: It would be the businesses that they would be bidding on behalf of. [LB224]

SENATOR SCHUMACHER: Okay. And then another question, Senator Janssen, when you say...you talk in terms of a publicly owned business. What does that term mean? Is that something that's traded on a stock exchange? [LB224]

SENATOR JANSSEN: That is the intent of it. [LB224]

SENATOR SCHUMACHER: So, I mean, those...how would one go about even figuring out whether a publicly traded company on a stock exchange had 51 percent or any percentage of veterans? Who is that statistic reported to that you'd even know? [LB224]

SENATOR JANSSEN: I would find that very difficult, to be honest with you. And if you have any help, I would certainly take it. [LB224]

SENATOR SCHUMACHER: Okay. Because so, I mean we probably...for that phrase to be meaningful, we'd have to figure out some way to know whether a veteran owns 51 percent of maybe millions of shares that are traded on an exchange someplace. And that is almost an impossibility, I think, without some reporting requirements. [LB224]

SENATOR JANSSEN: And that would probably be shareholder reporting requirements that one would follow. Again I'd relent to DAS to make that determination. [LB224]

SENATOR SCHUMACHER: Okay. Thank you, Senator Janssen. From a practical standpoint, I don't think that there's any mechanism in which a corporation, a publicly owned, a publicly traded company on the exchange knows how many veterans may be holding its shares, whether in direct ownership or beneficial ownership of some kind. So I think Senator Chambers is on the right track in helping Senator Janssen clean up some of this language, because by trying to get into the grass about 51 percent, one of which of the individuals is an individual described and talking in terms of counting noses of publicly traded companies to determine who is a qualified veteran or not, that almost seems impossible. I think we're better off stopping with who owns and controls the business and not trying to do what maybe we'll end up accomplishing what we don't want to accomplish here; so I would make those suggestions. And I think we've built a record here that Senator Janssen's intention is that when it says "means an individual," we also mean a company or a legal entity controlled by that individual. But I think Senator Chambers' suggestion is a good one and it avoids us going down an overly complicated track that may lead to nowhere. Thank you. [LB224]

SENATOR KRIST: Thank you, Senator Schumacher and Senator Janssen. Senator

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Pirsch, you are recognized. [LB224]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I appreciate the conversation that's going on, and I guess I would urge caution when utilizing terms such as control, for instance, and ownership. I think the more precise and narrow we can present the definition, the greater the specificity, the better. I'm not sure there is across different levels of government one uniform definition that is universally applicable and that would be commonsensical for a judge to apply. I do know that that term, when you're talking about control, for example, you know, as it's used in certain federal definitions, 17 CFR 160.3, it defines any person...this is with respect to the definition of control, "Any person who owns beneficially, either directly or through one or more controlled companies, more than 25 percent of the voting securities of any company is presumed to control the company. Any person who does not own more than 25 percent of the voting securities of a company will be presumed not to control the company." And I just bring this up as one example of...I'm just a little bit worried about utilizing definitions with the assumption that we are all talking about the same thing here necessarily. And so I'd be interested in listening to the debate as it goes on, but I think with these type of terms, greater specificity in defining them is probably better. Thank you. [LB224]

SENATOR KRIST: Thank you, Senator Pirsch. Senator Chambers, you're recognized. [LB224]

SENATOR CHAMBERS: Thank you. Mr. President, when we have a state statute, I understand what Senator Pirsch is getting at, for a definition, we don't go to the federal statute unless we're lifting bodily from that federal statute language which we put into the state statute, and then we make reference to the source of it. And if you make it clear that you are lifting language from a specific enactment of the federal government as it existed at a certain point in history or time, if a court is going to construe it, the court would presume that you were taking all of the judicial and other constructions that were made of that language up to the point where you adopted it. But we're not cross-referencing this with any federal statute. Senator Janssen indicated that some of the language was following federal definitions. But we can discount all of that. If you don't want to use the term "controls," just say a person who owns more than 50 percent of the business. And those who are letting these contracts are going to be familiar enough with what is involved with the person owning more than 50 percent of a business. I'm sure they have had people who set up sham or shell companies on the spur of the moment to try to take advantage of either a grant or, in this case, a preference, which is a new thing in the statute for Nebraska. But the idea behind it is not new. You're talking about giving somebody a leg up on everybody else. Sometimes language of this kind will say that when a new program is going to be implemented, then the person attempting to take advantage of the preference must have been in that business operating it for a certain period of time. That's not in this language. It's not in

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this statute, this proposed statute. But I think we should eliminate, if we can, whatever may be ambiguous. And ambiguous doesn't mean that there is a contradiction. It means that something is said that could mean (a), or just as easily could mean (b); and a reasonable person, by looking at the language, could not say with certitude which it meant. So maybe this creates an ambiguity, but I think it creates a conflict. When you talk about the owner of this business, you're referring back to the individual described in a certain subsection. That one described is an individual. And then when you come down here talking about ownership, you're referring back to that individual. Yet the language that follows no longer makes it a matter of dealing with that individual as the owner, but any group who holds 51 percent can be the owners of the business. So you cannot have this individual as the owner and a group as the owner at the same time. But the language that exists now could create that contradiction, I think. If you strike the language that I'm talking about, you refer back to this individual as the owner, and you refer back to that individual in that subsection because that's where you find the definition of the resident disabled veteran... [LB224]

SENATOR KRIST: One minute. [LB224]

SENATOR CHAMBERS: ...with a service-connected disability. So that first provision that you're referring back to is the definition of this disabled veteran. The second part that I'm talking about relates to the criteria that will be looked at to determine whether or not this individual indeed owns the company. So if ownership is what we're talking about, you can define ownership, but don't define it as referring to an individual and also a group, because this individual is a part of the group also. It's...I think when you have too many cooks, each one adds something to the broth which by itself might be all right, but when you put all these parts together it doesn't make a good soup; it spoils the broth. Thank you, Mr. President. [LB224]

SENATOR KRIST: Thank you, Senator Chambers. Mr. Speaker for an announcement. [LB224]

SPEAKER ADAMS: Members, we are going to pick this up tomorrow. We've got some bad weather outside and I want to give everybody an opportunity to get home. So we will pick this back up tomorrow. Thank you, Mr. President. [LB224]

SENATOR KRIST: Thank you. Mr. Clerk. [LB224]

CLERK: Mr. President, new resolutions. LR363 by Senator Mello; LR364, Senator Wightman; Senator Larson, LR365; Senator McCoy, LR366; Senator Conrad, LR367; Senator Mello, LR368. Bills presented to the Governor...bills read on Final Reading were presented to the Governor as of 3:36 p.m. (re LB366, LB366A, LB429, LB429A, LB483, LB483A, LB507, LB507A, LB517, LB517A, LB530, LB530A, LB556, LB556A, LB561, LB561A, LB573, LB579, LB579A, LB583, LB583A, LB634, LB634A).

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

Floor Debate
May 29, 2013

Communication from the Governor. (Read re LB561 and LB561A.) Amendments to be printed. Senator Burke Harr to LB568, Senator Chambers to LB224, Senator Nordquist and Senator...Senator Chambers and Senator Murante, LB224. (Legislative Journal pages 1689-1696.) [LR363 LR364 LR365 LR366 LR367 LR368 LB366 LB366A LB429 LB429A LB483 LB483A LB507 LB507A LB517 LB517A LB530 LB530A LB556 LB556A LB561 LB561A LB573 LB579 LB579A LB583 LB583A LB634 LB634A LB224 LB568]

Mr. President, Speaker Adams would move to adjourn the body until tomorrow morning at 9:00 a.m.

SENATOR KRIST: You've heard the motion. All in favor. Opposed. We are adjourned until 9:00 tomorrow morning.