

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

Floor Debate
March 17, 2010

[LB258 LB317 LB563 LB579 LB689 LB702 LB727 LB728 LB735 LB742 LB763 LB764
LB768 LB770 LB786 LB788 LB799 LB800A LB805 LB821 LB836 LB849 LB861 LB864
LB865 LB869 LB870 LB879 LB882 LB883 LB906 LB910 LB910A LB918 LB919 LB926
LB935 LB937 LB943 LB945 LB956 LB961 LB1000 LB1006 LB1010 LB1012 LB1013
LB1018 LB1036 LB1048A LB1048 LB1051 LB1057 LB1063 LB1071 LB1087 LB1090
LB1091 LB1105A LB1105 LB1106 LB1106A LB1110 LR83 LR284CA LR297CA LR353
LR354 LR355 LR356 LR357 LR358 LR359 LR360 LR361 LR362 LR363 LR364 LR365
LR366 LR367 LR368 LR369 LR405 LR406 LR407 LR408 LR409]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-fourth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Senator Carlson. Please rise.

SENATOR CARLSON: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Carlson. I call to order the forty-fourth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

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

SPEAKER FLOOD: (Doctor of the day introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB353, or I'm sorry, LR353. All of these are Legislative Resolutions that follow: LR354, LR355, LR356, LR357, LR358, LR359, LR360, LR361, LR362, LR363, LR364, LR365, LR366, LR367, LR368, and LR369. (Gavel.) Mr. Clerk, we now proceed to the first item on the agenda, LB1110. (Legislative Journal page 937.) [LR353 LR354 LR355 LR356 LR357 LR358 LR359 LR360 LR361 LR362 LR363 LR364 LR365 LR366 LR367 LR368 LR369 LB1110]

CLERK: Mr. President, LB1110 was a bill originally introduced by Senator Campbell. (Read title.) The bill was introduced on February 17 of this year, at that time referred to

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

Floor Debate
March 17, 2010

the Health and Human Services Committee. The bill was advanced to General File. There are committee amendments, Mr. President. [LB1110]

SPEAKER FLOOD: Senator Campbell, you're recognized to open on LB1110. [LB1110]

SENATOR CAMPBELL: Thank you, Mr. President and good morning, colleagues. Today, I will be requesting of this body to lay this bill over. And I have to say that more than anything today, it is sad and disheartening to see a commitment by Nebraska to provide prenatal care to unborn children regardless of the eligibility by the mother that will end after 20-plus years. I would like share with you a story which I think illustrates a little bit about what we all have learned about LB1110. When I was in grade school, in Jefferson grade school, I was fascinated with the illusion where you would look at a picture and depending upon what way you looked at that picture, you saw a different image. And for a lot of you that is the picture where you look and you see either a very young beautiful girl or a very old haggard woman. And I was fascinated with that and when I got to college this became the Gestalt figure which many of you probably studied in psychology. But what the Gestalt figure was trying to say to us, is this is how we come to view our environment, our perspective. Throughout the last weeks, my perspective has been on the unborn child--the child's eligibility, the child's care. And over and over again as I talked with a number of people and, obviously, as I talked with members of the press, that was my perspective in how I viewed LB1110. And I'm very, very grateful to all of the advocates outside of the glass and across the state for their hours of work and support. And I am sorry for them that LB1110 has come to this point. But it became apparent that as others looked at the picture of LB1110, another perspective emerged, the undocumented mother. And while I recognize the conundrum that this issue brings, I would hope that the anger and frustration we hear would be directed to the federal government for their years, years of inattention to the immigration policy. And I worry as much for our state with the anger and the frustration that we are hearing. This is a part of America that I so fear we are losing. And that is not to take our anger and frustration but to take our issues to a good discussion and conclusion. If I thought that standing before you and talking for eight hours or eight times eight hours would do for the kids what I think needs to be done, I would do that and gladly. But I know from my conversations with all of you that this would not change the outcome for the children. And I have to say that I appreciate the directness, the candor, the seriousness with which you took our individual conversations with either myself or with Senator Gay. But the votes are far from the override of a most certain veto by the Governor. I, obviously want to thank, and I am sorry for the emotion, because I know a number of these 20-plus stalwart people who no matter how many times I went to you and said, where are you on LB1110? You said, I'm there, yes, count me in. Because I know for many of you, you would like to also have a voice today, but I am asking that that not be the case. I want to thank the Speaker for his partnership here and for his leadership on behalf of the institution of the Legislature. And a thanks to my good advisor, Senator Gay, and to all the legislative staff who spent hours and hours getting

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

Floor Debate
March 17, 2010

statistics and data and whatever else we needed. What many people across Nebraska saw as the right thing to do in LB1110, did not prevail. But I assure you that in the coming weeks and months either through an interim study or whatever group we can put together, that the watching and the monitoring and the gathering of information of what happens to these unborn children and their families will not end. That the advocates who stood so strong will persevere. Thank you, Mr. President. [LB1110]

SPEAKER FLOOD: Thank you, Senator Campbell. Mr. Clerk. [LB1110]

CLERK: Mr. President, Senator Campbell would ask unanimous consent to bracket LB1110 until April 14, 2010. [LB1110]

SPEAKER FLOOD: Without objection, so ordered. LB1110 is bracketed until April 14, 2010. Mr. Clerk, we now proceed to LB1048. [LB1110 LB1048]

CLERK: Mr. President, LB1048 was a bill originally introduced by Senator...by the Natural Resources Committee, excuse me. (Read title.) The bill was introduced on January 21, at that time referred to the Natural Resources Committee. The bill was advanced to General File. There are Natural Resources Committee amendments, Mr. President. (AM2159, Legislative Journal page 830.) [LB1048]

SPEAKER FLOOD: Senator Langemeier, you're recognized to open on LB1048. [LB1048]

SENATOR LANGEMEIER: Mr. President and members of the body, when I wrote this I didn't know where I would be following, but today is truly a historic day for wind energy in Nebraska. First, I would like to start this discussion off by thanking my committee members and my staff and their staff for their participation in this process. The path the committee took to get to today was far from one that was ever travelled before. It started with a bill introduced by Senator Haar in the 2009 session to explore and remove the road blocks for wind for export in Nebraska. When LR83 came to reality as an interim study after Senator Haar's bill was introduced, we used LR83 over this last summer to do a number of things. Number one was to educate the committee members and as a fact finding adventure. The committee and public power as we went through this study throughout this summer learned a great deal about themselves and the committee about public power. Then came LB1048 which we're talking about today and my remarks...the committee amendments that's going to follow is the bill but I need the time so we're going to talk about it together. LB1048 came into reality. The green copy of the bill was put together as...notice given to the public of all the issues that were talked about within our discussions in LR83. A drafting committee was formed, it had representation from public power, landowners, developers, senators, environmental groups, and then became the working draft which is now the committee amendment. We held two briefings where the public came in and gave us their opinion, the

Floor Debate
March 17, 2010

developers came in, gave us their opinion, and we had a number of participants. We have a list of e-mail contacts of people that had had serious interest in this process of over 300 people that we kept in the loop. And after each of those two hearings, we continued to fine tune this piece of legislation. Finally, a hearing was held. We had 36 testifiers representing all groups that are interested in energy development in Nebraska, all in support. Then, unanimously, the committee amendment and LB1048 was sent to the floor for your consideration here today. This was not a standard path for most legislation. The purpose of LB1048, keynoted by my committee member Senator Haar, was to encourage and allow for opportunity for private developers to develop, own, and operate renewable energy facilities for export from Nebraska. Current law was drafted years ago to create our unique public power structure. LB1048 creates a place for private development in Nebraska. This was no easy task. The coexistence of public power and private ownership as stated in a Nebraska power association letter dated March 25, 2009, that was sent to Governor Heineman back when Senator Haar introduced his bill, and I quote one portion of it. It said, "finally, energy for export represents a fundamental change in the business model in which public power in Nebraska has operated for decades." Well, colleagues, we have come a long way since that letter just about a year ago. LB1048, as amended with the committee amendment, lays out a complete path and a structure for energy for export. It deals with an application process. It deals with oversight with the Power Review Board. It deals with decommissioning of expired turbines. It deals with taxation from collection to disbursement. It deals with met towers and safety issues. It deals with eminent domain for transmission lines and for facilities. And it offers an opportunity for public power to be purchasers in the process. As I prepared for this, I tried to have some discussion at what level we talk about this today. We talk about it on the ground floor, 10,000 feet or at 50,000-foot level. I'm going to try and go down the middle. Here's how it works. A private developer will have a statutory process to construct, own, assert and own, a certified energy generation project in Nebraska for the purpose of export. A developer will file an application with the Power Review Board. Then he will get within 60 days a hearing, which can be extended up to 120 days if the developer needs more time. While they're waiting for this hearing, the developer by this time will have already spent about a year signing up landowners, doing wind metering studies and studying the environmental issues. Developers may already have applied for a regional transmission organization approval at this point in the game. Public power entities serving loads of 50 megawatts or more will be notified of the project and for a project of over 80 megawatts in size and capacity, the private developer has to offer an option to purchase up to 10 percent of that facility's output to those qualified public power districts. The power district has to exercise that option within 45 days. The application is placed on the Power Review Board's agenda. In the meantime, the Power Review Board sends out the application to the Game and Parks Commission for review to ensure environmental concerns are addressed. The commission will review the area of construction and notify the board where the project...whether the project meets the environmental standards. If not, the commission recommends a mediation plan. A hearing will be held by the Power

Floor Debate
March 17, 2010

Review Board to determine whether the criteria have been met. Then the project can have conditional approval. At this point the developer will move towards securing financing and transmission interconnection approval and if we're within the Southwest Power Pool, they'll go there or their transmission pool provider where they're taking the power. The developer also will negotiate a joint transmission agreement and details...and those details to the public power option, if they have decided to participate. Developers will negotiate mediation agreements with the U.S. Fish and Wildlife Services and the Nebraska Game and Parks Commission. All of these things are normal procedures during development of power generation in Nebraska. For final approval, they'll have to prove that all those conditions are met and then the board can give, with another hearing, final approval to a project. Once you have final approval, the project will have 18 months to start the process of development, dig some dirt, as I put it. What else does the bill address? It provides private developers protection from eminent domain for public power. It provides developers the transmission infrastructure necessary to certify their project for export and get the energy exported. It authorizes the use of eminent domain by electric supplier to acquire land necessary for construction of transmission lines and related facilities for a certified renewable export project. It protects landowners by requiring financial protection for decommissioning. It provides a process of decertifying and recertifying a renewable energy project. It protects public power... [LB1048 LR83]

SENATOR PRICE PRESIDING

SENATOR PRICE: One minute. [LB1048]

SENATOR LANGEMEIER: ...by ensuring that the wind developers pay for transmission facilities to move their power out of state. It requires decommissioning security to be posted by the tenth year after approval. But local ordinances can trump this requirement giving our local county planning and zoning the opportunity to deal with particular issues that may be in their county. It provides public power the right to own and operate associated transmission facilities, and in addition the bill provides new methods of taxing a project that will benefit local communities and developers by creating an alternative to the five-year depreciation of personal property schedules that is currently in place on wind development. It provides for safety with met towers, for aviator's sake. It also provides a new structuring for taxes. [LB1048]

SENATOR PRICE: Time. [LB1048]

SENATOR LANGEMEIER: Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator Langemeier. (Visitors introduced.) As the clerk has stated, there are amendments from the Natural Resources Committee. Senator Langemeier, as the Chair of the committee, you are recognized to open on the

Floor Debate
March 17, 2010

amendments. [LB1048]

SENATOR LANGEMEIER: Thank you, Mr. President. One moment. The bill also creates what's called the nameplate tax, capacity tax. Under the Nebraska current tax system, wind farms, i.e., their towers and wind turbines, are taxed as personal property and depreciated over five years. After that, no further revenue is collected. The problem with this current system is that it imposes steep, up-front tax costs on wind farms at the time when the wind farm may not have generated enough income to pay the tax. In addition, the system creates problems for local government because the temporary five-year spike in property tax revenue upsets school state aid formulas and it impacts county spending lids and it complicates the budgeting process. LB1048 eliminates this problem with the current system by exempting wind farms from personal property tax and substituting it with...in its place what's called the nameplate capacity tax. The nameplate capacity tax imposed is \$3,518 per megawatt on the generated capacity of a wind turbine. This tax rate has been calculated to replace without increasing or decreasing local government's lost personal property tax. As a result, LB1048 and the committee amendment changes only the timing of the tax payments. At the end, wind farms will still pay and local government will still collect the same amount of tax. And for the record, I want to talk about how that's calculated. The computation for the nameplate capacity tax in LB1048, which replaces the personal property tax now applied to wind generation infrastructures with the nameplate capacity tax, LB1048 would exempt such infrastructure from personal property tax which now applies for only five years on a wind farm. To replace this personal property tax revenue, the nameplate capacity tax, which is based on the capacity of a wind turbine to generate electricity, would be established and imposed based on the total capacity of a wind farm. The nameplate capacity tax established in LB1048 and the committee amendment before you would be in the amount of \$3,518 per megawatt hour. The estimated annual loss of personal property tax that this is replacing is also \$3,518 per megawatt. This figure is based on the following assumptions and computation. The average capital cost or personal property value for a wind turbine project is \$1.5 million per megawatt hour. If you apply the state's current five-year depreciation schedule to that total property value of \$1.5 million, then the total personal property tax revenue over five years for a turbine would be \$51,430.29. This figure represents the present value, what the money would be worth if it was all collected at once, brought those five years of payments forward, of total personal property that would be collected per megawatt hour for a turbine. This computation summarizes as follows: the application of a five-year depreciation schedule set forth in Nebraska statute 77-120, in average personal property tax rate of 1.7424. That is the statewide personal property average. It's a general average across the state of Nebraska, including all counties averages 1.7424. Then, we apply a 5.31 percent factor to determine the net present value of the money. This factor represents the 2009 AAA corporate bond rating. Then that total personal property revenue per one hour, megawatt hour, is \$51,430.29. Then that is divided by the useful life of the new turbine which is, according to public data, is 28.95 years. This result factoring it again for a

Floor Debate
March 17, 2010

payment stream over 28.95 years at 5.31 percent using the same 2009 AAA corporate bond rate, the annual personal property tax rate is \$3,518 per megawatt. Thus, the \$3,518 represents the personal property tax revenue that would be generated per megawatt hour. The nameplate capacity tax is also \$3,518 which replaces the personal property tax if the wind generation structure is exempted from personal property tax as LB1048 will do. I want to talk a little bit now about decommissioning. Decommissioning on these projects as you apply to the Power Review Board, the initial process you have to apply, you have to give your plan on how you're going to decommission the facilities. And in that plan, I have copies of those that are already out there, that is negotiated with the landowners but we are requiring in this bill that after the ten year of construction or operation that you require a security whether that's an irrevocable letter of credit from a lender saying you have the money to take these structures down to meet the obligations that you have signed up in your contractual agreement or you have to have a bond to provide for those funding to complete that project at the end of the day. I have offered an amendment that will come up next. In our discussion over the 10 percent of the renewable energy, it states in the bill that they have to give it at reasonable cost plus a reasonable rate of return. That gets problematic. Our committee had a lot of discussion about that. Our committee was concerned that this preferential treatment on pricing might affect the PPA in a negative manner. It also brought up some other concerns out there. I'm going to offer an amendment that I would ask you to adopt that changes that wording that says that the developer has the right to negotiate that price with the developer (sic) and then that would then become a very equivalent price as in the PPA, so there would be no preferential treatment. So I would ask that you adopt that amendment when we get to it. Members, I have given you a review of the components of LB1048 from a 10,000-foot view. Again, I thank my committee and all those who helped bring LB1048 to this completion. We could not have gotten here without each and every one of you. Again, does LB1048 do everything that every developer asked of us? No. Does it do 99 percent? Yes. And I ask for your support of the committee amendment and the amendment I am going to offer next and be part of history today. Thank you all and Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator Langemeier. Mr. Clerk, there is an amendment to the committee amendment. [LB1048]

CLERK: Mr. President, Senator Langemeier would move to amend the committee amendments with AM2244. (Legislative Journal page 938.) [LB1048]

SENATOR PRICE: Thank you. Senator Langemeier, you're recognized to open on your amendment to the committee amendment. [LB1048]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. The committee amendment it strikes the preferential treatment and it adds in that they must negotiate in good faith with the power purchase agreement and any other necessary

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

Floor Debate
March 17, 2010

agreements. And that would allow the public power and the developer to negotiate a fair market value for that 10 percent of the renewable energy. And I would ask for your adoption of AM2244. Thank you. [LB1048]

SENATOR PRICE: Thank you, Senator Langemeier. Senators wishing to speak on the amendment are Senators Schilz, McCoy, Carlson, Christensen, Haar, and others. Senator Schilz, you are recognized. [LB1048]

SENATOR SCHILZ: Thank you, Mr. President and members of the body, good morning. It seems like it's been a long time to get to this point as Senator Langemeier, Chairman Langemeier had brought up. This bill took a lot of time, a lot of effort, a lot of man hours to get to this point and I'd like to thank him for that. He's done a lot of work. I'd like to thank his staff and all the other folks that have worked on this bill and they know who they are (laugh). I think that it's really important that we understand exactly what this means. It's amazing progress for the Legislature for the state of Nebraska, probably some of the most significant energy legislation, energy policy discussion that we've had over the last 50 years. And I think that as we look back on this day, it will be a watershed moment that every member of this body can say, we helped make that happen. And when I say that, I want everybody to understand how important this is for rural Nebraska and our rural economies. I think it should be noted that Nebraska--and you'll hear from others--is very good when it comes to wind energy capacity. We've got a lot of it. And out west...of course, that's where I'm from so we seem to have even more out there. One area in my district, Banner County, has got one of the top five wind areas in the whole country. They're excited about this bill. We have developers excited about this bill to come there and build projects. We look forward to that and we look forward to this bill being passed to make that happen. You know, in rural Nebraska when we hear about million dollar projects, we get pretty excited because a million dollar project that provides four or five jobs is a big deal out there, a big deal to all of us because those are jobs that those smaller communities can handle. Well, in this sense, we're not just talking about millions of dollars worth of investment, we're talking literally billions and billions of dollars of investment. And for some of those that may wonder, you know, what does this mean to all of us. Well, a billion dollar investment no matter where it is in the state of Nebraska helps to lessen everyone's burden. A billion dollar investment within the state of Nebraska is what I've talked about in how you start the process of controlling and maintaining and lowering taxes through growth. And that's why I'm very supportive for this bill. It means economic development for my district. It means economic development for rural Nebraska. It gives an opportunity for our smaller rural communities to step up to the plate and turn things around and stop the population drain that we have seen. I know all of you have seen the maps. This is a very positive first step to making that happen. As Senator Langemeier said, does it answer all the questions? Does it pave the road and make it easy for everyone? Possibly not, but it's a great first step and I'm very supportive and very happy to be a part of it. The tax scenario. It's good for counties because they can spread it out over time and be able to

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

Floor Debate
March 17, 2010

use that money more over time. It's also good for the developers because they don't have to pay that all up front as they have in the past in other places. Lengthening that depreciation schedule out from 5 years to 20 years should be a huge incentive in and of itself... [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR SCHILZ: ...to move this forward and then to move projects forward. So I'm hoping that with Nebraska's very good wind energy capacity and opportunity with LB1048 as Senator Langemeier has laid it out with the amendments and with everybody working together, we can see much positive results from our actions today. And with that, I would encourage everyone to vote for the amendments, vote for the bill and, you know, I guess today of all days, what a better day than to say let's go green on this bill. Thank you very much. [LB1048]

SENATOR PRICE: Thank you, Senator Schilz. Senator McCoy, you're recognized. [LB1048]

SENATOR MCCOY: Thank you, Mr. President and members. It's already been said this morning but I really believe this is truly a historic moment, one that I feel very honored to take part in, in my short career thus far in the Legislature. You know, perhaps I didn't realize just how much we put a high value on all of the words but the career of George Norris. You know, his presence is everywhere in this building. We stand in a Chamber named after him today. He died 65 years ago, as we all know, but I think he'd be proud to see what we're talking about today and the end result of a tremendous amount of hard work. The hallmark of his career in the United States Senate and public service was the institution of public power in the United States, whether it be the Tennessee Valley Authority, many other projects. Wind energy and the expansion of it has brought economic growth to many states around the country and today we get a little farther down the road of that happening in the state of Nebraska. While at the same time holding true and putting a very high price tag on public power in our state, a course has been charted to preserve what George Norris held dear and what we prized in our state. And for that we should be proud. Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator McCoy. Senator Carlson, you are next and recognized. [LB1048]

SENATOR CARLSON: Good morning, Mr. President and members of the Legislature. Before I make some additional remarks I want to mention some people that I've observed in, I think, outstanding contributions to the progress of this bill. Certainly, Senator Langemeier in his leadership bringing these groups together time after time after time and making progress is worthy of note. Senator Haar has been tireless and he's one that when he focuses in on something, he sticks with it and I admire what he's

Floor Debate
March 17, 2010

done. Senator Dubas has been very instrumental moving this bill forward as has Senator Schilz. Senator Dierks from years past certainly active in promoting wind energy and I recall back, Senator Preister and how he would be pleased with the progress that's been made on this bill. I've listened to four years of discussion about wind energy and four years ago I would have thought in no way, shape, or form today would be...would we be discussing LB1048 and the progress that has been made. I would encourage each of you, pull up on your gadgets the bill and the committee statement and look at the number of testifiers. If my count was right, there were 36 positive testifiers and no negative. I would venture that's probably a record in the Legislature. There's been a great deal of cooperation between public power and private development and that's why we're debating this bill today. I've said this before, I'll say it again before I make the rest of my remarks, I don't subscribe to or believe in global warming. I think much of it is a lot of hot air from Washington. I don't subscribe to cap and trade. I don't support it. I'm very leery about federal mandates. I think they're unnecessarily intrusive, but I'm not against wind energy in Nebraska. And I'm in support of LB1048. I think that there are groups that must be winners as we move forward with LB1048. There are six different groups that I think it's very, very important that they see benefits from this bill. Certainly, the first one is public power. Public power must benefit. Private development must benefit. The people of Nebraska, the ratepayers must benefit because we don't want to see our public power rates go down...or we don't want to see them go up. (Laugh) Excuse me, excuse me. We want them to see them stay where they are or go down. That's important for all people of the state of Nebraska. The landowners who have the towers on their land must benefit. The state of Nebraska must benefit and I think that's going to be true through income taxes, increased income taxes on these towers, and also income taxes from associated businesses that will develop as a result of this bill. The counties of Nebraska must benefit and they will through property tax off of these new construction projects with wind energy. I think that LB1048 has the potential and the opportunity to positively affect all six of these groups that I've mentioned. I am in support of the bill and it's underlying amendments and would ask for your support. Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator Carlson. Senator Christensen, you are next and recognized. [LB1048]

SENATOR CHRISTENSEN: Thank you, Mr. President. I stand in support of LB1048 as amended and I commend Natural Resources Committee for their work. I think they've done a great job. Having sat on Natural Resources Committee a couple of years and worked with wind my first two years down here, I understand the struggle that this has been. Going from a 100 percent public power state to cooperation with private industry has been a definite battle and I worked with it extensively my first two years. I remember staying after about every committee meeting and working with both sides to see if there was ways to bring them together. You know, this is the legislative process. There's definitely some things I'd like to had a little bit different but I think this is a fantastic bill. I

Floor Debate
March 17, 2010

won't even bring them up on the floor because it's irrelevant what I would like to see different. But I stand in support of not only wind energy but of public power in this state and of the free enterprise. And I think this bill has brought it together where all three are working together and I just ask you to support the amendment and the bill and advance it forward. Thank you. [LB1048]

SENATOR PRICE: Thank you, Senator Christensen. Members wishing to speak: Senators Haar, Gay, Wightman, Hansen, Gloor, and others. Senator Haar, you are recognized. [LB1048]

SENATOR HAAR: Mr. President, members of the body, I rise to wholeheartedly support LB1048, AM2159, and AM2244. And I would like to start with some thank-yous. First is to the Chairman, Chairman Langemeier and Laurie Lage for the hours and hours that they put into this whole process, the leadership they provided, that the Chairman has provided to this process. I also want to thank the members of the Natural Resources Committee who sat through a lot of hearings and listened to me for a quite a while. I want to thank them for that. Then there are other people who really played a key role in this. Tim Texel who is head of the Power Review Board I think should get a special thank-you. People from public power, Kristen Gottschalk who was head of the Task Force writing the bill, and then we had, I guess you could call it a gaggle of people from NPPD, from OPPD, from LES. And then the developers that participated, in particular, David Levy, Andy Pollock, Rich Lombardi, those people all deserve a special thank-you for all the time they spent in the drafting meetings. And then I'd also like to thank the staff members of the...my staff person, Tom Green, and all the other staffers of the committee that worked in those sessions as well. And finally then, there were all the Task Force members and advisory committee members. So there were a great number of people that took part in this and I want to thank those because this is indeed a great change. Nebraska has enormous wind potential. And if you look at the sheet I just handed out, this is a quote from a study that was actually updated in June, 2009. It says the economic development impact to Nebraska from wind power on the order of the expected under the deal we report 20 percent wind energy by 2030, are estimated at between \$7.8 billion to \$14.1 billion in economic activity in Nebraska. And an average of 1,600 to 2,900 full-time jobs between 2011 and 2050. And then at the bottom of this page it goes into the economics, just showing what economists talk about. There are direct impacts from developing our wind potential, there are indirect impacts, and then there are the induced, so-called induced impacts. And all of this really means that we've discovered gold in Nebraska. And, of course, the goal of everyone in this Chamber is to develop that wind potential. Last year, we talked about net metering which really helps small wind. We have C-BED which will probably benefit the most in what I guess we'd call middle wind. And now we're talking about big wind. And when I started this whole process, I've got to admit that I thought the goal of this was to actually arm-wrestle public power into developing our wind potential. But I think what's developed, it's kind of been a mantra that we protect public power and we encourage private wind

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

Floor Debate
March 17, 2010

development in this state. And I think that's the direction that all of this is going. I want to...I'll obviously be talking... [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR HAAR: Thank you. I'll be talking more later, but I would like to tell all of you that are going to retire that Banner County is probably a pretty good place to go because it looks like Senator Schilz will have a large wind development in that county, and if you're looking for lower property taxes, I suspect Banner County is going to be one of those places you might want to look at. Thank you very much. [LB1048]

SENATOR PRICE: Thank you, Senator Haar. Senator Gay, you are next and recognized. [LB1048]

SENATOR GAY: Thank you, Mr. President. I wanted to ask Senator Langemeier a few questions about the bill. It sounds like it's quite a task to put this together and I commend him for that and I'm a supporter. I just going to try to...he did a fine job explaining but there's still some issues I wanted to go over, so if he'd yield to a few questions. [LB1048]

SENATOR PRICE: Senator Langemeier, will you yield? [LB1048]

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR PRICE: Thank you. You are recognized. [LB1048]

SENATOR GAY: Thank you. Senator Langemeier, we were talking earlier and we had talked about some of these questions but on the southwest pool and the...is it our energy commission that talks to the southwest pool and the oversight of this bill, who does that? [LB1048]

SENATOR LANGEMEIER: The oversight of this bill is within the Power Review Board of Nebraska. But Nebraska Public Power, LES, and OPPD have become members of the Southwest Power Pool. So if you choose to put up a wind turbine, let's say farm, say you're going to build in Richardson County and OPPD or you're going to build out in the center of Sullivan's district, north of Petersburg, if you build in those areas you have to apply to the Southwest Power Pool. In part of your PPA, they will do a transmission study. And that's how it is determined what transmission you're going to have to build and what the cost, the potential cost of that is going to be for the developer to calculate that in their project. [LB1048]

SENATOR GAY: So is there a minimum, you can't just...there has to be a minimum and they then grant these application of...if I wanted to put a wind farm or something in an

Floor Debate
March 17, 2010

area, I go and I get the application and I... [LB1048]

SENATOR LANGEMEIER: Correct. [LB1048]

SENATOR GAY: ...walk me through the steps to be on line. [LB1048]

SENATOR LANGEMEIER: I'd love to. If you want to develop a wind farm, the first thing you're going to do is go to the Power Review Board and simultaneously when you do that you're going to go get in the queue with the Southwest Power Pool to get your transmission study if you're building in Nebraska, Nebraska Public Power, LES, or OPPD's territory. If you're out in WAPA or Tri-State or something in the west, you're going to do a different process because they're not members of the Southwest Power Pool. It also depends on where you're trying to take the energy. If you're trying to take the energy from a WAPA area into the Southwest Power Pool, you've got to go talk to Southwest Power Pool. But you're going to apply to the Power Review Board. The Power Review Board then is going to go through the criteria set forth in...it's very standard to what public power has to do today. And meanwhile on the side, you're going to have the Southwest Power Pool, I'm just going to use them for an example, it can be different in different parts of the state, Southwest Power Pool is going to start to do your transmission study. They're going to try and determine how you're going to hook in, how you're going to get your product from your location to wherever your PPA is. That's why we have in the bill, we have a conditional approval so you can get conditional approval by Nebraska Power Review Board. Then you can get your other criteria that have to be met and then come back for final approval. [LB1048]

SENATOR GAY: Okay. [LB1048]

SENATOR LANGEMEIER: So you're going to have two things kind of are simultaneously going on. [LB1048]

SENATOR GAY: Okay. So if I'm a developer of this and I'm going for this application, this nameplate capacity tax is something, so we're not charging property taxes but instead this nameplate capacity tax...explain that. [LB1048]

SENATOR LANGEMEIER: We currently, for example, and they should be handing it out to you today,... [LB1048]

SENATOR GAY: Yeah, they did. [LB1048]

SENATOR LANGEMEIER: ...let's take 100 megawatt facility. Our current tax structure takes that and takes the 100 megawatt facility at \$1.5 million in value, personal property per megawatt. You can do the math. That's a lot of money, \$1.5 billion, and we charge personal property tax on that. We only collect that for five years. So what happens is, is

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

Floor Debate
March 17, 2010

you get this horrendous \$3 million, \$4 million tax bill the first year and then that decreases and then on year six you have nothing. We have issues with our communities... [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR LANGEMEIER: ...taking that money in and having the ability to spend it. What do you do if your in a county of Arthur County where you're total budget is \$2.4 million and you put in 1,000 megawatts and you get property tax that first year of \$40 million and nothing in your sixth, how do they handle that? So what we're doing is we're stripping that away and we're replacing with a capacity tax which is based on the capacity of the wind turbine which is 2.2 megawatts per turbine and then taking that money in, giving it back to the county where it was located for equal distribution just like if it was the real property tax. So it goes back to the county, it goes back to the schools, it goes back to the NRDs, it goes back to the same way it was distributed before we started. [LB1048]

SENATOR GAY: So the state's collecting that tax? [LB1048]

SENATOR LANGEMEIER: The State Department of Revenue is going to collect it and then send it back to the counties and it instructs them to distribute it the same way personal property would be distributed in a county. [LB1048]

SENATOR GAY: And then they're holding that in this fund... [LB1048]

SENATOR PRICE: Time. Thank you, Senators Gay and Langemeier. Senator Wightman, you are next and recognized. [LB1048]

SENATOR WIGHTMAN: Thank you, Mr. President. Again, I will add my applause to the committee and to Senator Langemeier for the hard work they've done. I know they have held many, many meetings during the interim. If Senator Langemeier is available, I might have a question or two of him. [LB1048]

SENATOR PRICE: Senator Langemeier, would you yield to a question from Senator Wightman? [LB1048]

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR PRICE: Thank you. You are recognized. [LB1048]

SENATOR WIGHTMAN: Senator Langemeier, I have some questions with regard to the nameplate tax and what other taxes there might be that a wind energy development might pay. The nameplate is to replace the personal property tax as I understand it, but

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

Floor Debate
March 17, 2010

to have it apply over a number of years rather than the five-year period or seven-year period that might be on personal property, is that correct? [LB1048]

SENATOR LANGEMEIER: Correct. [LB1048]

SENATOR WIGHTMAN: And all that money as you explained would be paid into the Department of Revenue first and then distributed to the county where the generation was being had, is that correct? [LB1048]

SENATOR LANGEMEIER: Correct. [LB1048]

SENATOR WIGHTMAN: Are there any other taxes other than, of course, the income tax and sales tax that they would pay just normally as any other business would pay throughout the state of Nebraska? [LB1048]

SENATOR LANGEMEIER: The only other tax that's out there is, is there's a small amount of property, real property tax where the turbine base sits, but it's pretty nonnegotiable...I mean it's nothing. And that, it does not change. [LB1048]

SENATOR WIGHTMAN: That would be in what the improvements themselves add to the value of the land, is that correct? [LB1048]

SENATOR LANGEMEIER: Right. [LB1048]

SENATOR WIGHTMAN: But not the facility itself, generating windmill, that would be subject to the personal property in the nameplate tax? [LB1048]

SENATOR LANGEMEIER: Right. That is currently all personal property and so we're just taking that portion, and that's the only two taxes they pay is... [LB1048]

SENATOR WIGHTMAN: Would the nameplate tax that is collected by the Department of Revenue, would there be any part of that retained by the Department of Revenue for collection? [LB1048]

SENATOR LANGEMEIER: No. [LB1048]

SENATOR WIGHTMAN: So all of that would be 100 percent distributed to the county. [LB1048]

SENATOR LANGEMEIER: Yes. We wanted to make clear that this was not a special tax. It wasn't a closed class. It wasn't any other kind of tax so it is taken in and distributed back out exactly in the same manner as personal property so there's no question about changing the funding. I had offered it...and I'm taking your time, I'm

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

Floor Debate
March 17, 2010

sorry, I had offered a suggestion to my tax team as we worked on this and I want to thank Senator Cornett and her staff for being part of that. I had thrown out an idea of saying, maybe the state should take in 10 percent of this money and distribute it to all counties because some counties are going to get transmission and not development. And we just couldn't see a legal way to redirect those funds. So we went back to the exact way that it's collected now and personal property it would go back the same with the nameplate tax. [LB1048]

SENATOR WIGHTMAN: Did you study how other states are taxing wind generation facilities in arriving at your decisions? [LB1048]

SENATOR LANGEMEIER: Yeah. A number of states where you don't have public power which helps other states in their taxing methods, many of them have gone to a variety of things, a production tax that we just tax them strictly on their production per year. One thing we found in this process is that gets awful burdensome. We have to have the...the Revenue Department has to do a lot more work in regards to proof of what their production was, some confidential issues between developers on what their production and what their capacity is. We went back to just trying to come up with a way... [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR LANGEMEIER: ...since we're not offering any incentives to come to Nebraska, which a lot of states are, we thought this was a good way to do it that gives them an incentive of taking that up-front burden out, but also helps our communities with their budgeting process. [LB1048]

SENATOR WIGHTMAN: Thank you. One other thing. I was wondering if there was any thought given...obviously, this is a lot different than other natural resources such as coal or oil in which a severance tax is charged, and I'm gathering, perhaps, that the tax you said you might have considered, might have been in the nature a little bit at least of a severance tax. Obviously, weren't severing anything. The wind continues to blow. [LB1048]

SENATOR LANGEMEIER: The groups spent a lot of time looking at every single direction we could take this that was best suited for Nebraska and it came down to what can we do without causing any... [LB1048]

SENATOR PRICE: Time. [LB1048]

SENATOR LANGEMEIER: ...issues in the future. [LB1048]

SENATOR WIGHTMAN: Thank you. Thank you, Senator Langemeier. Thank you, Mr.

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

Floor Debate
March 17, 2010

President. [LB1048]

SENATOR PRICE: Thank you, Senators Wightman and Langemeier. Senator Hansen, you are next and recognized. [LB1048]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I, too, want to stand and thank the Natural Resources Committee headed by Senator Langemeier for getting LB1048 out and to the floor. I've not been on the Natural Resources Committee but I have attended several of their meetings during the interim and even during the session when they were talking about renewable energies. And I really appreciate the work that they've done. I mean, they've had a lot of meetings. They've had a lot of, not hearings but informational type meetings and I really, really appreciate that. A year ago I was doubtful. I was very doubtful about renewable energy, especially the wind energy. And I said then and I still believe that renewable energy, wind, solar, other than nuclear energy, is expensive, inconsistent, and unreliable. I think when we talk about a new business coming into the state we talk about defining a customer. We have to...if we're going to get new businesses in the state, we need to find the customer first. Well, there weren't customers in the state for excess wind power or excess solar power or any other type of power because we're fully charged. I think that the public power in this state has done a great job, but still we look toward the wind and the solar power to produce energy. When you do a business plan you have to find out how you're going to handle the transportation costs, which in this case turned into transmission lines. And that's where I really was hung up on how we're going to get this extra power that we develop out of the state. And the transmission lines was the big holdup for me. It was stated as much as \$86 billion to create enough transmission lines to hook up to a grid somewhere and we weren't sure who the customer was. But now in this bill the transmission lines are paid by the customer, which I think is the way it should be. Ninety percent of the power from these renewable resources will be exported and I think that is right. I think we need to say another thanks to our public power districts in the state for producing power that is at a reasonable cost. We have local control with those...with our public power districts and we have local service. The service is so important to rural areas where you have a wind storm, ice storm, lighting bolts that hit power lines, and that local service is extremely important. I live on the end of two, actually two lines, Dawson Public power line and Custer County power line. And even though we live on the end of the line, we get good service because it's public power. I think private power would be a little different. But, again, I want to thank Senator Langemeier for doing the work. I think he's done a good job and I am on board. Thank you. [LB1048]

SENATOR PRICE: Thank you, Senator Hansen. (Visitors introduced.) Moving forward, Senator Gloor, you are next and recognized. [LB1048]

SENATOR GLOOR: Thank you, Mr. President and good morning, members. I have a

Floor Debate
March 17, 2010

question about eminent domain but before I launch into that question of Senator Langemeier, I'd like to also pile on some of the congratulatory comments towards Senator Langemeier, Haar, Dubas, and others who have worked hard on this. But I especially would like to be specific in my compliments to Senator Langemeier who has been tireless in providing opportunities to educate us on this bill and where it's been headed. For as long as I can remember being down here, my second term, Senator Langemeier has talked about wind energy and where a bill might be headed. And if the general public or others are concerned that the debate on this isn't as meaty as they would like or as lengthy as they would like given it's important to the state of Nebraska, that should be attributed to and credit should be given to Senator Langemeier for the educational opportunities he has offered us. We come into this not as a blank slate, but those of us who have taken advantage of these educational opportunities having quite a bit of information already at our disposal, so not a lot of what is being presented to us is a surprise. It's a lesson for us all with weighty bills. We should take advantage of the opportunity to educate the body in advance. It helps, I think, make things go far smoother and is clearly an example of a good way to bring forward weighty bills. Again, my congratulations. I wonder if Senator Langemeier would yield for a question. [LB1048]

SENATOR PRICE: Would Senator Langemeier yield to a question to Senator Gloor? [LB1048]

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR GLOOR: Senator Langemeier, the other day we had Senator Pankonin's bill that dealt with eminent domain as relates to the NRD's hike and bike trails. Senator Pankonin, Senator Haar--there's Senator Haar's name again, he seems to be everywhere--got involved over the past couple of years in negotiations that took a very controversial issue of eminent domain and came up with a degree of compromise. What assurances can you give me that the issues around eminent domain, especially around the sensitive issue of transmission lines that need to run across the state, that that issue has been vetted and that we have done the best job we can trying to make sure that we've come up with a compromise? [LB1048]

SENATOR LANGEMEIER: Thank you for the question. And the first thing I want to stress is, in this bill we do not give eminent domain authority to a private developer. What we do is expand and clarify within the eminent domain procedures that public power has already that they can build transmission for private development with a Nebraska benefit and they will have a Nebraska benefit whether it's in land leases or property tax or in our case, capacity tax paid. So they will meet that threshold. There's two components within the bill on eminent domain. The first is the removal of the right of public power which was given to them when they were created. They removed their ability to use eminent domain over a privately developed structure. So eminent domain

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

Floor Debate
March 17, 2010

is not going to be used by a private developer to take over a wind farm. That was the first component. The second component that was talked about is eminent domain for transmission. And when we expand that, as a developer applies now if you're in the Southwest Power Pool, you apply there for the right to have transmission, the Southwest Power Pool then will instruct public power to use their abilities with eminent domain to build transmission at 100 percent of the cost of the developer. So I want it clear that this does not give the private developer, we're not having every private developer out there trying to use eminent domain to get their transmission. [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR LANGEMEIER: The citizens in Nebraska can feel comfortable that public power is going to come do to that portion of this the same way they've done it for years and continue their hearing processes and due notice and do their excellent job of placing transmission. [LB1048]

SENATOR GLOOR: Thank you, Senator Langemeier. That helps. I may have another question but given the limited amount of time I have, I may queue up again. Thank you. Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senators Gloor and Langemeier. Senator Dubas, you are next and recognized. [LB1048]

SENATOR DUBAS: Thank you, Mr. President. Good morning, members of the body. This is really an exciting day for me anyway. This is something that I have talked about and been working on since even before I was elected. I knew nothing more about wind than that it blows a lot in Nebraska. But when I was thinking during my campaign about what are some things that we could do to help develop the economy in Nebraska, especially in rural Nebraska, I knew that answer lied in our wind resources. Knew nothing about wind energy, knew nothing about how to develop it. After I was elected all I thought we had to do was put up turbines and plug them in somewhere and we were ready to go. I think we all, as freshmen Senators, quickly learn that there's a little bit of a process to getting anything to happen down here and not everybody thinks the same way that you do and you've got to work hard and keep everybody at the table, keep everybody engaged in the conversation. I knew we were a public power state but that was the end of that. I didn't really fully know or appreciate what our 100 percent public power status means to our state and the citizens and the rates that we are blessed to enjoy in this state and all of the other benefits that come along with public power. So I quickly began to try to educate myself. And I mean, what I know about public power and still what I know about wind energy probably could fit on the head of a pin because there is so much to learn about it. But I, too, would like to just take the opportunity first to thank Senator Langemeier and his staff, Laurie, and the rest of his staff, my staff, all of the senators' staffs on the Natural Resources Committee. This has been a very long

Floor Debate
March 17, 2010

process in keeping all the stakeholders at the table with such a wide variety of perspectives was not an easy thing to do. And if you would have asked me six months ago if we'd be here today, I would have said no. So a lot of work and progress have happened. And there's been a lot of groundwork laid for us to get where we are today, not just in this session, not even in last session. As Senator McCoy mentioned, I think this all started back with George Norris and since then what public power has contributed to our state and then where we're...in recent history the senators who have been involved in looking at renewable energy and how we get that to fit into our public power state. Senator Preister, Senator Dierks, you know, other senators who have introduced bills in the past to kind of lay that foundation for where we're at today. When I came into office, very quickly I held a meeting back in my district where I invited just a lot of people who I thought had some connection in some way or another to energy and the development of energy in our state. It was a very informative meeting for me as well as for those who were around the table who were from different business perspectives but shared some commonalities and so having them around a table to talk about, you know, what is it that we need to do. We talked about the need for a comprehensive energy plan and getting our energy office engaged in this development. And we've made some good steps in that direction. We now have an energy office that is engaged with what's going on in the state and, hopefully, will continue to step up to the plate and take more of a leadership role in getting these kinds of businesses off and running in our state. I would envision our energy office is kind of that entry point when someone needs to know something about whether it's wind energy or any other kind of renewable energy resource, they could go to the energy office and they would be able to point them in the direction that they need to go. So, again, we've just taken some incredible leaps and bounds towards getting this new and exciting industry off the ground and running. We're already being contacted... [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR DUBAS: ...by companies who are taking this bill...simply the bill coming out of the committee, not even any action taken on it yet but the mere fact that we have put this bill together and we have advanced it out of committee has businesses looking at us. I think this bill lights the neon sign, hangs the sign on the door, puts the floodlights on it, whatever it takes to let companies know and lets the citizens of Nebraska know that we are open for business. We're ready to go in developing this resource. This has huge potential for generating income in our local communities, in our local counties, for our local governments and, hopefully, we will very soon be reaping those incredible benefits. So, again, I want to thank Senator Langemeier for his leadership and all of those who have worked so very hard on getting us to where we are today. Thank you. [LB1048]

SENATOR PRICE: Thank you, Senator Dubas. Senators wishing to speak: Senators Loudon, Harms, Sullivan, Gay, and Krist. Senator Loudon, you are next and recognized.

Floor Debate
March 17, 2010

[LB1048]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I will support LB1048 and the amendments that go with them, both AM2159, because AM2159 becomes the bill and the AM2244 clears up some of the process in there. Actually as I was on a board, on a power board Panhandle Rural Electric Cooperative for nine years before I came down here, and I've been on Natural Resources working with electric power and that sort of thing, I've probably got nearly 20 years of working with electric power. And I admire that with LB1048 is what you've done is clarified in statutes what can be done and it sets up a plan and a method by which these people can build generation farms. They always could build generation farms but it's somewhat more clearly defined in statutes what they can do and where they can go with it. You want to remember that this is something that, yes, Nebraska can cash in on but you have to remember that it's the tax incentives that sell this. At the present time the reason they've been problems in Nebraska is because the Power Review Board wouldn't allow anything over, I think, 100 kilowatts to be built that wasn't cost-effective. And, of course, generation by wind farm isn't exactly cost-effective. But by putting in those tax incentives, these corporations can go ahead and build that and that's what it's all about. Those tax incentives run for about ten years. The other thing we have to be mindful of is the transmission. As you talk about in Banner County, if they want to build that wind farm out there, there has to be transmission. There isn't any transmission to go anyplace unless they construct something themselves. Now, who is going to build that? It takes somebody with deep pockets to build that. There isn't anything in this bill that tells that you can build a wind farm and have to build your own transmission. So my concern is that this wind farm, if it's going to be built, that the transmission planning is already in place before the wind farm is built. Otherwise, you're sitting there with a V-8 engine and sitting on a pile of sand, I guess, and can't hardly get any traction. So this is some of the things that we have to go forwards with. This isn't a complete process now that you've passed this legislation. There's a lot to be done here over the years. It takes several years in order to get a transmission line built. If anybody remembers the transmission line problems we had from, I think, Lincoln to Columbus or where it was here a few years ago. It took them several years to get that built and that was just mostly to run from down here in order to supply more power into the city of Lincoln. So we have different issues with this. It's a nice working project at the present time. It's a step forwards. It's something that probably makes it a little bit more presentable to have wind farms in Nebraska, but until we come up with the money and whether you're going to have the federal government step in and build transmission lines, that's the key to the whole process is how you're going to sell this power someplace. Not only when you have the transmission lines but you have to find out if somebody will buy the power on the end of it. Present time over the last year or so, it's been my understanding that some of the markets on the east coast have decided that they didn't want to purchase power from some of these areas, so now you're looking at the west coast and that's the reason you're looking at Kimball or someplace. Now, your transmission... [LB1048]

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

Floor Debate
March 17, 2010

SENATOR PRICE: One minute. [LB1048]

SENATOR LOUDEN: ...you can have some there but there's only a certain amount of power that can go into California before you build more transmission lines get through there. If any of you ever remembered, but about seven years ago they burned some of the power lines up going into California because they were being overloaded, so there's a whole lot of issues on this to make this work. But I have to agree this is a first step and I will support the bill and the underlying amendments. Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator Louden. (Visitors introduced.) Members wishing to speak: Senator Harms, Sullivan, Gay, and Krist. Senator Harms, you are recognized. [LB1048]

SENATOR HARMS: Thank you, Mr. President, colleagues. Would Senator Langemeier yield just for a couple questions, please? [LB1048]

SENATOR PRICE: Senator Langemeier, would you yield to questions? [LB1048]

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR HARMS: First, Senator Langemeier, I'd like to thank you for introducing this legislation. You know, I had the fortunate opportunity to watch a couple of the hearings personally. And I'd have to tell you, colleagues, to take a diverse group, which Senator Langemeier was working with, and eventually blend all of those different ideas together is somewhat of a miracle. There were some strong views and it was interesting to watch it come together. One thing I learned that I would use in the future is what Senator Langemeier did and how he had public hearings and meetings on a regular basis with the folks, bringing everybody to the table in a controlled manner, and it was a lesson for me to see and I appreciate that. Thank you very much, Senator Langemeier. The couple questions I have, Senator Langemeier, one is, how is the actual exporting of this transmission lines going to work? How does that...who is going to pay for that? Is that a public-private partnership? I don't understand that part of it. [LB1048]

SENATOR LANGEMEIER: For a developer that's going to build in Nebraska for wind for export, initially they're going to get the opportunity to pay for their transmission. Now, is there opportunity to become private partner with public power? Yes. If they are building and they hit up into a line that public power has been having problems with or it may be just time to upgrade, that as the developer and public power work on their process to put their transmission in, public power through a contractual relationship with the developer can say, hey, we'll split some of that cost with you for that transmission line but we want to upgrade ours so we'll upgrade ours, add yours to it, and build a more

Floor Debate
March 17, 2010

reliable line and share the cost. So initially, it's all privately derived transmission unless public power can see a use to upgrade some of their own facilities, and they have freely admitted that in some areas they may be able to relieve some congestion with a better line. [LB1048]

SENATOR HARMS: Okay. Thank you, Senator Langemeier. I have another question I'd to ask. So I think...the last meeting I attended that you had, and correct me if I'm wrong because I don't want to give the body the wrong information, but when I was there I thought there was people from...that were environmentalist. I think they were from the Game and Parks Commission was that right or...? [LB1048]

SENATOR LANGEMEIER: They participated all the way along, yes. [LB1048]

SENATOR HARMS: Okay. One of the things that caught my eye is the map that they gave out... [LB1048]

SENATOR LANGEMEIER: Um-hum. [LB1048]

SENATOR HARMS: ...and they were talking about concerns that they might have in regard to that area. If the environmentalists or the Game and Parks Commission would decide that in Banner County in this particular area we could not put up wind farms because of bluebirds or whatever it might be, what's the process? Is there an appeal process or are we pretty much just stuck with that? [LB1048]

SENATOR LANGEMEIER: If Game and Parks comes in with...let's say their report when you ask them that I want to go in X county or X location... [LB1048]

SENATOR HARMS: Um-hum. [LB1048]

SENATOR LANGEMEIER: ...and they said, well, you have bluebirds, for example in your example, to deal with. When that comes back to the Power Review Board they can offer a mitigation plan to figure out how are we going to deal with that situation because I really want to be in this location. And then they'll work a plan out through the Power Review Board and the Game and Parks to come up with a mitigation plan to continue development in that spot or move on. [LB1048]

SENATOR HARMS: So then they will give us the options to at least to go to the table and work on it. That's... [LB1048]

SENATOR LANGEMEIER: Right. [LB1048]

SENATOR HARMS: Okay. [LB1048]

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

Floor Debate
March 17, 2010

SENATOR LANGEMEIER: That gives the Power Review Board that mitigation authority. [LB1048]

SENATOR HARMS: Okay. [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR HARMS: Well, thank you, Mr. President. I rise in support of LB1048 and the amendments. And when I look at where I live in rural Nebraska, this is really a great opportunity. This is a historical moment because I think if we can get it all put together and I'm sure Senator Langemeier is going to get it done, it does start to equalize out that playing field between rural and urban. And it is going to be a real wonderful opportunity for economic developments. So I rise in support of this and I thank Senator Langemeier and all the people that worked on this. Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator Harms and Langemeier. Senator Sullivan, you are next and recognized. [LB1048]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. This is landmark legislation that we're looking at today and I'm pleased to be a part of it. As I was going through my file on LB1048, I ran across a quote that makes me think that perhaps our forefathers would be proud of what we're doing. Abraham Lincoln says, as yet...this was back in 1860, as yet the wind is an untamed and unharnessed force and quite possibly one of greatest discoveries hereafter to be made will be the taming and harnessing of it. Well, we're on the path to do that here in Nebraska in a very productive and right way, because I think also another forefather, George Norris, would be proud of the way we're approaching it. He, like myself also, am a big proponent of public power, so I'm glad to see that, I think, this legislation preserves the focus and the philosophy behind public power but incorporates private enterprise as well. And I think that's one of the additional strengths of this legislation. And I certainly applaud Senator Langemeier and the committee for using what I consider to be a model of a public-private partnership. I think we should take note of it in addition as we tackle really big other issues in this Legislature that it might apply to other topics as well. In District 41 that I represent, we've got two wind farms going in, in Boone County. I know the people there are tremendously excited about it. It's going to mean some very good things for that area. There's another one proposed on the drawing board in Antelope County. And so the people in that end of the district are tremendously excited about it. That being said, I've also had at least one constituent who said quite frankly, Kate, I want you to be for wind power, sort of. And he was concerned about the impact that this development will have on his rates. And so I have a question, if Senator Langemeier would yield. [LB1048]

SENATOR PRICE: Senator Langemeier, will you yield? [LB1048]

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

Floor Debate
March 17, 2010

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR SULLIVAN: Senator, I suspect that the impact on rates was certainly a discussion that took place in your committee and in this whole process. But I would like you to shed a little light on what you foresee as a rate impact with this wind development. [LB1048]

SENATOR LANGEMEIER: Senator Sullivan, it is a great question. That was the fundamental thing we started with is, is how are we going to let private developers come in, benefit from a wind resource in Nebraska without affecting the rates of Nebraskans? And so that's why in this provisions it talks about the big concern here is transmission costs. And that's why you see the components in here that says that a developer has to reimburse Nebraska public...and when I say Nebraska Public Power, I should say just public power, has to reimburse public power for any expenses they have in relationship to acquiring or developing transmission. And with this power sold outside of the state with a 90 percent power purchase agreement, we are not affecting ratepayers by allowing this energy to be dumped on the open market which would affect the Nebraska public power surplus that they try and sell on the market, the 90 percent, and the PPA protects them in that regard. We protect them in the process of building transmission and that's how we put Nebraska ratepayers first. If, in my opinion, and I'm speaking only for myself, that if we were to do this and it had detrimental effect on our Nebraska ratepayers, where's the benefit? And I truly want this to be a benefit for the state of Nebraska. So that was a core initiative when we started and we kept it throughout the process. [LB1048]

SENATOR SULLIVAN: Thank you, Senator Langemeier. Thank you very much. [LB1048]

SENATOR PRICE: One minute. Thank you, Senator Sullivan and Langemeier. Senator Gay, you are next and recognized. [LB1048]

SENATOR GAY: Thank you, Mr. President. I'd just also like to congratulate Senator Langemeier and commend him and his committee for the hard work they put in. As I looked on that list, too, of supporters, it is a very diverse group as Senator Harms talked about and quite a challenge from where they started to where I think where they've come. So I'd put my congratulations as well. And I am in favor of the bill and the amendments and other things. I'm just trying to get a feel for how it all works so I can explain to constituents when they ask me what we're doing on wind energy. Senator Langemeier, if he'd yield to a few questions. [LB1048]

SENATOR PRICE: Senator Langemeier, will you yield to questions from Senator Gay? [LB1048]

Floor Debate
March 17, 2010

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR GAY: Thank you, Senator Langemeier. Senator Langemeier, I'm going to go back to the point where we decided we want to create a wind farm. We went to the Power Review Board. We're now looking and I understand now, too, you've done a good job on that nameplate capacity tax. That's to spread out the initial capital costs that would have to have been put down, and I assume people were saying, well, that's too much so we're spreading that over the useful life of the turbine. [LB1048]

SENATOR LANGEMEIER: Right. And that wasn't brought to the committee for the discussion by the developers. I haven't met a developer yet that has objected to paying tax. They understand the importance of paying tax where they're located. I haven't met a developer yet, and I've met a lot of them through this process let me tell you. That was brought to us by our counties and our schools. That example, in Bloomfield where we have a facility now, they got that influx of money that first year and they bought laptops. They couldn't figure out how to spend it. It messed up their state aid. And with the spending limits and restricted funds, they couldn't spend it. They couldn't raise their budget in time to spend it so it created just a nightmare for them. So we brought it in to try and spread it out through a capacity, nameplate capacity tax. It benefits our counties, our cities, our taxing authorities first and foremost. Secondly, it was an incentive that didn't cost us any money to give to developers. And so it's a win-win. [LB1048]

SENATOR GAY: Okay. So when you decided...as those rates change, though, when you're looking at that tax and spreading it out, circumstances can change over these years on both supply and demand and how this works out. I think Senator Louden made some good comments about we're in the infancy of this and it will require work, and you know that, more work and adaptation as this grows. But when this...you took a five-year depreciation schedule, you did the average personal property tax rate, a statewide average, and then you took the bond factor rate of a AAA corporate bond. Both those rates change; the statewide average could change, and the corporate bond. So that then changes on a new project. Or once you get your project, is that never changed? [LB1048]

SENATOR LANGEMEIER: No, it never changes. Once we adopt this, we're setting it in statute. And that's why we've used credible, reliable figures that have predicted out to the future inflation rates and that AAA corporate bond rate at 5.31. That's why we used those numbers to get that future inflation accounted for. [LB1048]

SENATOR GAY: So ten years from now if somebody comes in and they want to do this, then that same rate, I assume any Legislature could change this or the Power Review Board... [LB1048]

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

Floor Debate
March 17, 2010

SENATOR LANGEMEIER: Right. [LB1048]

SENATOR GAY: ...could change it though because otherwise we'd be...because rates are going to go up I assume and... [LB1048]

SENATOR LANGEMEIER: No. When you come back to this body in your next round of being a legislator, you'll address that in ten years. [LB1048]

SENATOR GAY: So that will...is something that would change. And then a little bit, "stranded assets," what does that mean? What are they? [LB1048]

SENATOR LANGEMEIER: The concern was with the stranded asset that if we put wind out on the market in some capacity, typically not with a PPA, but let's say it's got the opportunity... [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR LANGEMEIER: ...to put wind on the market, and you flood the market and there's no market for energy. And that becomes...makes Gentleman station for public power or Brownville becomes a stranded asset because they can't sell power. That was put in there to prevent that, and that's also why the PPA requirement is in here, is so we don't jeopardize any of the facilities our public power is currently operating. [LB1048]

SENATOR GAY: Yeah, and our time is running out, but I do commend you for...I think you took...the way you did handle this, too, is very impressive but also the idea that you're protecting that public power that has been so beneficial, I think, to the state, that you definitely always kept that on the forefront and was very important. And, again, I commend you, Senator Langemeier, you and your committee. Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senators Gay and Langemeier. Senator Krist, you are next and recognized. [LB1048]

SENATOR KRIST: Thank you, Mr. President. Again, I want to add my congratulations. Your District 23, the state, and this Legislature commends you on your work and the work of your committee. I have a couple of technical questions. I wonder if Senator Langemeier would yield to some questions. [LB1048]

SENATOR PRICE: Senator Langemeier, would you yield to the good Senator Krist? [LB1048]

SENATOR LANGEMEIER: Yes. [LB1048]

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

Floor Debate
March 17, 2010

SENATOR KRIST: In Section 8 of the bill and then in the AM2159, there's reference to marking structures to make them apparent for aircraft and the like. Do I understand that while these are constructed, we're going to have temporary structures that are going to be put up before the actual windmill is put up? [LB1048]

SENATOR LANGEMEIER: Right. What gets put up right now--and good question--they're called met towers. They're meteorological towers. They're typically built to a height of 197 feet which keeps them under FAA regulations and jurisdiction. And they're currently just a galvanized, three-pole tower that goes up and it monitors wind, it monitors climate, and a number of issues. Right now they're not marked, and they're popping up across the country. And this is just...this is...from our whole discussion on wind, and I'm using too much of your time, but I'll turn... [LB1048]

SENATOR KRIST: That's all right, it's all right. [LB1048]

SENATOR LANGEMEIER: ...mine on if you need more. But in this whole discussion, these things will begin to pop up. They usually go up for about three years prior to the construction of a wind farm to make sure the developer knows what their sustainable winds are and their gusts are to determine if it's the right spot. Actually, the agricultural spray plane operators came to me and said, Chris, we don't want to mess up your bill, but could you deal with this in some...as a safety precaution? So what we put in the bill, and we have to come back and fix this a little bit on Select File, but we've got a few words that are out of place we have to fix on Select File anyway. So what we put in the bill is these towers, new ones that go up, will have to either be painted or lights. There's a lot of argument out there, the spray plane operators said painting is fine, but a lot of towers out there do have lights on them. So what we put in here is, is that they have to...all new ones going up from this bill forward have to have...they either have to be painted or they have to have lights or both. That's up to the operator. And then it talks about 21-inch marking balls. Those are designed for towers that are already up. By 2013, they have to be marked. And so it's very, very challenging to take those towers down, haul them to somewhere to get them painted, and then bring them back and put them up. So we're allowing for the use of these 21-inch...it originally started as 12-inch marking balls, but the aviators tell me they're really tough to see. The 21-inch increases the visibility, I'm told, five times greater to see the 21-inch. [LB1048]

SENATOR KRIST: Standard marking ball is 21 inches and they're giving you good information. I have two concerns that I'd like to take forward. [LB1048]

SENATOR LANGEMEIER: Um-hum. [LB1048]

SENATOR KRIST: One of them is that in the bill it currently says either lit, balled, or 21 inches in diameter, or painted. I would contend that having been at 100 feet and 100 knots that a ball in line of sight is a good marking. A ball that's misplaced is not good

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

Floor Debate
March 17, 2010

marking, and that the Aeronautics Department needs to weigh in on how those things are placed and marked. The second thing I would note is that that's great for the sprayers, and I understand there will be a separate Web site set up by the Department of Aeronautics to make sure that it's there. [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR KRIST: Not so good, though, for the VFR flyer. There is a system in place in the NOTAM System, the Notice to Airmen System the FAA has in place, and when wind farms develop around the country, from my personal experience, those NOTAMs are carried and all aviators have a record of avoiding those structures. I'll tell you that on a letdown going into an airport out in the middle of nowhere if you're VFR, you need to know where those structures are, particularly when they get up to 197 to 250 feet tall. So I would hope that in the amendments that will follow, and I understand that you are working on them, that you do take that into consideration and we use the existing system that's in place to make sure that all aviators are aware of where the towers are. Thank you, Senator. [LB1048]

SENATOR LANGEMEIER: Thank you. [LB1048]

SENATOR PRICE: Thank you, Senator Krist and Langemeier. Senator Nelson, you are next and recognized. [LB1048]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a question or two for Senator Langemeier if he will yield. [LB1048]

SENATOR PRICE: Senator Langemeier, will you yield to Senator Nelson? [LB1048]

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR NELSON: Senator Langemeier, I want to thank you very much for all your work on this. I've been reading and I support the basic bill and also AM2159. I want to pursue the line that Senator Loudon did about transmission lines. These are renewable export facilities we're talking here. But as far as the transmission lines themselves, we're anticipating that there will have to be more transmission lines that will carry this electricity for export to other states. Are we able to, and would you discuss that, what do we have available now and what's going to have to be built to handle this export? [LB1048]

SENATOR LANGEMEIER: Our current transmission...and it's the same across the country, our current transmission structure is kind of a spider web. In Nebraska, it's designed that if Grand Island loses their power, we have a separate transmission system to get power back to Grand Island. If Kearney loses their power from one

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

Floor Debate
March 17, 2010

direction because of a windstorm, we can reroute power the other direction. And it's not designed to take typical power from Scottsbluff, Nebraska, to Omaha. So in the event that a developer comes and builds these, they're going to...most likely, they're going to need transmission lines built. They're typically going to probably go south or they're going to go into the Southwest Power Pool to join a bigger line. The Southwest Power Pool is currently talking about building a 760 line basically from Valentine around to Omaha and then back into the Southwest Power Pool. So there's going to need some transmission be built to connect these to a reliable line to get them to wherever their power purchase agreement is located. [LB1048]

SENATOR NELSON: But the wording of the bill as I see, when we're talking about export, are we talking about export within the state of Nebraska or outside the state of Nebraska to other destinations? [LB1048]

SENATOR LANGEMEIER: Export would be any facility located outside of Nebraska. [LB1048]

SENATOR NELSON: All right. I'm looking at...on page 9 of the amendment, and this is under Section 6, on page 9, going to line 18, do you have that in front of you? [LB1048]

SENATOR LANGEMEIER: Yep. [LB1048]

SENATOR NELSON: There's a lot of legalese there and...but basically: the determination of a materially detrimental effect on rates shall not include regional transmission improvements dictated by a regional transmission operator or transmission improvements required due to participation in an eligible entity pursuant to subdivision so-and-so of this subsection. Can you just explain what that's talking about there? [LB1048]

SENATOR LANGEMEIER: Well, just because a developer comes to Nebraska and chooses to locate here and needs some transmission, for example, we talked about it just the other day, Nebraska Public Power, LES, OPPD have joined the Southwest Power Pool. The Southwest Power Pool, irrelevant of everything we're talking about today, is looking at ways to make our transmission structure better. How can we make it more reliable? How do we develop for the future with energy that's out there that might be developed? It does two things. Number one, that current undergoing discussion would not be a cost to the developer or, excuse me, that would not be a cost to the developer. And also if in this...let me give you an example. If somebody builds a 100 megawatts and it goes into the Southwest Power Pool, Southwest Power Pool... [LB1048]

SENATOR PRICE: One minute. [LB1048]

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

Floor Debate
March 17, 2010

SENATOR LANGEMEIER: ...deems that by building that line it does two things: It exports the power out and it also increases the reliability of the grid within the Southwest Power Pool. The Southwest Power Pool is going to say everybody within this pool just benefited by that reliability increase. [LB1048]

SENATOR NELSON: All right. [LB1048]

SENATOR LANGEMEIER: So that extra benefit that everybody gets, what this is saying is, is that...because you're creating that, that cost would still go back to the developer even though there is some perceived benefit. [LB1048]

SENATOR NELSON: Okay. And again, the Southwest Power Pool is that within Nebraska or does that cover a multistate area? [LB1048]

SENATOR LANGEMEIER: The Southwest Power Pool encompasses Nebraska, Kansas, Oklahoma, the north, about a third of Texas, and then about an eighth of the eastern grid of New Mexico, and then it's got a little tip of Colorado, but it's almost irrelevant. [LB1048]

SENATOR NELSON: One... [LB1048]

SENATOR PRICE: Time. [LB1048]

SENATOR NELSON: One final...time, sir? Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator Nelson and Langemeier. Seeing no further lights, Senator Langemeier, you are recognized to close on your amendment to the committee amendments. [LB1048]

SENATOR LANGEMEIER: Thank you, Mr. President. I thank the members of the body for the great discussion. We hit the topics. We've made a good record to the discussion here today, and I'd ask for the adoption of AM2244. Thank you. [LB1048]

SENATOR PRICE: You have heard the closing on the amendment. The question is, shall the amendment to the committee amendment to LB1048 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Record, Mr. Clerk. [LB1048]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Langemeier's amendment to the committee amendments. [LB1048]

SENATOR PRICE: The amendment is adopted. We return to discussion of the committee amendment. Senators wishing to speak: Senator Haar. Senator Haar, you

Floor Debate
March 17, 2010

are recognized. [LB1048]

SENATOR HAAR: Yes, thank you, Mr. President, members of the body. Could you pass those out, please? Okay. Once again, what a pleasure. Today is green Wednesday. I noticed a few members who aren't wearing green, and I take it that's not against the wind bill but something against the Irish I guess. (Laughter) I hope that's not the case. Again, I want to thank everybody involved in this process. And I support the amendments. I did want to get up and talk just a little bit about where I think some future work that we'll need to do on this. And so I'm passing out, since we don't have a system in place for PowerPoints, I'm basically passing out a PowerPoint that I developed to show you where I think we're going to be going with some future legislation. There will be no more amendments at least from me today on the issue, but I'd like to go over this PowerPoint with you. The first page, of course, we've come a long way and that's for sure. This is a huge change in Nebraska, arguably, one of the most important bills I think this session. Page 2 is what I passed out earlier. And, again, I'd like to reiterate that the economic impact of this I think will be very great, especially in rural Nebraska. I think it's going to create jobs and economic development. I think it's going to create new manufacturing plants in Nebraska because these wind turbines are so huge that it's hard to transport them. So if you go to page 3, we made a great deal of progress. And I think the World-Herald said it when it said LB1048 reinforces a sense of cooperation, a willingness to work out problems, and a welcoming atmosphere for investors and developers, and, "and," it's not "but" it's and there are some concerns yet I believe we need to address in another year. And two, three weeks ago I took the time to call, it was nine of the largest wind developers in the country, and talked to them about some of these issues. And this is a quote: Anything that costs developers money that they don't have to worry about in other states limits development. Page 4, the three hurdles that I saw and one of them was taken care of today with AM2244. And I'd like to thank Senator and Chairman Langemeier for that amendment because it takes care of that middle hurdle. So I'd like to talk about just briefly again...I'm not trying to pour cold water on anything but showing you where I think we need to move in the future with this. On page 5, one of the things that this bill dictates is that a wind developer would have to have a PPA, which is a power purchase agreement, for the life of the project. And this makes sense right now because transmission out of Nebraska is limited. And when you enter into a PPA agreement, then the Southwest Power Pool will make sure that there's the transmission to accommodate that power purchase agreement or the developer will have to invest in more transmission. So right now I think the power purchase agreement makes perfect sense. [LB1048]

SENATOR PRICE: One minute. [LB1048]

SENATOR HAAR: But I've heard concerns from developers that having this power purchase agreement for the life of the project is something we need to look at. So for future consideration, I think we need to look at the word "forever" or for the life of the

Floor Debate
March 17, 2010

project. And after the initial power purchase agreement has expired, that the private wind developer is free to choose its own business model. Right now we're saying the only business model you can have in Nebraska is a power purchase agreement. For the future, something we need to look at. Page 6 has been taken care of. I already had these printed before the announcement of that amendment so we've taken care of 6. Thank you very much. Probably the main thing that I heard and that we need to address seriously is this thing called decertification where eminent domain is reinstated, and this is page 7. And as you've heard... [LB1048]

SENATOR PRICE: Time. Thank you, Senator Haar. Senator Haar, you are next and last and recognized. [LB1048]

SENATOR HAAR: Thank you very much, Mr. President, members of the body. On page 7 of my PowerPoint, decertification in which eminent domain can be reinstated, as you heard earlier, if a private wind facility meets a list of criteria, it's certified and eminent domain is waived. And that's one of the most important things about LB1048. Then if a certified private wind facility loses its power purchase agreement, it has a one-year cure period to replace the PPA. That's also important, that there is a time to cure. The worrisome thing for many of the large developers is that if a new PPA is not found, at some point the facility is decertified and eminent domain is reinstated. And we all know...and we all have that feeling about eminent domain in this body. LB1048 basically uses a reinstatement of eminent domain to enforce compliance. And I included some quotes from some of the developers, and this is nothing new to us who are in Nebraska when we talk about eminent domain. Eminent domain is toxic, it weakens everything, almost like not exempting eminent domain in the first place. The biggest problem makes financing a project questionable. So for future consideration I see that we need to see if we can't find another way that's not toxic to bankers, investors, and developers other than reinstating eminent domain. It's really important in the first place that we waive it if these private developers are willing to come to Nebraska and follow our criteria. But many of the large ones do not understand this possibility of the retaking. Again, something for future consideration. Again, I want to compliment everyone who has worked on this. We have some work to do, but this is a great step forward. Thank you, Mr. President. [LB1048]

SENATOR PRICE: Thank you, Senator Haar. Seeing no other lights, Senator Langemeier, you are recognized to close on the committee amendments. [LB1048]

SENATOR LANGEMEIER: Mr. President, members of the body, the committee amendment, AM2159, does become the bill. As I stated earlier, we are going to have a couple little technical things we're going to fix on Select File. We waited to see if we found any more today. I want to thank Senator Haar. Senator Haar has been the driving force behind this discussion in his true passion for wind. As I stated in my original opening, we've come a long, long ways here. And Senator Haar brings up some of the

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

Floor Debate
March 17, 2010

issues that are yet to be explored into the future. But I think this is an historic moment to do this, as was written in that letter. This changes the fundamental way that public power will operate by allowing private developers to build for export, and I'd ask for your support of AM2159 and then LB1048. Thank you. [LB1048]

SENATOR PRICE: Thank you, Senator Langemeier. You've heard the closing on the committee amendments. The question is, shall the committee amendment to LB1048 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Record, Mr. Clerk. [LB1048]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of the committee amendments. [LB1048]

SENATOR PRICE: The amendment is adopted. Discussion on the advancement of LB1048. And first we will recognize the Clerk for announcements. [LB1048]

CLERK: Senator, I understand you want to withdraw AM2010 as well as FA65. I have nothing further on the bill, Mr. President. [LB1048]

SENATOR PRICE: Thank you. Seeing there are no further lights on, Senator Langemeier, you are recognized to close on LB1048. [LB1048]

SENATOR LANGEMEIER: Mr. President, members of the body, I just want to say thank you for the advancement of the committee amendments and again to ask you and thank everyone that participated in this process. There's nobody that can say they didn't have an opportunity to voice an opinion. Again, thank you and I'd ask for your support of LB1048. Thank you. [LB1048]

SENATOR PRICE: Thank you, Senator Langemeier. You've heard the closing on the advancement of LB1048 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Record, Mr. Clerk. [LB1048]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of LB1048. [LB1048]

SENATOR PRICE: The bill advances. (Visitors introduced.) Mr. Clerk, proceed to the next bill. [LB1048]

CLERK: Mr. President, LB1048A by Senator Langemeier. (Read title.) [LB1048A]

SENATOR PRICE: Senator Langemeier, you are recognized to open. [LB1048A]

SENATOR LANGEMEIER: Mr. President, members of the body, we bring LB1048A is for the tax component of this for the Department of Revenue to collect the tax and

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

Floor Debate
March 17, 2010

distribute it back. The original fiscal note is \$35,000. I think this is a pretty humble expense to look at the billions of dollars investment in Nebraska and what it does to stabilize the income to our counties and our schools and all the taxing authorities. And I'd ask for your adoption of LB1048A. Thanks. [LB1048A]

SENATOR PRICE: Thank you, Senator Langemeier. Seeing no lights, Senator Langemeier, you are recognized to close. Senator Langemeier waives closing. The question before the body is, shall LB1048A be advanced? All those in favor vote aye; all those opposed, nay. Record, Mr. Clerk. [LB1048A]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB1048A. [LB1048A]

SENATOR PRICE: The bill is advanced. Items for the record, Mr. Clerk. [LB1048A]

CLERK: Thank you, Mr. President. Two announcements, Appropriations will meet in Room 2022 at 11:15; Appropriations, Exec Session, 11:15 in 2022. And the Judiciary Committee will meet upon recess in Room 1126; Judiciary upon recess in 1126. New resolution, Senator Fulton offers LR405, that will be laid over. Senator Stuthman, an amendment to LB849; Senator Rogert, LB1013; Senator Rogert, LB945; Senator Pirsch, LB864. And a new A bill. Senator Council would offer LB1105A. (Read LB1105A by title for first time.) That's all that I have, Mr. President. (Legislative Journal pages 938-940.) [LR405 LB849 LB1013 LB945 LB864 LB1105A]

SENATOR PRICE: Thank you, Mr. Clerk. We will now proceed to General File, LB861. [LB861]

CLERK: LB861 is a bill introduced by the General Affairs Committee and signed by its members. (Read title.) The bill was introduced on January 11 of this year, at that time referred to the General Affairs Committee. The bill was advanced to General File. There are General Affairs Committee amendments, Mr. President. (AM2140, Legislative Journal page 853.) [LB861]

SENATOR PRICE: Thank you. Senator Karpisek, as the Chairperson for the committee, you are recognized to open on LB861. [LB861]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. LB861 is the General Affairs Committee bill and was designated as one of the committee's two priority bills. As mentioned, the committee amendment will become the bill and I'll talk about that in a bit. LB861 in its original form contains four Bill Drafter suggestions which are as follows. Currently, the definitions in Section 53-103 are not listed in a consistent order other than some are in the order that the Legislature adopted them. LB861 divides the definitions in Section 53-103 into separate sections and places them in alphabetical order found in Sections 5 to 47 and references to these new sections are also

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

Floor Debate
March 17, 2010

corrected. A similar issue arises when looking up fees. LB861 creates a table in a new section for fees found in Section 53-124 and leaves Section 53-124 as the section that provides procedures for fees. References to these new sections are also corrected. Currently, the distribution language for the license fees refers to the common school fund. In the past, there has been some confusion as to which school fund this was referring to. Following the direction from the Office of the State Treasurer, LB861 replaces this language with a constitutional reference that clarifies that these license fees go to the permanent school fund. The final Bill Drafter's suggestion was to remove language that the court has declared to be unconstitutional in Southern Wine and Spirits of America, Inc. v. Heineman. Since this is essentially dead language, there is really no reason to keep it in statute. That is the original bill. Thank you, Mr. President. [LB861]

SENATOR PRICE: Thank you, Senator Karpisek. As the Clerk has stated, there are amendments from the General Affairs Committee. Senator Karpisek, as the Chair of the committee, you are recognized to open on the amendments. [LB861]

SENATOR KARPISEK: Thank you, Mr. President. Again, members of the body, as I said, the committee amendment becomes the bill and adds seven bills to the original LB861. Each of the seven bills, some with amendments, have been advanced out of committee and placed on General File. Therefore, you can look them up, each of these bills, and see that the committee statement which includes a list of who testified on each bill. I could have introduced one large bill, but it was important to me that the process be as transparent as possible. And it was also important to me that each bill would have its own hearing. For most of the bills, the one-liner sums up exactly what the bill does. I will now summarize the main bill and the bills that are contained in the amendment. The amended bill includes LB786, repeals Section 53-174 of the Liquor Control Act which states, it shall be unlawful for any person or for any licensee to sell or offer for sale in this state any beer to which has been added any alcohol or to permit any person to add any alcohol to any beer on the premises of such person or licensee. I believe it was originally adopted to address the problem of needle beer. During and immediately following Prohibition when states were determining what their alcohol policies should be, needle beer was the practice of taking nonalcoholic beer or near beer which was corked and inserting a syringe filled with liquor in order to add alcohol to the beer allowing for discrete consumption of alcoholic beer. This practice made enforcing prohibition laws difficult. Since this practice is no longer an issue, I believe that this section of law is no longer necessary. LB869 with amendment amends Section 53-123 of the Liquor Control Act by increasing the first-time registration fee for a liquor license from \$45 to \$400 in order to cover the processing cost. The liquor license fee would also become nonrefundable. This fee is currently called a registration fee and is required each year. LB869 with amendment creates a first-time registration fee which we refer to as an application fee to cover the expense of the initial application. The registration fee was originally \$2 in 1935. It was increased to \$10 in 1980, to \$25 in '82, to \$30 in '91, and to \$45 in 2000. It costs the Liquor Control Commission between \$300

Floor Debate
March 17, 2010

and \$400 to process a liquor license, in addition to the expenses incurred by other departments and agencies involved in this process. Therefore, the committee felt it was appropriate to raise the fee to cover the expense of the initial application but keeping the existing annual registration fee at \$45. I do not believe that the state should be subsidizing liquor license applications. The second issue is that the current fee is refundable. What can happen is someone applies for a liquor license hoping that the Liquor Control Commission does not find out about the applicant's felony conviction in another state. The commission does find out about the felony and the applicant, knowing that he or she won't receive their license, withdraws the application and receives a refund upon request. I do not feel that this policy is appropriate since much of the expense is already incurred by the commission and other agencies and departments. LB870 with amendment, amends Section 53-149 of the Liquor Control Act by creating a temporary operators permit. Under current law, a business owner with a liquor license may sell an establishment to a buyer who may then operate the establishment under the seller's liquor license until the buyer's liquor license application has been processed and the buyer qualifies for a regular liquor license. Any Liquor Control Act violations committed...sorry, any liquor control violations committed by the buyer during the transition currently go to the seller's liquor license. Under this bill, once an establishment has sold, the seller's liquor license is immediately terminated and the buyer may apply for a temporary operators permit to continue to operate the establishment until the buyer's application for a new license is processed. Any violations of the Liquor Control Act committed by the buyer would now go on the buyer's record and could impact the buyer's ability to qualify for a regular liquor license. This bill is necessary to hold the buyer accountable for his or her own actions. The buyer must provide the Liquor Control Commission with the documentation that the seller is current on all accounts with any wholesaler. A seller who provides false information regarding such accounts is guilty of a Class IV misdemeanor for each offense. Also, if the application were withdrawn by the applicant or were denied by the commission, the previous license may be reinstated at the discretion of the commission upon request by the previous licensee. LB883 with amendment would allow farm wineries to store and warehouse products at an off site facility. Currently, a farm winery on the eastern part of the state would transport wine to retailers across Nebraska. But if they ran out of a particular wine they would have to return to the farm winery to load up again before continuing the supply route. This can be a tremendous inconvenience and extremely inefficient. Under LB883 with amendment the commission must be notified of the warehouse location and the farm winery must maintain at the off site facility a separate perpetual inventory of the products stored there. Consumption of alcoholic liquor at the facility is prohibited. LB883 with amendment also harmonizes the bill with federal law regarding reporting and tax payment schedules. Farm wineries that pay less than \$1,000 in excise taxes are to report the total amount of wine produced and pay their taxes on an annual basis. Farm wineries that pay \$1,000 or more in excise taxes are to report the total amount of wine produced and pay their taxes on a monthly basis. Farm wineries that are reporting and paying on an annual basis become liable for \$1,000 or

Floor Debate
March 17, 2010

more in excise taxes are to pay their taxes immediately. The annual payment provision is intended to reduce the expense on the Liquor Control Commission for having to process monthly checks sometimes for amounts that can be less than \$1. LB906 amends Section 53-177 of the Liquor Control Act by allowing the Liquor Control Commission to grant a liquor license for an establishment located within 150 feet of a church only after notice has been provided to the affected church and a hearing has been held by the commission. Under current law, no liquor license shall be issued for an establishment located within 150 feet of a church. Therefore,...sorry, there have been examples of small churches popping up in downtown storefronts in communities across Nebraska. This trend has made it increasingly difficult to promote economic development in these areas since restaurants and other businesses cannot be granted liquor licenses. For example, it is virtually impossible for a new restaurant with a liquor license to be located in downtown Grand Island given the number of churches that have recently been established in the area. I have also heard of other communities, including Norfolk, Lincoln, and Geneva that have also run into this issue with their economic development plans. LB1000 amends Sections 53-125 and 53-103 of the Liquor Control Act by requiring that any officer or director of a limited liability company, LLC, or any member of an ownership interested of more than 25 percent would have to meet qualifications for a liquor license which is the current requirement for corporations. LB1000 also requires that a manager for an LLC would need to be a citizen and resident of Nebraska. This is consistent with LB788 this year that the Governor signed earlier this month. LB788 also required that a manager for a corporation be a citizen and resident of Nebraska which merely codified the current interpretation and requirement of the Liquor Control Commission that managers be citizens and residents of Nebraska. The issue here is that the control commission currently processes every member of an LLC, which could place a huge burden on...expense on the commission by limiting the required processing to LLC members with an ownership interest of more than 25 percent or any officer or director should ensure that the number of applicants being processed will be a much more reasonable number for the commission to handle. The final bill being amended to LB861... [LB861 LB786 LB869 LB870 LB883 LB906 LB1000 LB788]

SENATOR PRICE: One minute. [LB861]

SENATOR KARPISSEK: ...is LB1012 which increases the membership of the State Racing Commission from three to five members. One member shall be appointed from each of the three congressional districts and two shall be appointed at large. The term for each member shall be four years. Not more than three members of the commission shall be from the same political party, no more than two members of the commission shall reside in the same congressional district, and no more than two members shall reside in the same county. Currently, no member or employee of the commission shall have an interest in a horse that is racing under the jurisdiction of the committee...shall have pecuniary interest or engage in any private employment in a profession or

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

Floor Debate
March 17, 2010

business which is regulated by or interferes or conflicts with the performance or proper discharge of the duties of the commission shall wager or cause a wager to be placed on the outcome of any race under the jurisdiction and supervision of the commission or shall have a pecuniary interest or... [LB861 LB1012]

SENATOR PRICE: Time. [LB861]

SENATOR KARPISEK: Was that time? [LB861]

SENATOR PRICE: Yes. [LB861]

SENATOR KARPISEK: Thank you, Mr. President. I will finish it up next time. Thank you. [LB861]

SENATOR PRICE: Thank you, Senator Karpisek. (Visitors introduced.) Moving ahead with discussion, we have Senators Howard, Rogert, Gloor, and Karpisek. Senator Howard, you are recognized. [LB861]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I stand in support of LB861 with AM2140. Senator Karpisek and I met over the summer and I appreciate his commitment and willingness to work on this issue. This is a major problem in District 9. And having reasonable controls over liquor issues is critical. As Senator Karpisek so accurately put it, the state of Nebraska taxpayers should not be subsidizing liquor license and it's high time that we charge what it costs us to issue a license. At the present time, this fee is refundable if someone lies on their application about their criminal history. This compounds the problem and really is an invitation to individuals who have questionable histories. They have nothing to lose. We have a responsibility to charge a reasonable fee for those applicants asking for a liquor license rather than imposing additional taxes on our citizens. Thank you. [LB861]

SENATOR PRICE: Thank you, Senator Howard. Senator Rogert, you are recognized. [LB861]

SENATOR ROBERT: Thank you, Mr. President. I stand also in support of LB861 as amended by the committee. There are several bills in there, if you take a look, one of them happens to be LB1012, which is a bill introduced by myself to expand the Horse Racing Commission from three to five members and allow those commissioners to get involved in the industry. Once again the groups are looking to save or help the horse industry stay alive, so in an effort to do that, the commissioners...one of the commissioners asked me to allow some more people who are familiar with the industry and involved in it to get...to apply and be part of the commission. So that's what we're doing with LB1012. Thank you, Mr. President. [LB861 LB1012]

Floor Debate
March 17, 2010

SENATOR PRICE: Thank you, Senator Rogert. Senator Gloor, you are next and recognized. [LB861]

SENATOR GLOOR: Thank you, Mr. President. I rise in support of AM2140 and the underlying bill, LB861. There are a lot of components of this bill and we've gotten involved, as Senator Karpisek mentioned, because of issues that have to do with the incredible number of storefront churches that have opened up in the downtown area of our community. And if you look around your community, regardless of the size, I think you would find that also to be an amazing number. Current statute makes it very, very difficult to get into downtown renovation to attract somebody to set up a nice restaurant, as an example, and to get a liquor license. Under current statute the blanketing of downtown Grand Island, under current statute, would make it difficult to set up a restaurant with a liquor license in 75 percent of the downtown area of Grand Island. Storefronts are inexpensive, in fact they're some of the most inexpensive space in our communities these days. They are large, open spaces, easy to set up folding chairs, easy to set up a church, easy to also close down that church. I believe when the original statute was put together we had a traditional model of a brick and mortar church, somewhere around a residential area. In this case, the reality of churches in this day and age is such that they can come and go, especially when you have cheap space in a downtown area, an area that all of us would like to see turned into viable retail space in any number of ways. I think the underlying bill or the amendments address this nicely. There is still the regulatory oversight of getting a liquor license. There are issues related to zoning commissions. There is plenty of oversight to limit the expansion of inappropriate liquor licenses and, therefore, I think this is a good bill and a great amendment. Thank you. [LB861]

SENATOR PRICE: Thank you, Senator Gloor. Seeing no further lights, Senator Karpisek, you are recognized to close on the committee amendments. [LB861]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. The amendment does become the bill. There are some issues in this bill that had been a little complex and we worked them out. I think they all have good compromise in them. We've tried to work with all the interested parties. As Senator Gloor just said, with the church issue, the church has to be given notice and it goes in front of the Liquor Control Commission for a hearing. I have utmost faith in the board members on the control board that they will not grant a license if the church is opposed. I would also want to remind everyone that three people of the public can oppose a liquor license. There have been times, Senator Howard has been involved, where it was very difficult for that to happen to get to where they wanted to be. They were down to two commissioners and the vote kept getting split. But we have three now, very good members. The executive director of the Liquor Control Commission has been very involved and very willing to work with all parties and I appreciate that. Again, if anyone sees any issues that come up, please talk to me and we'll be willing to try to correct what you see may cause a

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

Floor Debate
March 17, 2010

problem. I would appreciate a green light on AM2140. Thank you, Mr. President.
[LB861]

SENATOR PRICE: Thank you, Senator Karpisek. Members, you have heard the closing on the amendment. The question is, shall the amendment to the committee amendment to LB861 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Record, Mr. Clerk. [LB861]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of committee amendments.
[LB861]

SENATOR PRICE: The amendment is adopted. [LB861]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: There are no lights on as we look at LB861. Senator Karpisek, you are recognized to close on the same. Senator Karpisek waives his opportunity. The question before the body is, shall LB861 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB861]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB861. [LB861]

SPEAKER FLOOD: LB861 advances. At this time, before we proceed to the next bill, a note for each of you. We will be recessing for the morning at approximately 11:45 this morning and we will be recognizing former members of the Legislature at that time. Any former members of the Legislature and their spouses are certainly invited to enter the Chamber and be seated either under the balconies or on the chairs provided at the east end of the Chamber. Again, former members and their spouses are invited to join us at this time in the Legislative Chamber in preparation for a recognition ceremony to begin upon recess at approximately 11:45. At this time we will move onto the next bill on the agenda. Mr. Clerk, we now proceed to LB961. [LB861 LB961]

CLERK: Mr. President, LB961, a bill introduced by Senator Council and others. (Read title.) The bill was introduced on January 14 of this year, at that time referred to the Business and Labor Committee for public hearing. The bill was advanced to General File. There are Business and Labor Committee amendments pending. (AM2118, Legislative Journal page 808.) [LB961]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Council, you're recognized to open on LB961. [LB961]

SENATOR COUNCIL: Yes, thank you, Mr. President. And good morning, fellow members of the body. Yesterday afternoon we advanced the budget. And during the

Floor Debate
March 17, 2010

discussion of that budget, it was clearly evident that one of the reasons we were in the situation that we were in with regard to our budget was the fact that our revenues have been declining. And it is no question that the decline in revenues is due in large part to the decline in employment opportunities associated with the state of our national economy and as a direct result, our state economy. Well, LB961 presents this body with the opportunity to improve our revenue picture by providing employers who are able to create new jobs and assist residents in our state to accept these jobs. As originally enacted, the law creating the Job Training Cash Fund was intended to encourage employers to create new jobs by providing funding to those employers to cover the cost of providing any training required for those individual applicants to access those jobs and effectively perform those jobs. The law specifically authorized grants for the costs associated with various training activities, including pre-employment training. And I want to emphasize that. From the inception of the Job Training Cash Fund there has been an opportunity... [LB961]

SPEAKER FLOOD: (Gavel.) [LB961]

SENATOR COUNCIL: ...to utilize those funds for pre-employment training. However, the process for accessing the funds for pre-employment training purposes often serves to discourage rather than encourage employers, particularly small employers, employers in our rural areas and employers in our areas in urban communities with high concentration of poverty from investing in the individuals in those communities who do not have the requisite skills to access the jobs. And we're not talking specifically the skills specific to the position that's available but much of this pre-employment training is needed to equip persons in our rural and urban centers with the necessary soft job skills. What we're talking about here is enabling employers to access the funds for job readiness training. Well, the way the process is set up, while if you read the law it speaks to job training grants, the way that an employer accesses the funds under the Job Training Cash Fund is basically on a reimbursement basis after the particular position has been filled. So we don't actually have a grant program when it comes to pre-employment training. Well, that's what LB961 is intended to. LB961 is intended to provide a means for employers, particularly small employers in our rural communities and those who intend to employ individuals from high concentration of poverty areas to actually obtain grants to provide for the pre-employment training so that those employers who may not have the ability to advance the monetary outlay associated with pre-employment training, the opportunity to access a labor pool that exists in both our rural and our urban communities, a labor pool that requires more training than the traditional on-the-job training. And what LB961 does is create a separate grant process for employers who want to access job training cash funds for pre-employment purposes. What it allows is for those employers to make application. And in their application they have to set out that they have developed a pre-employment training program. That pre-employment training program can be developed in partnership with a postsecondary institution, like our community colleges, with a school district or a learning community, or

Floor Debate
March 17, 2010

with a private not-for-profit 501(c)(3) job training organization in the community. And it's important that we encourage these employers to partner with our community colleges and with our...on our not-for-profit job training institutions because those are the individual organizations that have access to and are prepared to address the individuals who lack these soft job skills. Under LB961, an employer who meets the eligibility requirement of employing less than 25 employees or being in a rural area or being in a position to serve individuals from high concentrations of poverty an opportunity to develop a pre-employment job training program and to obtain a grant to allow them to train these individuals... [LB961]

SPEAKER FLOOD: (Gavel.) [LB961]

SENATOR COUNCIL: ...and prepare them for the jobs that they are creating. LB961 imposes an obligation on an employer who wishes to access these funds. If that employer is located in a rural community, that employer has to commit to creating at least four positions. If that employer is located in an area of high concentration of poverty, they have to commit to create at least eight positions, they have to provide for the training of no more than 125 percent of the positions that they have available. So if an employer is trying to fill four positions, that employer can access funds in a rural community to train five individuals, in an urban community ten individuals, although there are only four and eight positions respectively. If that employer undertakes that training and applies for the grant, because we want the employer to have a stake and an investment and share some of the risks associated with providing this pre-employment training, the employer is required to provide a 25 percent match of the grant that that employer is seeking. In the event the employer does not employ the number of individuals represented in the application, LB961 provides that that employer must then refund to the Department of Economic Development an amount equal to 50 percent of the grant that they obtained. So under the bill, we provide an avenue for employers to provide the necessary pre-employment training that a number of residents in the state of Nebraska need in order to access employment. It encourages new job creation. And when we get to the amendment, I think the amendment addresses a number of the issues that were raised during the development of LB961. At this time, I want to express my appreciation to Senator Ken Schilz who has worked with me on LB961 since we were originally discussing means of increasing employment opportunities in the state of Nebraska. Senator Schilz has worked closely with me... [LB961]

SPEAKER FLOOD: One minute. [LB961]

SENATOR COUNCIL: ...in identifying any issues that may be of concern to any of our colleagues. We have worked diligently to address those concerns. If you look at the original bill, it did provide for a fiscal note. When we get to the amendment, I will point out to you that in the amendment we provide a means for funding this program that

Floor Debate
March 17, 2010

eliminates the fiscal note. The reason there is a fiscal note associated with altering the program in this respect from a reimbursement program to a grant program on pre-employment training is that it requires the Department of Economic Development to actually track the individuals who I identified for the training. They have to make sure that those individuals end up in the positions that the employer has committed to create. So that requires some administration on the... [LB961]

SPEAKER FLOOD: Time, Senator. Thank you, Senator Council. There are Business and Labor Committee amendments. Senator Lathrop, you're recognized to open on AM2118. [LB961]

SENATOR LATHROP: Thank you, Mr. President. And, colleagues, good morning. AM2118 strikes language pertaining to unobligated and unexpended funds remaining in the sub account. It explains the partnering nonprofit organizations must hold a certificate of exemption pursuant to the Internal Revenue Code. A business applying for training grant must show that its program will fill at least four positions in rural areas or eight positions in high poverty areas. It also adds two criteria that the qualifying business must show. First, that the number of trainees will not exceed 125 percent of the number of positions to be filled. And, number two, that the produced goods and services are exportable and the positions are not retail positions. It allows the Department of Economic Development to audit participating businesses. It adds language allocating up to 4 percent of each grant to assist the Department of Economic Development for administrative costs. I ask for your support of AM2118 and LB961. And I would yield the balance of my time to Senator Council, if she wishes to explore the committee amendment any further. [LB961]

SPEAKER FLOOD: Senator Council, you have 8 minutes and 40 seconds. [LB961]

SENATOR COUNCIL: Yes, thank you, Senator Lathrop. I'll just take this time to point out that LB961 advanced out of the Business and Labor Committee on a unanimous vote. There were several... [LB961]

SPEAKER FLOOD: (Gavel.) [LB961]

SENATOR COUNCIL: ...testifiers at the hearing but none of the individuals who appeared to testify on LB961 testified in opposition. All of the testimony was either supportive of LB961 or in a neutral capacity. Again, I also want to acknowledge Richard Baier, the director of the Department of Economic Development, who has worked closely with Senator Schilz and myself in trying to provide for the amendments and limit the amendments in LB961 to accomplish our stated objective. And with regard to the amendment, again, want to point out that the amendment does address the fiscal note because it allows for the Department of Economic Development to withhold up to 4 percent of each training grant in order to cover their administrative costs. So that will

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

Floor Debate
March 17, 2010

eliminate the fiscal note by adoption of AM2118. And with that, I would urge adoption of AM2118 and the underlying bill. [LB961]

SPEAKER FLOOD: Thank you, Senator Council. We now turn to discussion on AM2118, the Business and Labor Committee amendment. We begin discussion with Senator Dubas followed by Senator Schilz and Hadley. And one note, at 11:45 we will recess for the day and we will take up a special ceremony honoring former members. Senator Dubas is unavailable. Senator Dubas, you are recognized. [LB961]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the Legislature. I rise in strong support of Senator Council's bill. Economic development, job training is a huge issue all across the state of Nebraska, especially in rural Nebraska. And oftentimes when we're talking about economic development and jobs, we're thinking about the big companies or the big manufacturers who are going to come in and, you know, hire 75, 100, 200 employees. But in rural Nebraska, and especially in the small communities such as my hometown of Fullerton, we're not going to get... [LB961]

SPEAKER FLOOD: (Gavel.) [LB961]

SENATOR DUBAS: ...those kinds of businesses. But we are going to get the kinds of businesses that can employ 2, 3, 4, half a dozen, maybe a dozen at the most workers. And to be able to have this type of resource available to them to help them train that local work force I think will be a huge incentive and a huge shot in the arm for attracting business to our communities, growing businesses in our communities, you know, the main street of Fullerton or any of the other small communities across the state. You know, just filling one or two storefronts on that main street is a huge...it's a huge think in our district. So I appreciate Senator Council and Senator Schilz working together on this. I think this is something that will really provide untold benefits for our communities, for our state, and ultimately for our economy. With the position that we're in right now with our economy and the fact that, you know, receipts are down and the cuts that we're having to make, we do walk a very fine line on how do we continue to work to make sure that we're trying to stimulate that economy and support our businesses and trying to help our businesses grow without necessarily having...we don't have the resources to put into that. So I think these are creative ways of trying to take what programs that are already in place and make them work even better for us. So I, again, stand in strong support of LB961, the underlying amendment, and hope that we can move this bill forward and give our communities all across the state of Nebraska just one more tool to help them work on their economy. Thank you. [LB961]

SPEAKER FLOOD: Thank you, Senator Dubas. Senator Schilz, you are recognized. [LB961]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I stand today in

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

Floor Debate
March 17, 2010

support of the amendment, in support of the bill. I think that one of the things that needs to be said here is that in 2008 when the original bill that created this fund was passed, the intent then was to do exactly what we're talking about today. But they found that it was rather hard and rather cumbersome and they didn't really have a vehicle to make it work. So that's the basis for LB961 is the fact that we wanted to try to create a little easier process for these businesses and nonprofits and community colleges to be able to step up and provide this type of training. And I think if it's any indication as to how important this can be, just look at the bill that we just got done debating, LB1048. I mean, there could be all sorts of uses for that with a fund like this. So that's why I was on board. I'm thankful for Senator Council in asking me to come aboard on this and giving me the opportunity to help shape this legislation. And I'm thankful to everybody else, DED, other chamber folks, the Omaha Chamber of coming together and making this really work for the entirety of the state. So with that, if Senator Council would like, I'd yield the rest of my time to Senator Council. [LB961 LB1048]

SPEAKER FLOOD: Senator Council, you have 3 minutes and 15 seconds. [LB961]

SENATOR COUNCIL: Just a brief point and it's to follow up on a statement that Senator Schilz and Senator Dubas... [LB961]

SPEAKER FLOOD: (Gavel.) [LB961]

SENATOR COUNCIL: ...that Senator Dubas made. In working on this bill it became very clear to Senator Schilz and myself that this was an opportunity for everyone in the state to come together and try to provide meaningful employment opportunities, particularly for those in our rural and high areas of poverty areas who don't have the basic job skills to be placed in the position to obtain meaningful employment paying living wages. And I just want to note that when I was developing the bill and after the bill was drafted, going around and commenting on the bill to my colleagues, I think if you look at the number of cosponsors on LB961, it is an indication of the consensus that we should take full advantage of the opportunity presented by the Job Training Cash Fund to provide our residents with meaningful job skills so they can access meaningful employment in our communities. Thank you. [LB961]

SPEAKER FLOOD: Thank you, Senator Council. Members, if you would, please find your seats in preparation for our postrecess ceremony. Mr. Clerk, items for the record. [LB961]

CLERK: Thank you, Mr. President. Senator Council, an amendment to LB1105; Senator Coash, LB861; Senator Cornett, LB918; Senator Pankonin, LB1010; Senator Lathrop, LB563; and Senator Gloor a motion to LB702. Name adds: Senator Dubas would like to add her name to LB961. (Legislative Journal pages 941-945.) [LB1105 LB861 LB918 LB1010 LB563 LB702 LB961]

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

Floor Debate
March 17, 2010

And a priority motion, Mr. President. Senator Nordquist would move to recess the body until 1:30 p.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it, we are recessed until 1:30 today. (Gavel.)

RECESS

SPEAKER FLOOD: Members, if you would, please find your seats in preparation for our former senator recognition ceremony. And as you make your way to your seats, I would remind you that the Nebraska Association of Former State Legislators is represented today in part by its president, Paul Hartnett, president-elect Ed Schrock, president-emeritus Ross Rasmussen, legal counsel Jim McFarland, secretary Willard Waldo, and treasurer Bill Harris. Executive board members representing the Nebraska Association of Former State Legislators, prior to 1970 would Stanley Portsche, Wayne Zeibarth; from 1970 to 1985 Wallace Barnett and Merle Von Minden; from 1985 to 2000 Don Wesely and Carol Pirsch; and from 2000 to present Elaine Stuhr and DiAnna Schimek. Members of the Legislature, this is an opportunity for us to recognize those who have served our state Legislature prior to the One Hundred First Legislature, Second Session. I would ask members, former members that are present as your name is called to please proceed down the isle and locate yourself in front of the Clerks' podium so that we may recognize you with applause at the conclusion of all introductions. I would ask that you hold your applause until all of the former members have been introduced. And we want to welcome you back to your Legislature. We begin today with former Senator Pam Brown. Senator Brown is from Omaha and she served in the Legislature from 1994 to 2007. Also today we have former Senator George Burrows from Adams. Senator Burrows served in the Nebraska Legislature from 1975 to 1983. Also with us today, from Riverdale, Nebraska, former Senator Jim Cudaback. Senator Cudaback served from 1991 to 2007. From Lincoln, we have former Senator Bill Harris. Senator Harris served from 1983 to 1987. From Coleridge, we have former Senator Elroy M. Hefner. Senator Hefner served from 1976 to 1993. From Malcolm, we have former Senator Carol Hudkins. Senator Hudkins served from 1993 to 2009. From Nickerson, we have former Senator Ray Janssen. Senator Janssen served from 1993 to 2009. From Kearney, former Senator Joel Johnson. Senator Johnson served from 2002 to 2009. From Aurora, former Senator Bob Kremer. Senator Kremer served from 1999 to 2007. From Omaha, former Senator Lowen Kruse. Senator Kruse served from 2001 to 2009. From Anselmo, former Senator Howard Lamb. Senator Lamb served from 1977 to 1993. From Omaha, former Senator Carol McBride Pirsch. Senator Pirsch served from 1979 to 1997. From...we can clap for Senator Pirsch, times two. From St. Paul, former Senator Vickie McDonald. Senator McDonald served from 2001 to 2009. From Omaha, former Senator David Newell. Senator Newell served from 1977 to 1985. From Elkhorn, former Senator Dwite Pedersen. Senator Pedersen served from 1993 to

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

Floor Debate
March 17, 2010

2009. From North Platte, former Senator Don Pederson. Senator Pederson served from 1996 to 2007. From Lincoln, former Senator Marian Price. Senator Price served from 1999 to 2007. From Scotia, former Senator Dennis Rasmussen. Senator Rasmussen served from 1973 to 1979. From Monroe, former Senator Lee Rupp. Senator Rupp served from 1983 to 1987. From Ord, former Senator Jerry Schmitt. Senator Schmitt served from 1993 to 2001. From Elm Creek, former Senator Edward Schrock. Senator Schrock served from 1990 to 1993 and again from 1995 to 2007. From Chadron, former Senator Sandra Scofield. Senator Scofield served from 1983 to 1991. From Bradshaw, former Senator Elaine Stuhr. Senator Stuhr served from 1995 to 2007. From Ord, former Senator Donald Wagner. Senator Wagner served from 1979 to 1985. From Plattsmouth, former Senator Roger Wehrbein. Senator Wehrbein served from 1987 to 2007. Are there any former members of this state Legislature that were not recognized that are present with us today? Seeing none, on behalf of a very grateful Legislature, we thank each of you for your service. (Applause) We encourage you to remain in the Chamber as we'd like to visit with you. We hope you have an enjoyable day in Lincoln and thank you, again, for your service. This concludes our ceremony. Thank you.

SPEAKER FLOOD PRESIDING

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

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

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

CLERK: I have no items.

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the first item on the agenda, LB800A. [LB800A]

CLERK: LB800A is a bill by Senator Ashford. (Read title.) [LB800A]

SPEAKER FLOOD: Senator Ashford, you're recognized to open on LB800A. [LB800A]

SENATOR ASHFORD: Thank you, Mr. Speaker. This is the A bill that follows the advancement yesterday or the day before, I can't remember, of LB800. It...as I promised we're...the A...the fiscal impact is not \$4 million, but \$3,556... [LB800A]

SPEAKER FLOOD: (Gavel.) [LB800A]

SENATOR ASHFORD: ...from the Department of Education to help with the reporting

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

Floor Debate
March 17, 2010

part of LB800 dealing with truancy. The \$350,000 from the Violence Prevention Cash Fund is the interest on the accumulated balance in the cash fund, in the Community Corrections Council Cash Fund which has accumulated more than \$4 million in the fund. The...it does not impact the ongoing operations of the Community Corrections Council in any way and with that, I would urge the advancement of LB800A. [LB800A]

SPEAKER FLOOD: Members, you have heard the opening to LB800A. There are no other lights on. Senator Ashford, you're recognized to close. Senator Ashford waives his opportunity. The question for the body is, shall LB800A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB800A]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB800A. [LB800A]

SPEAKER FLOOD: LB800A advanced to E&R Initial. We now move to Select File, 2010 Speaker priority bills, Coash division. Mr. Clerk, we'll begin with LB943. [LB800A LB943]

CLERK: LB943, Senator Nordquist, I have E&R amendments. (ER8182, Legislative Journal page 766.) [LB943]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB943]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB943. [LB943]

SPEAKER FLOOD: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB943]

CLERK: I have nothing further on that bill, Senator. [LB943]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB943]

SENATOR NORDQUIST: Mr. President, I move LB943 to E&R for engrossing. [LB943]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB943 advances to E&R for engrossing. Mr. Clerk, we now proceed to LR297CA. [LB943 LR297CA]

CLERK: LR297CA does have Enrollment and Review amendments, Senator. (ER8183, Legislative Journal page 766.) [LR297CA]

SPEAKER FLOOD: Senator Nordquist for a motion. [LR297CA]

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

Floor Debate
March 17, 2010

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LR297CA. [LR297CA]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. Mr. Clerk. [LR297CA]

CLERK: Mr. President nothing on...no E&R's on LB1051. Senator Christensen would move to amend the bill. [LR297CA]

SPEAKER FLOOD: Oh, Mr. Clerk, our apologies. We need to go back and Senator Nordquist for a motion on LR297CA. [LR297CA]

SENATOR NORDQUIST: Mr. President, I move LR297CA to E&R for engrossing. [LR297CA]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The LR297CA advanced to E&R for engrossing. We now move to LB1051. [LR297CA LB1051]

CLERK: LB1051, Mr. President, Senator Christensen would like to withdraw AM2012. [LB1051]

SPEAKER FLOOD: Without objection, so ordered. [LB1051]

CLERK: Senator Christensen would move to amend with AM2256. (Legislative Journal page 946.) [LB1051]

SPEAKER FLOOD: Senator Christensen, you're recognized to open AM2256. [LB1051]

SENATOR CHRISTENSEN: Thank you, Mr. President. Fellow Senators, after further review of this bill I've concluded that one of the suggested fee range changes found on page 3, line 10 and 11, is not immediately necessary to maintain the sound budget for abstracters in light of our fiscal realities we are facing. Because of this, I'm asking the body to amend LB1051 to remove the change in the fee range for renewals of certificate of registration. The other fee ranges are necessary to hold the abstracters board examiners harmless in their fee structure moving the certificate authority to an annual basis to a biennial basis. And then I add the emergency clause on there so that will give them the ability to save the \$1,200 on the premium of the roster to go to every other year. Thank you, Mr. President. [LB1051]

SPEAKER FLOOD: Thank you, Senator Christensen. Members, you've heard the opening on AM2256. There are no lights on. Senator Christensen, you're recognized to close. Senator Christensen waives his opportunity. The question for the body is, shall

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

Floor Debate
March 17, 2010

AM2256 be adopted? All those in favor vote aye. All those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1051]

CLERK: 32 ayes, 0 nays on adoption of Senator Christensen's amendment. [LB1051]

SPEAKER FLOOD: AM2256 is adopted. Mr. Clerk. [LB1051]

CLERK: Nothing further on the bill, Mr. President. [LB1051]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB1051]

SENATOR NORDQUIST: Mr. President, I move LB1051 to E&R for engrossing. [LB1051]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it. LB1051 advances to E&R for engrossing. Mr. Clerk, LB727. [LB1051 LB727]

CLERK: LB727, Senator, I have no amendments to the bill. [LB727]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB727]

SENATOR NORDQUIST: Mr. President, I move LB727 to E&R for engrossing. [LB727]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB727 advanced to E&R for engrossing. Mr. Clerk, we now move to Select File, 2010 Senator priority bills, Utter division, LB763. [LB727 LB763]

CLERK: LB763, Senator, I have no amendments to the bill. [LB763]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB763]

SENATOR NORDQUIST: Mr. President, I move LB763 to E&R for engrossing. [LB763]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB763 advanced to E&R for engrossing. Mr. Clerk, we now move to LB1087. [LB763 LB1087]

CLERK: LB1087, Senator, does have Enrollment and Review amendments. (ER8181, Legislative Journal page 755.) [LB1087]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB1087]

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

Floor Debate
March 17, 2010

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1087. [LB1087]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk, are there any amendments to this bill? [LB1087]

CLERK: Nothing further, Mr. President. [LB1087]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB1087]

SENATOR NORDQUIST: Mr. President, I move LB1087 to E&R for engrossing. [LB1087]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB1087 advanced to E&R for engrossing. Mr. Clerk, we now proceed to LR284CA. [LB1087 LR284CA]

CLERK: LR284CA, Senator, I have no amendments to that bill. [LR284CA]

SPEAKER FLOOD: We now turn to discussion on LR284CA on Select File. Senator Louden, you are recognized. [LR284CA]

SENATOR LOUDEN: Yes, thank you, Mr. President and members. As we discussed this the other day and we've had some handouts around here that went clear back to 1993 when they discussed this matter, but I think it was mentioned on the mike the other day that the Department of Revenue said they could take that work over and without hiring any additional help. And I've talked to Director Ewald today and he assured me that that is not true. He said there were about three or four positions that they could probably work with and probably...that they would do some cooperation between the Treasurer and Department of Revenue, they could probably do away with maybe three or four positions in there. They do have some duplications in some of the check writing and some of the collections. But other than that, he said there's no way that they could take over the size of that agency in their department over there without having to hire additional people or perhaps just moving the people that are over there at the present time. As I noted before, they've streamlined that Treasury's Office considerably over the last few years. They've gotten rid of somewhere's around four or five less people now than what they were using just a few years ago. So this is something that they're streamlining at the present time and I'd be very careful about doing away with this office. They do take care of some of your child support and that was a real issue here a few years ago. If you turn around and put that back into the Health and Human Services and some of that, Lord only knows what will happen to it. I think it's important that we have an elected official that you can face when it comes to

Floor Debate
March 17, 2010

some of these, like child support payments and some of that. Now, they've been doing a very good job with unclaimed properties here in the last few years since we've started that program. We've been sending out letters here lately. Already we've gotten a letter back from one person that got \$1,000 back here since they put that list out here the other day, so their unclaimed properties is a very big issue. Now, whether it can work as well someplace else, I would be hesitant to say. But I think at the present time that the thing is working, so I would ask that you really think about this when you vote which way you want to advance this bill. Thank you, Mr. President. [LR284CA]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Loudon. Senator Sullivan, you're recognized. [LR284CA]

SENATOR SULLIVAN: Thank you very much, Mr. President. Since we talked about this proposed legislation on General File, and I actually mention it in my newsletter that I sent out in the district, and so consequently I've heard from a lot of people with some, mostly questions on how they think it might work. So I wondered if Senator Utter might yield for some questions. [LR284CA]

SENATOR LANGEMEIER: Senator Utter, would you yield? [LR284CA]

SENATOR UTTER: Yes, I will. [LR284CA]

SENATOR SULLIVAN: Thank you, Senator. One of the things, well, two actually, concepts that were brought forward by some of the people that contacted me were with respect to segregation of duties, and also particularly the financial reporting. And I wonder if you have any thoughts on if we abolish the State Treasurer, any thoughts about who is going to handle this internal control over any financial reporting? [LR284CA]

SENATOR UTTER: Thank you, Senator Sullivan, for that question. And yes, we have discussed that and it...there is somewhat of a duplication of duties between the Treasurer and the Auditor in that regard. The State Auditor is the person that is responsible for auditing all of the departments of state government. And I would assume that he, as an elected official, provides some degree of independence and that he will continue to audit the Department of Revenue, the Department of Administrative Services, wherever these duties end up. And I think that it's important to note that it's going to be a big duty of the incoming State Treasurer, whoever that may be, over the next four years along with the activities of the Government Committee and probably the activities of other people to determine the proper place for all of these duties to flow. I don't think it has been suggested at any time that all of the duties are probably going to flow to one department. [LR284CA]

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

Floor Debate
March 17, 2010

SENATOR SULLIVAN: In that whole process and you, I'm sure as a banker know this as well as I do, that one of the things you have to be careful of is that not the same person is handling the deposits as well as making the payments. So is that one of the cautionary notes, I guess, in terms of dispersing some of these responsibilities that we have to keep that in mind that we don't give those two responsibilities to the same entity? [LR284CA]

SENATOR UTTER: I think that's absolutely right, Senator Sullivan. And as I would anticipate what may happen is that we may actually end up with the Department of Revenue handling the depository side of the situation while the Department of Administrative Services handles the disbursement side. And as a matter of fact, they're largely doing a good share of those duties already. [LR284CA]

SENATOR SULLIVAN: That's true. I notice, though, that the State Auditor in his functions right now issues reports to the different state agencies when he does do an audit of them and identifies some deficiencies. And so this, again, is just kind of a cautionary note because in his letter to the Department of Administrative Services he does identify quite a number of accounting deficiencies. So this is probably...has the potential to be quite a process. And so that's my next question is, you had indicated that it will be the job of the newly elected State Treasurer for the remainder of his or her term to decide how this is going to be closed out. But do you, yourself, have any plans that would involve introducing legislation next session should this be successful? [LR284CA]

SENATOR UTTER: Absolutely. I think over the next several sessions there will have to be additional legislation involved that will define the duties of the old State Treasurer's Office and delegate those duties to new offices and maybe even broadly define the responsibilities of those offices. [LR284CA]

SENATOR SULLIVAN: Thank you, Senator. I guess, you know, I'm a little conflicted right now, I have to say, because I know it was mentioned that this is a good idea to give this to the voters, give them the choice. I don't necessarily disagree with this but by the same token there's always more to an issue than what we initially think in our quest to make government more efficient and to recognize some cost savings. And so it's incumbent on us to... [LR284CA]

SENATOR LANGEMEIER: Time. [LR284CA]

SENATOR SULLIVAN: Thank you. [LR284CA]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. Those wishing to speak, we have Senator Price, Coash, Hadley, Hansen, Christensen, and others. Senator Price, you're recognized. [LR284CA]

Floor Debate
March 17, 2010

SENATOR PRICE: Thank you, Mr. President, members of the body. I rise, much as the good Senator Sullivan has said, somewhat conflicted understanding that reduction in government and removing people are making us small, I should say, is pretty much like the crack cocaine. You know, we all want to do it. You know, it's an addictive thing but we have to be very careful and judicious about how we go about this. And one of the things I've learned in researching is that there are a lot of different agencies, as we all know, when we get our budget briefings. And one of the challenges or one of the things that happens right now with a single point focus in the Treasurer's Office is we have a constitutional officer that can reach out and touch an agency and motivate them to reconcile their books each year or in a period of time as prescribed and affect an answer. And one of the challenges would be that if we didn't have a central point with the authority of that office, that these reconciliation actions aren't always done in a timely manner. And I say that because there's been conversations with the Director of the Treasury Management, Mr. Joe Howe, out of Minnesota. We heard that Minnesota has done this lately. And here's the experience in Minnesota. First, one of the biggest problems is getting agencies to reconcile their books. Secondly, within a year, department salaries grew by \$15,000. So, again, as we were talking about this last time we mentioned that where areas that the Treasurer had 11 percent budget reduction and a 22 percent reduction in staff, which tells me most of the people there are fully engaged. Now, by removing the Treasurer it's understood we would save the salary of the Treasurer and perhaps a few other people. But when we move the functions, when we move the work, that work to me doesn't seem like it can lay over other people who are fully employed. You know, all respects to the coaches in the body and across the state but you can't get a 110 percent. You can only get all of what someone has, the full measure. If I have two people who are fully engaged and I move the duties of one on top of the other, it's very simple, something will not get done or you will hire a person to do it or you bring that person over. So your choices are very clear-cut. So are the savings really there? But more importantly, members, I would like to ask that you consider how hard it is to get things done, those of you who have run businesses, those of you who have had to lead organizations. When subdivisions of your organization are required to report, the president comes up and says, I want that report, it seems to come up pretty quick. But if it's a nonpresident level, it doesn't rise up to that level in the organization, it could take a while. And can we afford that? Can we afford that delay in reporting? So these are the questions I have about this and I'm hoping... [LR284CA]

SENATOR LANGEMEIER: One minute. [LR284CA]

SENATOR PRICE: ...to hear answers. Thank you, Mr. President. And I'm hoping that somewhere along the discussion maybe there's a way, maybe there will be some type of assurance written into the legislation that says, you know, you can't jack your budget up, that you have to report. These are very important things to consider. It's not that I'm against the concept. I just want to be sure that all these things are addressed in full

Floor Debate
March 17, 2010

measure. Thank you, Mr. President. [LR284CA]

SENATOR LANGEMEIER: Thank you, Senator Price. Senator Coash, you're recognized. [LR284CA]

SENATOR COASH: Thank you, Mr. President, members of the body. I was going to mention many of the same things Senator Sullivan and Senator Price have mentioned. I have concerns on this constitutional amendment as well. However, I bring a solution, should the body choose to take advantage of it. During the debate on LR284 I listened to the body, we talked about the money that could be saved, who would take over the duties of the State Treasurer, where duplication of services occurred. However, I did not feel comfortable with the conviction and the certainty of answers that were given. We continued to hear that this will save money and that we can move duties but we didn't hear a plan. What we have in front of us, colleagues, is a measure but we have not put forth a plan to get us there. We should be able to say to the voters, should you approve this measure, this is what it will save you, this is how much it will save you, and this is where current Treasurer duties will go. We can't say that to the voters today. All we can say is, if you pass this, we'll figure it out after. And I think that's a little bit backwards. For example, take the duty of collecting and disbursing child support payments. Where is this duty going to go? How are we going to answer that question to our voters when they go to the ballot to vote on this constitutional amendment? It was once the responsibility of HHS but that responsibility has moved because they couldn't do it efficiently. Do we know where that duty would go? I agree with Senator Utter in that duties can be done in other departments but I don't have answers as to how much those duties will cost. So this is about assuring people having the ability to make an informed decision. We need to send a message to the voters that we have thought this through in here. And should they, the people, decide that this is a prudent thing to do, we have a plan in place. Come to really cherish our constitution over the last two years as a very sacred document. It's so sacred that if we're going to change it, we put it in front of the people in order to do that. We should not change it without the due diligence of a study. And so, colleagues, I've passed out a copy of a study, a proposed study that would identify how this would take place, what it would cost, and ask the Government Committee to carry out that study. So if you're like me and you believe that you haven't got these questions answered, you think we should put a plan in place before we put it to the voters, I now offer you an alternative. Should the body choose not to advance LR284, we have a mechanism to get these things in place. And I will put to you, colleagues, that if this study were done and it came back and it said, we can find other places for these duties and we can do it without adding cost, I'll carry this resolution. Because if we don't need the Treasurer's Office, we don't need it. But if you're like me, colleagues, you just haven't come to that conclusion yet, and I did want to bring something that would allow us to make that decision and give that to the body for its consideration. Thank you, Mr. President. [LR284CA]

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

Floor Debate
March 17, 2010

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Thank you, Senator Coash. Senator Hadley, you're next and recognized. [LR284CA]

SENATOR HADLEY: Mr. President, members of the body, I stand in favor of LR284. We talk about plans. We want to have plans. We want to see in detail how things are going to happen. What did we do yesterday afternoon? We approved a budget, didn't we? First round reading on the budget. We're cutting \$468,957 out of Revenue. Did we ask them for a plan? Did we ask them how that's going to impact their operations? No, we told them do it, right? We're going to cut \$1,639,592 out of Health and Human Services administration. Did we ask them for a plan? Did we say, oh, we've got to have a plan before we vote on this? No, we told them, this is what you have to do. Remember, this is not...this constitutional amendment is not eliminating the office. We're putting it up to a vote of the people, the people we work for. The people that are consistently saying, you don't do enough in Lincoln to streamline government. So we're giving them a chance. The argument that we have an elected official. The Health and Human Services budget is about a billion dollars. It has over 6,000 employees. It doesn't have an elected official as the head of it. Shouldn't we have that? Shouldn't we have...if our largest agency, basically, shouldn't it be directly responsible to the people? It goes through the Governor. It goes through the administration. I think we need to really look at this and give the people a chance to vote. I happened to be with the Commissioner of Revenue when he made the comment about what they could do and not do. And he specifically said they were doing some duties that are being duplicated in the Treasurer's Office, and he specifically said they could do those duties in the Revenue Department. That we have duplication there. I would argue that it's time to put this up to the vote of the people. There will be people on both sides that will be arguing trying to sway the people of the state of Nebraska to either vote for this constitutional amendment or against this constitutional amendment. How do we go out and say to the people, oh, we don't want you to vote. We're going to study it again. If we're going to study this, I want to study every one of these budget cuts. I want to know what Health and Human Services is going to do for that million six that we're going to cut them. Or for Revenue that we're going to cut a half a million dollars out. I want to know what their plans are. But I have faith in the system. Lastly, we talk about who...if this is passed, how it works. Our job as a Legislature is to ask the people what they want, they tell us, our job is to implement it. If they say they want the Treasurer's Office dissolved, it's our job to see what duties are there, to change the appropriate laws, and to put those duties out to other governmental agencies. So I stand in favor of LR284 and I hope you will vote for it. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Hadley. Those wishing to speak: Senators Hansen, Christensen, Janssen, Sullivan, Price, and others. Senator Hansen, you're recognized. [LR284CA]

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

Floor Debate
March 17, 2010

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Would Senator Utter yield for a question? [LR284CA]

SENATOR ROBERT: Senator Utter, would you yield to a question? [LR284CA]

SENATOR UTTER: Yes, I will. [LR284CA]

SENATOR HANSEN: Thank you. Senator Utter, the other day when we were having floor debate on this particular constitutional amendment change, you...I think you listed the departments that you thought that the State Treasurer could be diversified in. Could you just recap that just a little bit? I know we've already talked about the Department of Revenue, but what other agencies would take this position on? [LR284CA]

SENATOR UTTER: Well, I think it would be inappropriate, Senator Hansen, to...for us to stand right here today and designate with any degree of specificity which one of these duties should go where. I have visited, we have visited with the Department of Revenue. The Department of Administrative Services already writes the checks. So it seems to me like there's a logical flow there. As to where the unclaimed property goes, the college savings plan goes, the health plan goes, the other duties that the State Treasurer is doing, I think that's...after this bill is approved by the voters, if it is, then we get down to work and figure out where they're going to go. There's a place for all of them, but I don't know that I could stand here right today and tell you exactly where that place is. [LR284CA]

SENATOR HANSEN: I appreciate that. That, in fact, means that we need to take a little more time on this and I do appreciate the time frame that you do have in this constitutional amendment. It's going to be several years and people are going to have time to figure this out. I received a very simple e-mail after the discussion on the floor the other day. And it was from a gentleman from the district and suggested that any function of the Treasurer should not go to HHS because HHS, the Department of HHS, can't do what they're, you know, what they're assigned to do now. And he was very concerned about that and legitimately so. On Appropriations we did another across-the-board cut. And that's what Senator Hadley was referring to that we are cutting agencies. We really are. So the accountability and the oversight that the Treasurer's Department does now to some extent because they're the ones that write all the checks. They have the budgets. They see the budgets and they make sure that they're not over those budgets. I have a bad feeling that in this time where we are cutting the budget and if we cut the budget, I don't think that we ought to go back to where we were spending before. Let's have a leaner government. It's fine. Somebody is going to have to be there for accountability and oversight. And if not the Treasurer, who? We need...those are the kind of discussions we're going to need. Senator Langemeier and the Natural Resources Committee this morning passed a wind bill, a

Floor Debate
March 17, 2010

comprehensive wind bill. It took them, I would say, the most part of two years just to figure out how to get that bill on the floor. I think that's the way to do this. I'm not sure, I think...but I think I agree with Senator Coash that we may be getting the cart in front of the horse. The study needs to come first and I voted red on this the other day and I think I'll continue to do that. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Hansen. Senator Christensen, you're recognized. [LR284CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. I think we need to sit back here a little bit, just think about what we're doing. Right now the people elect the Treasurer. They have a direct response. If they don't like the Treasurer they can remove him where if this rolls underneath the Governor appointed departments, these different duties, we don't have that direct representation to the public. So I ask you one question. Are we taking away the voice of the people? And maybe we're not. I just ask that question because I've not fully developed that in my mind. I want to save money like anyone else but I think we need to fully discuss this and have a plan before we just send it to the people. If you want this to succeed, if you're voting for this bill, I would think you would have a much easier time of success with the public if they knew how the plan was going to be devised. If we're going to wait and see if they kill it and then come up with a plan, I would think the public is going to say, you know what, I'm going to say no until you come up with a plan. I'm not so sure the people wouldn't vote for it if they knew how it was going to be done, how it was going to be managed, and how this was going to be handled. But I don't think the public will vote for it without that. I could be totally wrong, but I just suggest that we sit back and think, how is this going to be accomplished and is it right just to blankly say to the people, vote on this, get rid of it, and then we'll come back and figure out how it's going to be done. I guess I got a little bit of concern right there. I'm not sure what to do on the bill. I voted red the first time just because I hadn't fully decided what I wanted to do and what I thought was right. Oh, actually, I guess I voted red, or green but it doesn't matter. I'm not fully decided yet and I'm concerned and I think people need to think about that. Do we need to provide a plan to give this the best shot of success? And I'd gladly yield my time to Senator Utter if he'd like it. [LR284CA]

SENATOR ROBERT: Senator Utter, 2:30. [LR284CA]

SENATOR UTTER: Thank you, Senator Christensen. Colleagues, let me just spend a minute or two and talk to you about our situation and where we're at in our government today. We spent considerable amount of time yesterday in addition to talking about this year's budget, talking about next year's budget. I would say to you, doing the type of things that we're trying to do here cannot come too soon to state government. And I would say to you that this is just the beginning. It's not the end. That if this government is going to serve the people of Nebraska in a responsible and efficient manner, we have

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

Floor Debate
March 17, 2010

got to seek ways to streamline state government to make it smaller and to make it run on less taxpayer dollars. And I think this is a step in that direction. And so I'm going...I urge you to consider that and for some of you I understand it may take a leap of faith to vote green on this bill. For others of you, you've probably made up your mind one way or the other. But I think this is an important move for the people of this state and I think it's also important because we are putting it to the voters, we're not making the final decision... [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR UTTER: ...we are putting it to the voters and they are the ones that are going to make the final decision on this bill, on this constitutional amendment. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Utter. Mr. Clerk. [LR284CA]

CLERK: Mr. President, Senator Janssen would move to indefinitely postpone LR284. Senator Utter as the principal introducer you would have the option to take that motion up now or lay it over, Senator. [LR284CA]

SENATOR UTTER: No, let's go ahead and take it up. I think it needs discussing. [LR284CA]

SENATOR ROBERT: Senator Janssen, as introducer of MO90, you are recognized to open. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I don't bring this lightly. I've obviously made my, or maybe not so obviously, made my opposition to this for many reasons. Both during committee I did not vote to advance this. I voted in opposition to this in committee, voted in opposition on General File. I tried to help amend it. We agreed to move...and we did agree to an amendment basically making it four years. And I thought at the time that really wasn't fair for somebody to be out there running for this office and we have multiple candidates running for this office. Not fair for them to run for what would be, I think at the time originally written, a two-year term. It was agreed upon to make it a four...let them have the complete term that they're running and I think that was at least fair. But the more I looked at it, now we've got candidates out there running for a position just on the merits of the position. They can't run on whether or not the office will be there or not. They're trying to put a plan together for the State Treasurer's Office, make it more efficient, and floating their ideas out to the Nebraska population, the voters. With this looming in the background that the office may be gone and they're going to get there and their plans don't matter now because they're number one objective is based on what we've put in front of them. Now, that's within our rights. I'm certainly not here trying to say that we can't do that because we can. We

Floor Debate
March 17, 2010

passed it through the first round and it's certainly within our powers and whether or not this motion fails or not, I guess we get to vote on that and we can send it to the voters after that. But listening to Senator Coash, I think he brought what is responsible. I'm not saying I'm for or against what the Treasurer does in the way he does it, how he does it, or she does it. I think it's worth looking into. Senator Coash has put something forward to us. In talking to him about it, it would have been our preference, this is not a bill. It would have been our preference to put an amendment on this. It was not my preference to IPP this, but this seems to be the means to stop and take a look at this. As a body we've chosen to do this once already. We've chosen to stop and say, well, we don't need to do it in two years, we can do it in four years. Well, guess what? We still can do it in four years but we don't have to rush it right now. I disagree with putting this forward and not having a plan in place. That's just my opinion. I know others see it the opposite way and they're welcome to, obviously, push their buttons and say that. I don't expect this to be a very popular IPP motion but that's never stopped me before. I just think it's fair. I think it's fair not only for the people running, I think it's fair for the people voting on this. I serve on the Government Committee. I would happily serve to find out whether or not this office is needed or not. I just don't think there's been the proper study done on it. And when I say study it, I'm not saying let's study it to make this go away. I'll study it. I'll get with Senator Utter, if he chooses to continue carrying this, and we'll find out. We'll find out what it will cost to have someone run the child support, we'll find out the college savings plans. These are all things that we'll find out. And then we'll come back and we'll say, you know what, Senator Utter had a pretty good idea or you know what, we found out it's going to cost this much for this program, this much for this agency director, this much for this agency director. We can get with the states that have done this and we can dig a little deeper instead of calling up to a state and asking the person who was actually put in place by the deletion of the State Treasurer's job to ask them how it is actually working. How did you do it? Let's find out. I talked on General File how this really isn't transparency in government because you're not going to have that person that you can vote in or out anymore. I've talked on General File how this actually takes the choice away from the voters. They are effectively giving themselves no choice in how these programs are ran. Somebody will get put in these positions and they'll be there and good luck finding that person, whoever he or she may be. It will be very difficult for Joe Nebraskan to call in and find out who is responsible for this, where or what, and if I'm upset, how do I vent that frustration. Sure, you can call the Senators. You could certainly do that. Then we find it. But you don't have that State Treasurer that's telling you, this is what I've done and this is why I did it. Like it or not, this is why I did it and guess what, if you don't like it, you can vote me out. The other way is, if you don't like this director, you got to talk to the person that may have appointed him, that may not be in that office anymore, and you can realize the frustration. I think we're adding to the frustration on this. Senator Hadley brought up a point about the budget. I think we're talking about two different things. The budget is statutory. We can change that. This is constitutional. This is really for keeps. So I think it deserves the fair study that Senator Coash has taken the time. I haven't gone through it over and over. He's

Floor Debate
March 17, 2010

briefed me on it. It's worth more time to look at. I think it's worth an interim study to look at. I'd be happy to sponsor, cosponsor, whatever, an interim study to get this done. I am not totally against what Senator Utter is doing. I just think we need to step back and not rush through it right away. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Janssen. Members, you've heard the opening to MO90 to indefinitely postpone LR284CA. Those wishing to speak: Senators Janssen, Sullivan, Price, Nelson, Dubas, Utter, and others. Senator Janssen, you are next in the queue. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President, members. I won't continue on. What I would like to do is yield my time to Senator Coash so he could talk a little bit more about what we had discussed off mike and some of the ideas we had to take a step back and look at this from all angles, not just a couple debates on the floor, something that came out of the Government Committee, but something that we can really tie into. With that, I'd yield the balance of my time to Senator Coash. [LR284CA]

SENATOR ROBERT: Senator Coash, 4:35. [LR284CA]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Janssen for the time. I'll just take a few moments, colleagues, to talk about a handout that is going around that just illustrates in my mind why this is an important issue. You're getting two handouts. One is a handout indicating the Department of Revenue and their expenditures and total budget and total number of employees from '05 to the last biennium, '08-09. And what you're going to notice is that the Department of Revenue...and I just pulled them out as an example. I'm not bagging on the Department of Revenue here but that's a department that's been talked about frequently as a department that can take some of the Treasurer duties. With the duties that they have, currently they are continuing to increase their budget and increase the number of employees. Comparatively, when you look at the State Treasurer's budget, they're decreasing the number of employees and getting the same amount of work done. So what...as I think it was Senator Price that pointed out earlier, if you have an amount of duties that is holding steady and then you add, what do you expect will happen? You're going to have to add more employees, more to the budget because that's just the math of the issue. So take a look at that, colleagues, and tell me if you think that the Department of Revenue can take on duties. They might be able to. We just don't know. I didn't pass out the HHS page because it's a little bit longer but I got real concerns with adding anything else to HHS. Anything. As I mentioned in my first opening, they had to give duties away recently. Child support enforcement. Why? Because they couldn't do it efficiently. So I'll bring your attention back to the interim study that I passed around. It just very straightforward says, let's look at the duties, let's see where they're going, and let's see what if...for example, if the Department of Revenue is going to take these five duties, let's let them come tell us, this is what it will do to our budget, this is what it will

Floor Debate
March 17, 2010

do to the number of employees that we have, and then if it saves us money, let's get rid of the Treasurer's Office. Makes sense to me. The study speaks for itself, colleagues, and I didn't introduce this study lightly. I entered...because I know the value of a study and I think that there's a place for this. And the place for it is before we put something to the people of the magnitude that LR284 puts forth. And so, again, this is about not putting the cart before the horse and saying, we have the plan, now we have the outcome. I think we owe it to the voters, colleagues. We owe it to the voters to tell them we thought this through. Senator Hadley earlier talked about why don't we do this with the budget? I would put to the body and to Senator Hadley that in the budget we change statute. This changes the constitution. There is a difference, colleagues, and I think when we look at changing something as sacred as the constitution it deserves more study. So I appreciate... [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR COASH: ...the body's consideration of this. I will tell you that if Senator Janssen's IPP motion goes through, this wouldn't be the end. Let's run this up. So let's not let this be the end of the discussion about efficiency in government. Let's not let this be the end of discussion about how we can streamline services. Let's let today be the beginning. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Coash and Senator Janssen. Senator Sullivan, you're recognized. [LR284CA]

SENATOR SULLIVAN: Thank you, Mr. President. I stand not in favor of the motion to indefinitely postpone LR284. I think we just need an up or down vote on that on the resolution itself. I am all for giving the people voice and that's in part why I'm standing here today because as I indicated earlier, having mentioned this in my newsletter, I heard from people. And as we listen to those voices of the people, I think it's incumbent on us and this body to continue asking the questions. That's in part what this body is charged to do. Peel the onion, if you will, to ask those tough questions to get to the real meat of the issue. And so my concerns remain. Are we really, truly downsizing government by abolishing the State Treasurer? Will we save taxpayer dollars? The assumption is if we put this on the ballot to the people, the assumption is that we will, but...and they will assume that we have answered those questions. In my mind, we haven't. And we are...neither are we sure if we are minimizing the bureaucracy. In fact, are we adding to it? So I think we...and we've talked a lot about the office of State Auditor as assuming some of these duties. But I remind you that the Auditor is in the true function of an auditor looks at things after they've been done, doesn't get in the mix of actually carrying out those duties. So just a cautionary note on that. But getting back to making the assumption that we are downsizing government, minimizing the bureaucracy, and saving taxpayer dollars, that could potentially be a faulty assumption and we all know what happens when we assume things. So with that, I yield the

Floor Debate
March 17, 2010

remainder of my time to Senator Conrad. [LR284CA]

SENATOR ROBERT: Senator Conrad, 2 minutes 50 seconds. [LR284CA]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues, and thank you, Senator Sullivan, for some time. I have my light on but it's quite a way down in the queue and I wanted to get a couple points in the record early on. Of course, Senator Janssen, it is his right as it is each of ours to put forward procedural motions when we have issues with the underlying substantive nature of the bills before us, but we should proceed with caution when we do that. Senator Janssen has chosen to substitute his personal opinion over that of the collective judgment of this body. This legislation received 37 votes in support on General File. That is resounding bipartisan support, support in favor of an idea whose time has come. State government, you need to figure out how to do more with less. That's the plan. I think it's very convenient that when people run for office they put out slick political slogans about being for less government and lower taxes. But then when presented with the opportunity to actually accomplish that with a constructive proposal as put forth by Senator Utter, they not only vote against it, as is their right, but then they play political and procedural games with the issue. Senator Janssen's personal opinion did not prevail in the committee. In fact, he was the only member of the committee who voted against this legislation. Senator Janssen's personal opinion do not prevail on General File. In fact, we had 37 votes in favor. And don't tell me that it's the public who deserves and is crying out for this kind of procedural move because check the committee statement, folks. No one from the public came in to testify against this bill. No one from state government came in to testify against this bill. That is the time for public debate and dialogue. [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR CONRAD: There was full notice. There was full hearing and there wasn't a peep. Colleagues, I urge you to kill this motion to indefinitely postpone this important legislation. Senator Utter has done a fantastic job in coming forward with a credible and constructive idea for how to reform government. And Senator Coash is right. This is just a start in terms for what we need to do to meet our budgetary and other obligations as we move forward and decide what are our priorities going to be as a state. And I think our priorities should be in downsizing, finding efficiencies, and saving the taxpayer dollar. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Conrad and Senator Sullivan. Senator Price, you're recognized. [LR284CA]

SENATOR PRICE: Thank you, Mr. President, members of the body. Earlier in my remarks I meant to use a euphemism and instead I provided a colloquialism in my exuberance and passion, and I want the body to know that there was in no way an

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

Floor Debate
March 17, 2010

intention to say that there was a desire for such an activity. And with that, I would yield the balance of my time to Senator Utter. [LR284CA]

SENATOR ROBERT: Senator Utter, 4 minutes 30 seconds. Senator Utter, you've been yielded 4 minutes and 25 seconds. [LR284CA]

SENATOR UTTER: Thank you very much. Colleagues, I appreciate the conversations that we are having and the...and I respect all of your opinions. And at this stage of the game, I want to assure you that I didn't do this on a lark. This is pretty serious stuff to me. It is serious enough that I named it my priority bill. I and my staff along with other people have worked very hard putting this together and we have taken a look at what other states have done that do not have an elected treasurer. We have looked at the study that was done in the 1980's by Senator...when Senator Wesley presented this proposal. And I just want to read to you just for...a paragraph or two out of that study. Several studies have been done on this issue but nothing has ever been resolved. One thing is sure, we have reassigned a number of duties once associated with the Treasurer to other areas of state government. For example, several years ago one of the local banks arranged with the Department of Administrative Services for direct deposit of state employee checks. Once the State Treasurer signed every check, every warrant. But now, modern technology and machines have caught up with that rule. Between DAS and the Department of Revenue, many of the State Treasurer's duties and responsibilities have been reassigned. That is not to say people in the office don't work because they do. But one of the things they do is recover a lot of money by the unclaimed property program, but again this could be handled by DAS. The report of the Nebraska Legislative Council Committee on Constitutional Revision, LR150 led by Senator Wesley concluded that the State Treasurer's Office be eliminated. So it isn't as if this issue has not been studied before. It isn't as if this issue has not been considered in other states and other states have eliminated the State Treasurer's position in an effort to save money and streamline government. We are not reinventing the wheel. We, in fact, are on a mission to streamline state government to make state government more efficient, to make it more effective, and to make it more responsible to the voters of and citizens of Nebraska. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Utter. Senator Nelson, you're next and recognized. [LR284CA]

SENATOR NELSON: Thank you, Mr. President and members of the body. I would pose this question. What proof, what evidence do we have that we're going to have any more efficiency in our government by simply transferring 25 jobs from the Treasurer's Office over to the other departments where they get lost and where we don't have any accountability? I support this motion by Senator Janssen. I think it's a good time to discuss this. I think that we are moving ahead with full plank speed on this or that we did with 37 votes without the due consideration that we needed. I was very uneasy at the

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

Floor Debate
March 17, 2010

time that we took that vote. I didn't feel we were fully informed. I still don't feel we are fully informed and therefore I was not voting on that. I can tell you now from what I've heard and from all the questions that have been asked, I support the motion. If that fails, I certainly support or will vote red on the resolution itself. That's not because I don't feel that, you know, there may be some question that we should do this but I just don't think that we have enough information. I would ask Senator Utter, this study was done 30 years ago. There were prior studies. Here we are 30 years later and we haven't done a study on this. Did we have a full hearing on this? How can you call it a full hearing if no one appears and testifies and the only person that's talking is the proponent of the bill? What else is the committee to do? They're going to go ahead with a leap on faith, I suppose, and that's what we're asking the voters of Nebraska to do. I wonder how many people in this Chamber have actually set foot in the Treasurer's Office. I happen to have because I was interested in something from the standpoint of Appropriations two years ago and I got a tour. And I have a good idea of what they do. If the members of this body don't know what the employees do, how do we expect the people of Nebraska to know what the Treasurer do. And I'm going to think that if that appears on the ballot, the same thing is going to happen that happened back in the 1930's when we went to a Unicameral Legislature. There were good motives and they were well explained, but I happen to think it was a difficult time financially and it was appealing to the voters of Nebraska to cut the numbers and the cost basically in half. And it turned out to be a good thing. But you can bet that Senator Norris had things planned out in advance as to what was going to happen and the people were informed about it. All we know now is that these can be transferred to other departments. It's been said that we took the budget on faith. We didn't take the budget on faith. The Appropriations Committee worked for several months, two months at least, to get this in place and determine the amount of money that we were in a shortfall with and where it had to come from. And it appeared that \$7.5 million in this latest go around was going to have to come from the departments and that was going to be achieved by a 2 percent cut. I call that a plan. It's up to the Governor and departments then to decide how that 2 percent is going to be implemented and the other 5 percent down the road. So we need to be in a position where we can tell the people of Nebraska how this is going to work. We can't do that now. They're going to vote just on a leap of faith if this gets on the ballot. If nothing else, we need to have a current informative study that tells us what will happen, what jobs are going to be transferred where. I talked with the Director of the Department of Revenue and he said, yes, we can absorb some of these. Now I find out today, well, we could only absorb four or five of those positions. And I have to believe that the only thing we're going to save with this is maybe anywhere from \$200,000 to \$400,000... [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR NELSON: ...because of the people that are heading up the Treasurer's Office. This is a constitutional office. We should not be moving rapidly on this or lightly. Let's take our time on this, whatever it takes, whether we postpone it indefinitely or we

Floor Debate
March 17, 2010

just back off and take another close look at this and get testimony from concerned citizens who, I think, were surprised to see what we had done, because I've heard from constituents as well. So with that, I would urge that you support the motion and then we get another start where we have more information and we can go to the people of Nebraska and give them something that they can decide, is this what we want to do. Do we want to abolish a constitutional office or do we want accountability and let everything go over into departments that really have more than they can handle right now? Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Nelson. Senator Dubas, you're recognized. [LR284CA]

SENATOR DUBAS: Thank you, Mr. President. Good afternoon, members of the body. This has been a great discussion, a very important discussion. I know this bill advanced from General to Select with a lot of votes. I was one of those green votes but I was also one of those votes was...that feeling like I wanted to have more opportunity to continue to research and understand this particular issue. As I've talked with constituents around my district about this, they asked me many of the questions that we are asking ourselves here on the floor. How much money are we really going to save? How will it impact us as voters? Many questions that I really don't feel like I have the ability to answer and that I haven't heard real specific answers to as of yet. So while I don't support the IPP motion, I do think we need to take this to an up or down vote. If I vote green on this it will be, again, just to give myself some more time to understand the issue better and get some more feedback from my constituents because this is an important issue. We're asking the people to vote on something right now that maybe we don't even have all of the information on. And I think if we're going to put this on the ballot, we need to be able to at least give our constituents and the citizens of Nebraska solid and reliable information to make that decision on. I appreciate Senator Loudon's comments. Everyone of us in here have introduced bills that will cause one particular agency or another to have to do something different or add to their workload. And so we know we get fiscal notes back saying, well, we can't just do that with existing staff, we're going to have to add people or do something different and there will be a cost to it. So I can't believe that the jobs that the Treasurer's Office is doing right now can be absorbed by any other agency without some kind of a fiscal impact to the state. And I think maybe right now we might be penny-wise but pound-foolish in making this kind of a decision. And while it may appear that we're saving money up front, what's it ultimately going to cost us down the road? I also think any time that we are looking at removing an elected position, this is a position that is just like our position, is responsive to their voters, is responsive to their constituents. So when you take this particular office and disperse it amongst different agencies and into a bureaucracy, you lose that ability to have that connection with your constituents. You lose that ability to be responsive. I've called the Treasurer's Office on multiple times asking for help with child support issues and other things and I mean, they've been Johnny-on-the-spot with help in getting answers to my

Floor Debate
March 17, 2010

questions and helping the people that have contacted me or I have just referred my constituents on to the Treasurer's Office and they've been very beneficial. So, again, I think that direct contact with their voters, with their constituency is a very important thing that we should not think...we should not take away lightly. And, again, as we move these responsibilities into different agencies, they kind of get buried in that bureaucracy and then we lose that ability to really see if it's working or how it's working or if we're getting the biggest bang for the buck. I think we've got the Planning Committee in place. We've got some other things going on that will help us in the future make some pretty good informed decisions about how our government is working for the people. I'm definitely not opposed at looking at how do we make government more efficient, how do we make government do more with less? Is there a way that we shrink government? But I think we need to make that decision based on some very solid information that we can back up with numbers that we can show to our constituency what's happening. And when we create more bureaucracy, when we're putting more employees into...just like Senator Coash mentioned, the Department of Revenue or Health and Human Services. Not saying that, you know, everything they're doing is bad, but they are a very large agency and the more people you're dealing with, the farther away those people get from the people they're trying to serve, the more difficult it is for them to be responsive and the more difficult it is for us to find out just exactly how efficient are they working. And are they... [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR DUBAS: ...putting those dollars to the best use? So, you know, I'm still a little bit undecided as far as whether this should move forward or not. I trust our voters to make good decisions but I also feel it's part of our responsibility as we're talking about this to make sure that our voters as well as ourselves have the right kind of information and enough information to make an informed decision. So while I don't support the IPP motion, I do think we need to take this to an up or down vote and take it...carry on the conversation as it goes. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Dubas. Those wishing to speak: Senators Utter, Loudon, Gay, Coash, Conrad, Mello, and others. Senator Utter, you are recognized. [LR284CA]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. I'd like to yield my time to Senator Hadley. [LR284CA]

SENATOR ROBERT: Senator Hadley, 4 minutes 50 seconds. [LR284CA]

SENATOR HADLEY: Thank you, Senator, Mr. President, members of the body. I just want to respond to a couple things that I've heard and some of the things that I did say. And, you know, I did talk about the budgets that we passed. You can correct me if I'm

Floor Debate
March 17, 2010

wrong but we've had, I believe, across-the-board cuts, I believe, are two and a half, five, and two. And I understand the plan is to have across-the-board cuts, but to me a plan would be to go to the Department of Revenue and say, how does this impact you and we may not cut you 5 percent or 10 percent because maybe you can't take it as much as another department can take it. Yet we're sitting here saying, oh, we have to have a plan that tells us exactly how this is going to happen. Well, we don't do that in our budgeting. We don't get down to that level when we handle our budgeting. I heard about accountability. I'll go back and tell you again, 6,000 employees in Health and Human Services, a billion dollars. If we want to have it accountable, we better get somebody elected to handle Health and Human Services if we want direct accountability to the people because they're not accountable directly. They're accountable through the administrative branch. So the argument of accountability, I think, doesn't quite hold true. I think also Senator Conrad made the comment and I know I did it. People had asked me about streamlining government, oh, when I was running for office, that was...that's the byword, right? I'm going down to Lincoln and streamline government. I'm going to make sure that government is streamlined because everybody says, you got that bureaucracy. We talk about how easy it is for the State Treasurer to call and get answers. I tell you what, I got a lot of people that call me and tell me they can't find their way around state government no matter what the agency is. But consistently I had people say, you need to go down and streamline government. You need to make government more responsive. You need to streamline what you're doing down there. I would guess that a lot of us said that in our campaigns. Here's a chance. Here's a chance to let the people decide. We're not saying that they need to vote yes or no. This vote is to let them decide. I would say there's going to be a lot of people on both sides of this issue that's going to put out information between now and November as to whether it's a good proposal or not a good proposal. And I'm sorry, deep down I think it's important that we let the people make this decision. Thank you, Mr. President.
[LR284CA]

SENATOR ROBERT: Thank you, Senator Hadley. (Visitors introduced.) Returning to discussion, Senator Louden, you're recognized. [LR284CA]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I've listened to the discussion today, it seems to me it isn't about a matter of whether we want to save money or whether we want to streamline government or something like that. I think we all agree that that's what we're here for and that's what we should have to do as state legislators. The question we have before us to me is whether or not this is what this will do. If we're going to put this on a ballot and I always think when you put something on the ballot, you should at least give the voters an idea of what they're voting for and a plan or what the situation will be, what the consequences will be, and so forth. The way we're doing it here, you're putting it on the voters for them to decide yes or no and all you're saying is, should we abolish the Office of State Treasurer. The short answer would be they probably would want to put an amendment on there and

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

Floor Debate
March 17, 2010

there are two or three other offices they'd want to abolish also, but that isn't what it's all about. I think Senator Coash has mentioned something about a study on it and I think that if you were going to put this on the ballot to the people, you should put it on there where are you going with your different parts of that State Treasurer's Office. How much of it is going into Health and Human Services? Any of you that's dealt with that would know what the answer to that would be if you had to put much of the State Treasurer's jobs in Health and Human Services. Right now, they're usually maxed out on what they do. What do you put in the Department of Administrative Services? How many of you worked with the Department of Administrative Services? As I worked on that cemetery bill, the Veteran cemetery bill, we had a lot of trouble with the Department of Veteran Services. They could be...they could put a...some information on their desk or a contract on their desk and it would set there for a month and their answer was that we don't have time to look at it. And there was times when you had to get up close with them to get some stuff done. And that was because they're a state agency. When you have an elected official, at least you can go to the newspapers with some of that and it usually gets their attention. So we have to be careful on where we're going to put these different tasks that the State Treasurer does. Now, if we can have a study in here as Senator Coash, there would still be time. You could do that this next summer and you still have an election in 2012. You'd be still set up rather than to go about it by putting in a State Treasurer to decide how to get rid of it in 2014. Your time frame would still be the same. At least you would have some idea on what could be done and if there was any savings and as we call it, a cost ratio. And I would point out also that this handout that was passed around from 1993 that as some of the newspaper articles have pointed out, this is the first time that this has ever made it out of committee. It's been addressed before but it's never made it out of committee before. So I don't know how well it's been studied before or when you bring up these handouts of these papers or some of this script left over from some of these other hearings, I don't know whether this was just at the hearing or whether they actually had any kind of a study. So whether it was somebody's good idea or a vast plan back then with not quite a full idea, I don't know. But I think we need to study this a lot more than when we start into something and start changing the constitution. It needs to have more, a lot more work done on it than just to bring the bill up and put it out to the people. I think it's...the people is a good place to settle some of these things when we have something that they do have a good idea on what they're going to vote on. But the way this is to just say, well, let's let the people decide, to me that's really somewhat passing the buck onto the people. We're here to come up with ideas and sensible way of operation... [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR LOUDEN: ...and this isn't one of the ways to do it. So I would like to see either some type of a study or else wait on this or I don't know as I'll support the indefinitely postpone, but I don't think this bill should advance that much in its present form. Thank you, Mr. President. [LR284CA]

Floor Debate
March 17, 2010

SENATOR ROBERT: Thank you, Senator Louden. Senator Gay, you're recognized.
[LR284CA]

SENATOR GAY: Thank you, Mr. President. First of all, I don't support the IPP motion. I think there's some room for some more discussion here but I would be a little more comfortable with a plan or gathering that information through this process as I've heard others talk. It's a great discussion. But I think my...I voted for this, first of all, on General File and I'm going to vote for it again, I think, on Select File. And I don't know what I would do on final reading but that's why we take this time and these processes and talk amongst one another. What comes to my mind though, a little bit, is we're sent here by voters to make good decisions because they can't come here, they don't know all the facts, and what we're trying to do is gather those. So these difficult decisions, we're representing them. But now what we're saying is, well, you go make this difficult decision and does that voter...and I'm hearing this from others, too, so I'm glad to hear that, do they understand the complexity of the office, what they do. Senator Nelson made a very good point on that because that is the thing. Do they understand it too? We're asking them to make a decision on this to remove a constitutional officer and make that decision. Also I go back and forth on, can government truly be more efficient just because we're getting rid of that office? We're not getting rid of the duties of the office. Those duties will still have to be performed by somebody. We don't know who yet. What prompted me to vote for it and still is leaning me to vote for this right now is, Senator Utter made the comment, take...you take a leap of faith and get this done. I would like a little more direction of where it's done. I'm going to do my own research to see what other states are doing that don't have a treasurer so I can be more comfortable with it and go to explain to the people I represent, here's why I think you should take a listen. I have a concern though, too, when this does get on a ballot, we're going back and forth for hours literally. We'll probably be on this again for some more hours but...and we're going back and forth. We're the "experts in government" and they send us to make this decision and we are having a hard, hard time deciding this and I think that's telling me something that maybe we just don't have it all together yet on this. But the point I'm making, show me the efficiencies. I do want to see that. And I think we need more time to get that on our own or not or maybe we'll decide here today. I don't know but I'm going to advance this on and keep looking for those efficiencies and we'll see. This will be one of those bills, I think, on Final Reading where we're going to light up the board on different yeses and nos, but like I say, the actual duties are still going to need to be performed by somebody and unless I could see the savings and I knew a little more of where we're going. I'm still hanging on there on the leap of faith that Senator Utter says we should take because I do believe sometimes government inaction, let's do a study, you know how many studies that I've read or have been...you all know, there are a lot of studies out there. If you just take time reading the studies that were done over the last few years, you'd be tied up forever probably. So at some point that hasn't appealed to me to, let's go make it happen. You got to take a step to get

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

Floor Debate
March 17, 2010

going and maybe this is something to do. The Treasurer, I think back when they were looking at that Treasurer, to abolish Treasurer, I think the Treasurer at that point was under some management issued and some other concerns. This Treasurer has done a phenomenal job so when I make a decision, I'm not going to base it on anything like that. The current Treasurer we have has done a great job. There are very qualified people running for the job, so that's not it. The accountability and the office management has been very well run, so that doesn't really weigh into it to my factor. What I'm looking for and I hope what we'd hear some more about in this debate is, what is the long-term impact and how... [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR GAY: ...are we going to do this? So if there are ideas of that or more specific concrete measures that could be debated as well, I'd like to hear that. I think others would, too, as we hear this. Senator Dubas, I was listening to her comments were kind of the same as mine. Let's move it a little more. We're all going home. We're going to listen to constituents and see what they say and go from there. So look forward to continuing the debate and I look forward to Senator Utter giving us some more information on how this would work. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Gay. Mr. Clerk, you have items. [LR284CA]

CLERK: I do, Mr. President, thank you. Enrollment and Review reports LB935, LB317, LB1106, LB1106A, LB1091, LB1090, and LB1071 all to Select File, some having Enrollment and Review amendments. And Senator Heidemann, an amendment to LB935 to be printed. That's all that I have. Thank you. (Legislative Journal pages 947-953.) [LB935 LB317 LB1106 LB1106A LB1091 LB1090 LB1071]

SENATOR ROBERT: Thank you, Mr. Clerk. Returning to discussion: Senators Coash, Conrad, Mello, Stuthman, Harms, and others. Senator Coash, you're recognized. [LR284CA]

SENATOR COASH: Thank you, Mr. President. Thank you, members of the body. I've been listening to the discussion real intently and there's a couple of terms I've heard thrown around a little bit. One of them is leap of faith. We're talking about bureaucrats, colleagues. We're going to pass this and then say, go figure it out. What's the answer every time we tell them to do that without direction and a plan? The answer is, we're going to need some more money, Legislature. We're going to need you to pony up a little bit more so we can figure this out. If we don't do a study, they'll ask for money for a study to figure out how to implement what we just put on the ballot and the voters voted in. That concerns me, colleagues. I yield the rest of my time to Senator Janssen. [LR284CA]

Floor Debate
March 17, 2010

SENATOR ROBERT: Senator Janssen, 4 minutes and 8 seconds. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President. Thank you, Senator Coash. I echo your words. I would like some time to discuss this a little further. Let me tell you a little bit about the reason I brought the motion today. It was not my intention to have the IPP come to a vote today. I felt that we were moving a little fast on this. I felt that way in committee. I talked about the day we had the hearing. It was not unlike today that we...it was kind of getting toward the end of the day. There were two things on the agenda. Both of them were constitutional amendments. I'm not certain that either one had a proponent or opponent show up that day. I know for a fact this one had no proponents or opponents other than the introducer. Senator Utter, obviously was a proponent and I assume still is a proponent of this constitutional amendment. And when we came to Exec Session, the feeling in the room...and I think I learned a legislative lesson during that Exec Session and it's something that I hear all the time on the floor here is when you amend a bad bill, you end up owning part of a bad bill. Now, I'm not going...this isn't a bill, of course, but I was part of and I...orchestrating, making it four years instead of two years to have this thing move forward. And I think in doing that, that kind of assuages people within the committee to think, okay, this is good to move out to the floor now. We've done something to it so let's move it. That wouldn't have been my intention, obviously, and I was the only one that opposed it, as Senator Conrad pointed out correctly. When it came on General File I thought I'd have a whack at it, which I did. And a few of us were listening and a few of us made up our...obviously, respectfully disagreed, which is your right and that's what we do all the time. I just wanted more discussion on it. I felt today that we were kind of tailing off a little bit on it and I wanted to bring it back into the debate because this is a very serious, serious thing that we're going to put before the Nebraska voters. I do trust the Nebraska voters. I think we all could say that actually because they all elected us at one time or another. I just want to have a plan for when they vote on it. When they come back to me and say, okay, I voted for that, I think that's great. It's less government, right? That's what you put on your campaign flyers. I don't think it is less government. Some of you do, I don't. I, like Senator Coash, and many, many others, am not willing to take that leap of faith that I've heard about, not without a plan there, not on something that amends our constitution, takes somebody out, and turns it over to bureaucrats. I'm just not ready to do that. I hope you're not ready to do that. I think I've been an advocate since I've been here, my brief time, that things should go to a vote. I was denied that earlier this year. I was denied a chance to have my priority bill go to a vote. So we have rules for a reason and we use them. [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR JANSSEN: And I don't begrudge anybody for the fact that my priority didn't get an up or down vote but we kind of battle that around whenever it works for us. In our arguments we throw the up or down vote, who knows better. I do believe that Senator

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

Floor Debate
March 17, 2010

Utter should get an up or down vote on this. I choose to vote no on this. I'm hopeful that many will join me and then work on a way to make this a good plan and find out if we indeed want to go down this road. And we may want to. And it may not be a bad idea at all. It could be a great idea and I'll support it if it proves out that way. But with that Mr. President, I'll withdraw my IPP motion. [LR284CA]

SENATOR ROBERT: MO90 is withdrawn. Returning to discussion on LR284CA, Senator Conrad, you're recognized. [LR284CA]

SENATOR CONRAD: Thank you, Mr. President. Colleagues, just a few additional points in regards to LR284CA brought forward by Senator Utter and I'm thankful that Senator Janssen reconsidered his moving forward with the IPP motion as it was probably not the appropriate time to bring that forward. Nonetheless, we've heard questions in terms of accountability and what would happen if we eliminated this office. Well, this is a fantastic opportunity, I think, to do a little bit of education with terms and structures that are so familiar to us on Appropriations but may be new concepts particularly for new members of the body. There's three different classifications of state agencies. There's code agencies, there's independent agencies, and then there's constitutional agencies. The vast majority of duties and responsibilities under the auspices of the State Treasurer's Office could conceivably be moved into the Department of Revenue, into the Department of Health and Services as Senator Utter and others have noted. Colleagues, these are code agencies. These are under the direct control of the Governor, the present Governor, Governor Heineman. So if you don't trust him in his leadership and his administration of these departments and agencies and you continue to have questions about accountability, that's something that you'll have to explain to your constituents and to the Governor because there is a method for accountability if you transfer duties and responsibilities, particularly to code agencies. The other agencies which may take up some of these responsibilities are independent and they're managed by those who are appointed by either the Legislature or the Governor to act in an independent manner and are subject to other strictures of accountability in terms of appointment and acceptance by this body when gubernatorial appointments come before us. So there is a wide variety of checks and balances available within the existing structures of government to provide for accountability if and when this office is abolished by the Nebraska voter. Finally, the other point that I would like to make is in regard to this issue, we've heard about a plan. We don't have a plan. We haven't heard about a plan. Well, I believe Senator Utter, again, has very carefully considered how this would move forward. And be clear, colleagues, a vote in favor of this says, we leave it up to you. We trust the judgment of you, the people, to decide whether or not we should move forward with this streamlining of government. And like any constitutional amendment before Nebraska voters, there's an opportunity for a campaign from both proponents and opponents to lay out why they think it's sound public policy or not. And so if people have a problem as they move forward, rather than adding layers of bureaucracy or administration with additional plans, maybe they should

Floor Debate
March 17, 2010

conduct a campaign on those issues to the Nebraska voter who I do have faith in and who I do trust their judgment. And to be clear, this isn't an overly complicated issue. Senator Utter has laid this out very clearly. This is a simple modernization of state government in terms of what we want it to look like now and into the future. And a clear examination of whether or not every structure that was in place at our statehood and its inception, still makes sense today, still makes sense in the future or if there's a better, cleaner, more efficient way to do things as technology changes, as the economy changes. And I believe that Nebraska voters can and will make a sound judgment in that regard that we can easily implement with appropriate accountability... [LR284CA]

SENATOR ROBERT: One minute. [LR284CA]

SENATOR CONRAD: ...through the Governor or through independent agencies whose leadership is approved of by this body and otherwise. The final point I want to make is, well, don't read too much into the committee statement. Oh, there was no proponents or opponents so maybe people just didn't know about it or we shouldn't put too much stake in that. Colleagues, and Senator Janssen knows full well, having brought forward some very highly controversial bills this session, if they're highly controversial, people show up at the hearing on both sides and have a vigorous debate. Senator Utter was in the media many times prior to introduction of this legislation and otherwise talking about his plans, talking about this bill. There was full and fair notice and publication about these ideas. And nobody came into the hearing to testify in support or in opposition. So you should read into that. The public has chosen to not weigh in on this. [LR284CA]

SENATOR ROBERT: Time. [LR284CA]

SENATOR CONRAD: Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Conrad. Senator Mello, you're recognized. [LR284CA]

SENATOR MELLO: Mr. President, members of the Legislature, I'm not one to want to beat a dead horse on an issue. But I've heard some very interesting arguments in regards to why the Legislature should postpone or slow down the process for LR284. And Senator Conrad actually just mentioned a bulk of what I wanted to say. So I'll probably end up yielding time to Senator Utter. But Senator Janssen just made the point which is, you know, a lot of us say that we want more efficient government, we want smaller government. I think there's a very stark difference between wanting a smarter government and a smaller government. What LR284 does is a smarter version of our government. It modernizes things. There are duties that there are in handouts in front of you in regards to duties of the State Treasurer that we all know can be done by another agency, agencies that either report directly to the Governor or independent agencies that ultimately report directly to the Legislature through the Appropriations process or

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

Floor Debate
March 17, 2010

through committee hearings or annual reports to the Legislature. One way or another, the mindset that nameless bureaucrats will be giving all of the tasks of the State Treasurer's Office that will not be held accountable is unfortunately just inaccurate because all of the bureaucracy in our state government is held accountable and they're held accountable through the Legislature. More than any other branch of government it is this democratic branch of government that holds all the bureaucracy accountable. And if we're not holding them accountable, as Senator Conrad said, that is our problem. The basic point of LR284 is this, do you think we can get rid of this separate agency and can consolidate the programs and the operations into existing state agencies? If you think we can do that, vote for LR284. Senator Coash brought a very thoughtful perspective which I do not completely disagree with this thought of maybe we should have a plan, maybe we should consider sketching out an idea of what we would like to see before we give this to the voters. It's actually a thoughtful perspective and I won't completely disagree with it. But I have to believe that this body will exist after the 2010 election where LR284 might get voted on by the people of Nebraska. Thus, this branch of government can spend the next four years with the new Treasurer to figure out that new solution. Because it is a matter of whether or not we need fewer layers of government, particularly management within another agency. So while I do respect Senator Coash's perspective of wanting to sketch out a plan, studying the idea, there is no reason even with the passage of LR284 not only by this body but also by the voters of Nebraska that we can't continue to do that now, that if this is passed by the voters in November that we can't start looking at that immediately with the new Treasurer to find a way to move those duties to another agency, to find a way to save money. Senator Utter has been very, very, very vigilant about wanting less government, particularly in these tough economic times. I agree with Senator Utter a majority of the time. Sometimes we can agree to disagree. This is one instance, one instance where the duties of the Treasurer over the last 20 years have been increased by the Treasurer's Office, an office looking for a job to do, to keep themselves politically relevant in Nebraska's democracy. Senator Utter had the foresight to notice some of the things that other agencies are already doing. I don't disagree that, yes, we're going to have to find possibly some new paths to make these different agencies work better together to help execute some of the programs that are being held by the State Treasurer. But at the end of the day, they can do it. And at the end of the day, the State Treasurer still has a very large budget which we can save money on by giving that money to existing agencies who currently are already doing that work. With that, Mr. President, I'd like to yield the remainder of my time to Senator Utter. [LR284CA]

SENATOR ROBERT: Senator Utter, 38 seconds. (Laughter) [LR284CA]

SENATOR UTTER: Thank you very much, Senator Mello. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Utter and Senator Mello. Senator Stuthman,

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

Floor Debate
March 17, 2010

you're next and recognized. [LR284CA]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask Senator Utter a question or two. [LR284CA]

SENATOR ROBERT: Senator Utter, will you yield to a question? [LR284CA]

SENATOR UTTER: Yes, I will. [LR284CA]

SENATOR STUTHMAN: Senator Utter, there hasn't been very much discussion that, you know, if this bill passes and we put it on the ballot, you know, where is the revenue going to come from to place this on the ballot? And about how many dollars is it going to cost to get it placed on the ballot? [LR284CA]

SENATOR UTTER: Well, I had some figures the other day. Unfortunately, I don't have them with me right now. But I think the State Treasurer...the Secretary of State figures it takes X number of dollars to print a page on the ballot. And so this would be mixed in with other issues that are on the ballot. I don't think there's any way to know today whether or not it's going to be in such a way that it would be the...require a separate page. [LR284CA]

SENATOR STUTHMAN: Is there going to be any chance that they're going to have to hire some people to promote the issue? [LR284CA]

SENATOR UTTER: Well, I don't think so. I don't have any intention of hiring anybody to promote it. I think that...I think by those that support the issue talking about it that it can be done. [LR284CA]

SENATOR STUTHMAN: So in other words, the issue will just be placed in a paper or on what you would call the preliminary ballot and the information there. There will be no other money spent as far as trying to educate the people as to the value of this? Or... [LR284CA]

SENATOR UTTER: Senator Stuthman, I think that we'll have ample opportunity. And have already had considerable opportunity to let the press and to let the people of Nebraska know through the press that there are...what the issue is and what the pros and cons are. And I don't think that an organized campaign would be necessary nor appropriate to be honest with you. [LR284CA]

SENATOR STUTHMAN: Okay. Thank you, Senator Utter. One of the other issues that I had and it was Senator Hadley had stated, you know, that one of the largest institutions of the legislative...of our system is, you know, Health and Human Services. And I'll totally agree with that. But what happens, you know, why that is such a big agency is

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

Floor Debate
March 17, 2010

the fact that, you know, there are, I heard the other day where there's 900 mandates from this legislative body that the HHS has to deal with. And I think that is part of the issue that, you know, everybody wants something, so we legislate something. And then it creates more work for an agency and then the budget gets bigger for that agency, and then all of a sudden we say, oh, that's too big, we should be able to take care of it in another agency. In my opinion, I do not support, you know, taking it to the people. And in my opinion, what I've been hearing around in the communities is I don't believe it will pass if it does get onto the ballot. So I do not support this amendment. Thank you. [LR284CA]

SENATOR ROBERT: Thank you, Senator Stuthman. Senator Harms, you are recognized. [LR284CA]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of LR284. And I can tell you I think if this goes on he ballot it's going to pass. People are sick and tired of too much government and they're looking for people to come forward and give them an opportunity to have a voice in what happens in this government. And I'm telling you now that I have no concerns at all about this bill passing. It will pass if it's on. And I don't think it's going to cost us a lot of dollars to address this issue. Now, I've heard a lot of discussion here about studies. Folks, I tell you what, we study government so much that nothing ever gets done. I mean, look at all the studies that you can go into our own Research Center or go into the Clerk's Office and take a look at the studies that are there. It's unbelievable. And how many people go back in and read those? I would bet very, very few. And that's the last thing you need is to do a study. Quite frankly, if the voters approve this all you need to do at a very reasonable cost bring an expert, a consultant in and you can merge that within six months and you're in business. I've had the fortunate opportunity to experience three mergers in a previous life. And I'm here to tell you that when you get done there is always a cost savings. Let me give you an example of right here in this great state. In '06, we had a property tax administrator and in that office we had 75 people. And at that time in the Revenue Committee we had 419 people, a total now between the two, 479 individuals working. They merged those two offices and so there was no longer a department of...a property tax administrator. So that number is zero. And the revenue went from 419 to 474, total was 474. Before they merged the two it was 494. That in itself, colleagues, tells us that there is efficiency when you do this. And don't get hung up in studying everything to death. You don't need it. If those voters say it's what they want to do, we can do this. Not only that, when you look at the out-years of what we are confronted with, this will seem very small when we get done next year and we start talking about the next two years. When you're talking about anywhere around \$700 million, we're going to be looking at more than the Treasurer's Office, we're going to be looking at others. We could be looking at the Department of Economic Development and Department of Labor. You could be looking at a whole series of other issues and ways that we can conserve and be a better government. People want...our second house, which is our people, want us to step

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

Floor Debate
March 17, 2010

forward and tell them that we are willing to make the hard decision. That's the problem with our federal government, colleagues. They're unwilling to work with each other. Unfortunately, I hate to say it, it's broken. And we should not allow this to happen in our own government here. We have the intelligence in this room, we can make those decisions. And if the voters want this opportunity, give them the opportunity and we can fix that at the end and you don't need to study it to death. I'd like to ask Senator Utter if he would yield for a minute. [LR284CA]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Senator Utter, would you yield? [LR284CA]

SENATOR UTTER: Yes, I will. [LR284CA]

SENATOR HARMS: Mr. President, how much time do I have? [LR284CA]

SENATOR CARLSON: You've got a minute and ten. [LR284CA]

SENATOR HARMS: Okay. Senator Utter, we got plenty of time. Senator Utter, when you started to begin to do this--got to get the words out right here--when you started to think about this, did you go to the Department of Revenue at all and have a discussion with them about whether they could handle this? Or what did they tell you? [LR284CA]

SENATOR UTTER: Yes, we did. And they told us that they thought they could meld the depository duties of the Treasurer's Office into the Department of Revenue with little or no additional help. [LR284CA]

SENATOR HARMS: So they actually felt comfortable then that they could take this on without any problems. Is that correct? [LR284CA]

SENATOR UTTER: That's right. [LR284CA]

SENATOR HARMS: Thank you, Senator Utter. And, Mr. President, I guess I'm probably about out of time, right? [LR284CA]

SENATOR CARLSON: Twenty seconds. [LR284CA]

SENATOR HARMS: I'm out of time. Thank you, Mr. President. [LR284CA]

SENATOR CARLSON: Thank you, Senator Harms and Senator Utter. Senator Janssen, you're recognized. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President. I'm not one to make a lot of political

Floor Debate
March 17, 2010

promises but I think I'm going to make one right now and hope that I can come through on this. Got two years left, not including what we have left in this session. I want to make a promise that some day, some how I will have a bill that Senator Conrad is going to support me on, somewhere, somewhere, somehow I'm going to get Senator Conrad's support. Can't...that's a promise. I'll work with her in the interim on that deal. I did check with her, she still likes me and she told me I'm still getting a wedding gift, so this is good news so far today. So there are some victories. Some comments came up, you know, about the study. I think there should be a study. I mean you can look both ways on it. Senator Harms just brought up the fact that he has seen mergers, most likely I would assume through his career working in community colleges and whatnot. And sometimes businesses, and he's probably looking more...maybe it was more of a...maybe it was a business approach that he was looking at. I can say in businesses, generally, mergers will save money. You bring an expert in, that expert costs money. If we need to do that, we shouldn't take the leap of faith and then turn around and say, okay, now let's identify the expert. Let's identify this expert first through a study when we decide it's a good idea and save the time. What if the expert comes in, the voters vote this, and the expert comes in and says, well you know what, after I looked at it we really don't...there's really no efficiencies here that you're going to gain. Then do we come back? Yes, we could put another constitutional amendment on to add the Treasurer's Office. Again, we might as well add our pay raise to that one because that's the chance that would have of passing on that deal. So I do think we need to study it. Poking a little fun at Senator Harms. I think he just kind of said let's don't get caught up in this studying thing, it's not all that important. And Senator Harms is kind of the protector or children since I've seen here. So if I go home and talk to my kid tonight, I'm going to have to reinforce that studying is important. Between Senator Price's message today and Senator Harms, I don't know what we're telling our kids out here today. They said the Department of Revenue said they could take this task on. It's unfortunate that Senator Carlson is in the chair because I remember on...not because he's not an effective chair, but on General File I recall him talking about how the department has increased in numbers over the years. And that is something that I wanted to check into. Over the last two years, the State Treasurer's Office has lowered its number of employees while the Department of Revenue has added employees. So, of course, they're saying that they can take on additional duties. I'm saying I don't necessarily believe that because any time you're given another duty it seems to come back to us that we need more money to do this or do that. There was mention of Wesely's study on this and what it came back with. But of note, since that study additional duties that the Treasurer's Office has taken on: College Savings Plan, Long-Term Care Savings Plan, the Child Support Disbursement, and nebraskaspending.gov. So we have a Treasurer's Office right now that is working more efficiently and is taking on more duties. That is streamlining government. I won't take you back down the road of how I think this actually lessens the transparency, it does, and how it takes the vote out of the people's hands in actuality. I, again, would like to see if this is true. I would like to see if what Senator Utter is putting before us is practical, if it can make less government. We're all...we can all say we're for less

Floor Debate
March 17, 2010

government and vote different ways. [LR284CA]

SENATOR CARLSON: One minute. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President. And I think we can all justify that if we're on different sides of the issue. My side is I just think we need to take some time to look at this and find out if for sure there is efficiencies to be gained. And if there is, then we attack it in a bipartisan manner and gain those efficiencies. Thank you, Mr. President. [LR284CA]

SENATOR CARLSON: Thank you, Senator Janssen. Those still wishing to speak: Senators Avery, Fischer, Lautenbaugh, Campbell, and others. Senator Avery, you're recognized. [LR284CA]

SENATOR AVERY: Thank you, Mr. President. I've been listening carefully to this debate. I was one of the people in the Government Committee that supported reporting this out. I thought it was worthy of discussion on the floor. It was also the desire of Senator Utter to name this his priority bill. As Chair of that committee, I always work with every senator who wishes to name a priority bill that is in my committee. I try to get those bills out. I think that I owe it to the senator to do that, especially good ones like this. The point has been made that we need to do a study. And a lot of criticism has been made about bureaucracies. I've got a little experience with that. You know, I spent most of my adult life in a bureaucracy. And, you know, these university bureaucracies are known to be the most Byzantine on the earth. So I have learned a lot about what bureaucracies can do. And I would tell you that bureaucracies don't always foster and promote efficiency. And we've heard a lot of talk today about efficiency in government, streamlining. Bureaucracies don't streamline necessarily. But I would tell you this that if you want to make sure that something doesn't happen, study it. Every time we had an intractable problem at the university we always said, well, we need a study, we need a committee to be formed to study this, and we would do that. So you can study it and study it and study it and pretty soon people will go away and you don't have to deal with it. There is in the amendment that the committee adopted and you adopted on General File, the amendment gives us four years to make the transition. The point was made that we need a plan prior to a vote of the people. Seems to me that what we need first is a clear direction from the voters. What do they want? If they don't want the Treasurer's Office to be eliminated, then we don't need a study; if they want it done, we have four years to do one. If we're not going to continue the office, yes, then we do a study, we find out what it's going to take, where the duties will go, what it will cost. We have...in the amendment adopted on General File, we have four years to get that done. The new treasurer will have as his or her major responsibilities to make that transition an orderly one. It can be done in an orderly manner. And that is why we have the amendment that was to provide for an orderly transition. I believe that can be done. I think that whoever gets elected to that office can do it. They will, of course, have to have the cooperation of

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

Floor Debate
March 17, 2010

us because my staff looked into how many times the Treasurer is mentioned in state law and I believe it's somewhere around 800. So there will be laws that will need to be changed and modifications made in how business is conducted. But if you really believe in streamlining, if you really believe in efficiency in government, then this is what you ought to vote for. It's a bold and courageous move on Senator Utter's part to bring this to us. This is an opportunity, folks, it's an opportunity to make a difference. It's an opportunity to bring about some change. [LR284CA]

SENATOR CARLSON: One minute. [LR284CA]

SENATOR AVERY: Now change is not easy. But just because it's not easy doesn't mean it's not a good idea. I urge you to vote to advance this. Let the voters tell us what they want. If they don't want it, it's over; if they do, we have the means to do it in an orderly manner, it's in the amendment and I think that we can do it. The Government Committee, of course, will stand ready to help. Thank you, Mr. President. [LR284CA]

SENATOR CARLSON: Thank you, Senator Avery. Senator Fischer, you're recognized. [LR284CA]

SENATOR FISCHER: Thank you, Mr. President and members. I stand in support of this bill. I love this bill. I said that on General File. Now don't all look at me, come on (laughter). No, I love this bill. I think we are discussing efficiencies. I certainly appreciate Senator Harms's comments. He brought forward some facts. All of us like to stand up and say we like something or we don't. Senator Harms gave us some good facts there that show why we should support this bill. I've heard from constituents, they like this bill. They believe that we're finally addressing some efficiencies in government, that we are trying down here and we're offering this to the people and they can make a decision on it too. We've heard about studies. I participated in a study. Senator Burling had tax study committee, I was a members of that committee and I don't recall right offhand but it was a couple hundred thousand dollars that this body appropriated for that committee. I do not believe that any recommendation from that committee has ever been passed by this body. So we can have studies. We can spent money here in the Legislature to do those studies or we can put this on the ballot. And, yes, that will cost money but we can put this on the ballot, and let the people decide, and then we can move forward. We stand for efficient government, we stand for streamlining. All of us when we campaign we use those little catch words and sound bites. So now let's stand and put this to the people. Mr. President, I would yield the remainder of my time to Senator Utter. [LR284CA]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Utter, you have 3 minutes. [LR284CA]

SENATOR UTTER: Thank you, Mr. President and colleagues. Senator Fischer brought

Floor Debate
March 17, 2010

up the Burling tax study, which I have read. And as far as I can tell I think she's probably right. Prior to that, just a few years prior to that, we did the Syracuse Study which made a number of recommendations with regard to the state's tax policy. I think very few if any of those recommendations were followed. And so I suggest to you the road to somewhere is paved with studies. And I'm not sure that the destination of that road is necessarily a good one. I'm not sure that it means progress. And I'm not sure that it means better government. And I want to say to you, colleagues, that I hope this is the last time that I talk today on this issue because I believe we've about talked it out. But I think we have to give more than lip service to this whole concept of streamlining, downsizing, and making government more efficient and more effective. We do a great job of talking about it. Here's an opportunity to do something about it. And I think this is just the beginning. We can't sit here and think that this is the end because I think we've got a lot more to do. And I'm going to suggest to you that the government of the state of Nebraska of tomorrow has to look considerably different than the government of the state of Nebraska today. We have to continually work on this whole idea of downsizing state government. This is your first opportunity to weigh in on something that I think brings true change to state government. And I know we are dealing with an office that has been in has been in state government for 150 years, there is no question about that. But now it's time to join the modern century and make a state government for... [LR284CA]

SENATOR CARLSON: One minute. [LR284CA]

SENATOR UTTER: ...Nebraska that is efficient and effective and smaller. Thank you very much. And I hope that you'll vote green when it comes time to vote. Thank you, colleagues. [LR284CA]

SENATOR CARLSON: Thank you, Senator Utter. Senator Lautenbaugh, you're recognized. [LR284CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I've had sort of an evolutionary approach to my opposition on this bill. I went from just being quiet and voting to voting no to not being quiet and urging you all to vote no. We've been told that, well, this is simple enough. This just gives...creates a vote of the people and why can't we trust the people. I remember when Senator Nelson's priority bill was before is, all of you were rising up to say let's just trust a vote of the people, we should put things on the ballot and let people vote on them. Actually, that isn't how it transpired as I recall it on Senator Nelson's priority bill. I'm not seeing the savings here. I don't understand and I'm not convinced that the savings and the efficiencies are real in this way. And I don't think Senator Utter is guilty of this, I think Senator Utter is a leader in fiscal responsibility in this body. But I would note otherwise there sometimes seems to be a weird fixation on the Treasurer's Office in this body and it's kind of a perplexing one. We heard a talk today of mission creep, that they went out and looked for more

Floor Debate
March 17, 2010

things to do. Well, they were given more things to do: the College Savings Plan, Long-Term Care Savings Plan, Child Support Disbursement Unit, and nebraskaspending.gov and they increased or decreased the number of employees. And we look at this somehow and say, well, this efficient branch of government, this efficient office that's doing more with fewer people it clearly needs to go. And that's kind of through the looking glass from where I'm sitting. I think the Treasurer's Office might be a model for how to do things in some ways but I don't think that leads to getting rid of the Treasurer's Office necessarily. And there is a phenomenon here in Nebraska that we need to be mindful of. In this state we do elect more elected officials than any other state in the Union. If you go anywhere else and talk to someone who is involved in government and start telling people how we have an NRD, we have elected school boards, we have elected utility boards, we have legislative offices, we have city councils, we have county boards, we have a State Board of Education, we have something called a learning community that you're really going to have to explain to people from elsewhere. We elect more offices than anywhere else in the nation. And maybe that's a problem in some ways because when people are unhappy at the local level it's always property taxes at first. When people are unhappy with their property taxes you have to tell the voter, okay, well, you better go talk to your NRD member and your school board member and your city council member and your county board member and who knows who all else if you have a beef about your property taxes because they all have a hand in it. And sometimes we do with our unfunded mandates that we put back on the counties and cities and schools, etcetera. So we elect a lot of offices and there may be room for streamlining. There certainly, I shouldn't say may, there is certainly room for streamlining. I'm not sure that the starting point is with an elected statewide official, an office that people can understand, that there is vigorous campaigning for. People can go out, I bet if you ask a lot of voters, just picking up people off the street, many could identify the State Treasurer, maybe many more than could identify any one of us,... [LR284CA]

SENATOR CARLSON: One minute. [LR284CA]

SENATOR LAUTENBAUGH: ...certainly many, many more than could identify their NRD member. So where does the problem lie in streamlining? I think we need to look at and I think we're going to be forced to in the next biennium, look at a comprehensive package of reforming the government, changing the way we do things. And I don't think this piecemeal approach is correct. Someone passed me a note that says you should argue, I don't know why they told me this, if you need to lose weight, you could accomplish it by cutting off your leg, but that's not the best way to do it. Once again, why I was told that is a mystery but I understand what they were saying. And I cannot support this. Thank you, Mr. President. [LR284CA]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those still wishing to speak: Senators Campbell, Coash, Utter, and White. Senator Campbell, you're recognized.

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

Floor Debate
March 17, 2010

[LR284CA]

SENATOR CAMPBELL: Mr. President, call the question. [LR284CA]

SENATOR CARLSON: The question has been called for. Do I see five hands? I do. Question before us is, shall debate cease? All in favor vote aye; all opposed vote nay. Please record, Mr. Clerk. [LR284CA]

CLERK: 32 ayes, 4 nays, Mr. President, to cease debate. [LR284CA]

SENATOR CARLSON: Debate does cease. Senator Utter, you're welcome...you're recognized and welcome to close. [LR284CA]

SENATOR UTTER: (Laugh) Thank you, Mr. President. I think it might be appropriate to call the house and have a roll call vote. [LR284CA]

SENATOR CARLSON: There is a request for a call of the house. Question is, shall there be a call of the house? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LR284CA]

CLERK: 41 ayes, 0 nays, Mr. President, to place the house under call. [LR284CA]

SENATOR CARLSON: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those 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. Senators Heidemann and Lathrop, the house is under call. Senator Utter, would you like to proceed with your close? [LR284CA]

SENATOR UTTER: Yes, I will. We have talked an awful lot about this issue, ladies and gentlemen. And I appreciate all the discussion. I respect the varying opinions that we have talked about. Considering everything that has been said and everything that we've done, my opinion has not changed. This is still a good bill. This still deserves passage by this body so that we can eventually take it to the voters who will make the ultimate decision. So I urge you to vote green on this bill. Thank you very much. [LR284CA]

SENATOR CARLSON: Thank you, Senator Utter. There has been a request for a record vote. The question is, shall LR284CA advance to E&R for engrossing? All in favor vote aye; all opposed vote nay. Senator Utter, you requested roll call vote? [LR284CA]

SENATOR UTTER: A record vote is fine. And... [LR284CA]

SENATOR CARLSON: Board vote? [LR284CA]

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

Floor Debate
March 17, 2010

SENATOR UTTER: Let's just do a roll call vote, if you don't mind. [LR284CA]

SENATOR CARLSON: Mr. Clerk, please proceed with the roll call vote. [LR284CA]

CLERK: (Roll call vote taken, Legislative Journal page 954.) 35 ayes, 7 nays, Mr. President, on the advancement. [LR284CA]

SENATOR CARLSON: LR284CA does advance. We raise the call. Mr. Clerk, next bill. [LR284CA]

CLERK: Mr. President, next bill on Select File, Senator Nordquist, LB1036, I have Enrollment and Review amendments first of all. (ER8180, Legislative Journal page 752.) [LB1036]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1036]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1036. [LB1036]

SENATOR CARLSON: All in favor for the motion indicate by saying aye. Opposed, nay. Motion carried. [LB1036]

CLERK: I have nothing further on that bill, Senator. [LB1036]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1036]

SENATOR NORDQUIST: Mr. President, I move LB1036 to E&R for engrossing. [LB1036]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Next item. [LB1036]

CLERK: Mr. President, LB919, E&R amendments first of all, Senator. (ER8178, Legislative Journal page 752.) [LB919]

SENATOR CARLSON: Senator Nordquist. [LB919]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB919. [LB919]

SENATOR CARLSON: You've heard the motion. All in favor say aye. All opposed, nay. Motion carried. [LB919]

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

Floor Debate
March 17, 2010

CLERK: Senator Schilz would move to amend the bill with AM2128. (Legislative Journal page 814.) [LB919]

SENATOR CARLSON: Senator Schilz, you're recognized to open on your amendment. [LB919]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, good afternoon. I won't take a whole long time. This is a pretty simple, minor deal. Basically, what we needed to do is after we had voted it through on General File, we found out that we needed to harmonize some of the language with the debate that we had. And so we have an amendment that does just that. The amendment also adds that a community must pass an ordinance in order to maintain itself as a city of the first class. And we put that in there so that the citizens of a community would have an opportunity to have some say on whether or not a community wanted to remain a city of the first class. As we were going through this, I have the full support of the Urban Affairs Committee on this amendment. And with that, I would ask you that you vote in favor of the amendment and moving the bill. Thank you very much. [LB919]

SENATOR CARLSON: Thank you, Senator Schilz. You've heard the opening on AM2128. Are there any senators wishing to speak? Seeing none, Senator Schilz, you're recognized to close. Senator Schilz waives closing. The question is, shall AM2128 be adopted? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB919]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Schilz's amendment. [LB919]

SENATOR CARLSON: The amendment is adopted. [LB919]

CLERK: I have nothing further on the bill, Mr. President. [LB919]

SENATOR CARLSON: Senator Nordquist for a motion. [LB919]

SENATOR NORDQUIST: Mr. President, I move LB919 to E&R for engrossing. [LB919]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Next item. [LB919]

CLERK: LB937, Senator, I have Enrollment and Review amendments. (ER8179, Legislative Journal page 752.) [LB937]

SENATOR CARLSON: Senator Nordquist for a motion. [LB937]

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

Floor Debate
March 17, 2010

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB937.
[LB937]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay.
Motion carried. [LB937]

CLERK: I have nothing further on that bill, Senator. [LB937]

SENATOR CARLSON: Senator Nordquist for a motion. [LB937]

SENATOR NORDQUIST: Mr. President, I move LB937 to E&R for engrossing. [LB937]

SENATOR CARLSON: You've heard the motion. All in favor indicate by...vote aye. All
opposed, nay. The bill does advance. Next item. [LB937]

CLERK: LB1018, E&R amendments first of all, Senator. (ER8186, Legislative Journal
page 766.) [LB1018]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Nordquist for a motion. [LB1018]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1018.
[LB1018]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay.
Motion carried. [LB1018]

CLERK: Mr. President, Senator Cornett would move to amendment with AM2214.
(Legislative Journal page 910.) [LB1018]

SENATOR CARLSON: Senator Cornett, you're recognized to open on your
amendment. [LB1018]

SENATOR CORNETT: Thank you, Mr. President, members of the body. When we were
on General File, there were concerns that were brought up and questions from some
members of the body. AM2214 addresses those issues. The addition of Section 36 was
requested by the League of Nebraska Municipalities to ensure that there is no attempt
by a party to petition the powers under the Nebraska Advantage Act Transformation
(sic), Tourism Redevelopment Act onto a ballot. We've added the term amusement park
under the definition of a recreational facility. This was done pursuant to our discussion
on General File with Senator Council. And per that discussion also with Senator Schilz,
we have reduced the threshold for a Tier IV project located in cities that are situated in
counties that have less than \$100,000 per year in taxable sales. The threshold would be
\$7.5 million for redevelopment project and \$10 million for a tourism attraction. These are

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

Floor Debate
March 17, 2010

down from \$10 million and \$15 million respectively. This was done pursuant to that conversation as previously mentioned. We have clarified that the local option sales tax shall be captured only within the boundaries of the respective project, either an entertainment district or a redevelopment project. This was done due to questions from Senator Stuthman. And the final changes are technical and clarifying in nature. I would be happy to answer any questions you have and would encourage the body to adopt AM2214. [LB1018]

SENATOR CARLSON: Thank you, Senator Cornett. You've heard the opening on AM2214. Are there any senators wishing to speak? Seeing none, Senator Cornett, you're recognized to close. Senator Cornett waives closing. The question is, shall AM2214 be adopted? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB1018]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB1018]

SENATOR CARLSON: The amendment is adopted. [LB1018]

CLERK: I have nothing further on the bill, Mr. President. [LB1018]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1018]

SENATOR NORDQUIST: Mr. President, I move LB1018 to E&R for engrossing. [LB1018]

SENATOR CARLSON: You've heard the motion. All in favor indicate by saying yea. All opposed, nay. LB1018 is advanced. Next item. [LB1018]

CLERK: LB882, Senator, I have E&R amendments pending. (ER8184, Legislative Journal page 766.) [LB882]

SENATOR CARLSON: Senator Nordquist for a motion. [LB882]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB882. [LB882]

SENATOR CARLSON: You've heard the motion. All in favor say aye. All opposed, nay. Motion is adopted. [LB882]

CLERK: I have nothing further on that bill, Senator. [LB882]

SENATOR CARLSON: Senator Nordquist for a motion. [LB882]

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

Floor Debate
March 17, 2010

SENATOR NORDQUIST: Mr. President, I move LB882 to E&R for engrossing. [LB882]

SENATOR CARLSON: You've heard the motion. All in favor indicate by saying aye. All opposed, nay. LB882 does advance. Next item. [LB882]

CLERK: LB956, Senator, there are E&R amendments pending. (ER8187, Legislative Journal page 768.) [LB956]

SENATOR CARLSON: Senator Nordquist for a motion. [LB956]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB956. [LB956]

SENATOR CARLSON: You've heard the motion. All in favor indicate by saying aye. All opposed, nay. Motion is carried. [LB956]

CLERK: I have nothing further on that bill, Senator. [LB956]

SENATOR CARLSON: Senator Nordquist for a motion. [LB956]

SENATOR NORDQUIST: Mr. President, I move LB956 to E&R for engrossing. [LB956]

SENATOR CARLSON: You've heard the motion. All in favor indicate by saying aye. All opposed, nay. LB956 does advance. Next item. [LB956]

CLERK: Mr. President, the next bill, LB836. Senator, I have Enrollment and Review amendments, first of all. (ER8190, Legislative Journal page 892.) [LB836]

SENATOR CARLSON: Senator Nordquist for a motion. [LB836]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB836. [LB836]

SENATOR CARLSON: You've heard the motion. All in favor indicate by saying aye. All opposed, nay. Motion carried. [LB836]

CLERK: Mr. President, the first amendment to the bill, Senator Hansen, AM2191. (Legislative Journal page 883.) [LB836]

SENATOR CARLSON: Senator Hansen, you're recognized to open on your amendment. [LB836]

Floor Debate
March 17, 2010

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. The reason that I had a problem with the distance that hunting was allowed from anyone's home or business feedlot, that's the...what got my attention was that even at 200 yards if we go back to the original language, the 200 yards is not a very far...is not much of a distance. It's not far enough for safety of children. It's not enough for the safety of livestock. With the explosion of a gun, it doesn't take much to scare cattle, especially cattle...even in the regular deer season is probably the worst time that we've had experiences with guns being discharged closer than 200 yards, or even up to a quarter of a mile that I suggest, that scares cattle. I mean, they're frightened anyway. Horses don't take well to guns going off. And I think that the quarter of a mile would be a minimum distance. I understand from Senator McCoy and Senator Lautenbaugh both that a quarter of a mile is way too far because the houses are too close together and you can't get a quarter of a mile away from a house to shoot a deer. Maybe...and I would be acceptable to even amending this to include a quarter of a mile with high-powered rifles. If it's less than a quarter of a mile, then arrows and shotgun would suffice for me. But if we're going to use the high-powered rifles, I think it needs to be at least a quarter of a mile or 440 yards. Thank you, Mr. President. [LB836]

SENATOR CARLSON: Thank you, Senator Hansen. You've heard the opening on AM2191. The floor is now open for debate. Senator Lautenbaugh, you're recognized. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in opposition to this amendment and let me say why. This bill, as I indicated on General File, is actually an important bill, but it has various components for various interests in it. And the most prohunter portion of this bill was the provision that lowered that 200-yard limit down to 100 yards. And I indicated on General File that I understood the concern regarding rifles and that I would bring an amendment that would put the rifles back at 200 yards but leave everything else at 100 yards. And there was some agreement to that and we moved on. Senator Hansen was not a party to that, but to increase the yards around feedlots would dramatically limit the areas available for hunting. And throughout the life of LB836, I had explained I'd been, you know, defending against the charge that this was an antihunting bill. And I said, oh, far from it. As amended especially, it's designed to give Game and Parks the tools they need to further regulate the deer herd and actually reduce it in the areas where they need to. But as I said on General File, the best solution would be to have more hunters hunting. So with that sentiment, the absolute worst thing we could do is to increase the number of areas that are off limits to hunters. We have a tremendous problem in this state of access, and the 100 yards isn't something I picked out of the air. When we were discussing the amendments to this bill with the committee and with Game and Parks, I suggested 75 yards for bow hunters--75 yards because there's really not a 200-yard danger from bows. And the advice I was given, and it was good advice, was you should make it across-the-board 100 yards because there really...the danger here is

Floor Debate
March 17, 2010

dramatically overstated. If you're worried about rifles, they already can go much farther than 200 yards, so the 200-yard limit is really meaningless. You'd have to have someone intentionally firing towards the residence and 200 yards doesn't help you if someone's doing that with a rifle. That's just the honest truth of it. So Game and Parks suggested 100 yards and I agreed, and that became part of the committee amendment as the committee agreed as well, obviously. But I understood the ongoing concern regarding rifles and if that had to be pushed back up to 200 yards, which it is in existing law, that was acceptable to all involved, it seemed like. But to do this regarding feedlots and to add a dramatic quarter-mile barrier around feedlots is just, in my mind, unconscionable and we are sending the absolute worst message to hunters possible. And that is, in a bill where we're trying to do a little something to encourage access and grant you access to more lands, we're going to take a lot of land off limit. And I'll go so far as to say when I became aware of this amendment, I discussed this amendment with some representatives of the agricultural interests, some representing cattle, some representing farms. You can probably tell which is which. I said, are you with this? Do you want this? And the response was, no. This isn't needed. We're fine with the 100 yards. We're fine with the 200 yards for rifles, 100 yards for everything else. This is going the wrong way. And this bill exposed a lot of acrimony and bad feelings between some in the ag community and some in the hunting community. And it has been a careful compromise to try to address the legitimate concerns of farmers regarding deer overpopulation and to provide additional access for hunters. [LB836]

SENATOR CARLSON: One minute. [LB836]

SENATOR LAUTENBAUGH: And with this amendment, we are sending a disastrous message to hunters that everything we said in the negotiations to get to the committee amendment we just plain didn't mean. Hunters, we don't want you. Go to another state. And I don't think anyone wants to say that. And I urge you to vote against this amendment. Thank you, Mr. President. [LB836]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those wishing to speak, Senators Karpisek, Hansen, Langemeier, and Fulton. Senator Karpisek, you're recognized. [LB836]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Hansen answer some questions, please? [LB836]

SENATOR CARLSON: Senator Hansen, would you yield? [LB836]

SENATOR HANSEN: Yes. [LB836]

SENATOR KARPISEK: Thank you, Senator Hansen. How many...what's the definition of a feedyard, a feedlot? I mean, is there a definition? I mean, maybe we're thinking

Floor Debate
March 17, 2010

about cattle on stocks. That's not what you're talking about, is it? [LB836]

SENATOR HANSEN: No. I was more concerned with confined animals. At weening time, like we confine calves, freshly weened calves, around a barn. And that's what we have problems with is we have hunters and during deer season, you know, firing off rifles, firing off shotguns close to those calves. And then also in our regular feedlot, in a CAFO, confined animal feeding operation, people discharging rifles, shotguns too close to that too. I think it's unconscionable to explode a shell that close to a confined animal. And it has nothing...if I could take just a moment? [LB836]

SENATOR KARPISEK: Go ahead. [LB836]

SENATOR HANSEN: I have nothing against hunters. Senator Lautenbaugh and I are certainly on the same page. We have too many deer. We need more hunters. We really do, but in the western part of the state where we have a lot of livestock, we don't want... [LB836]

SENATOR KARPISEK: Yeah. [LB836]

SENATOR HANSEN: ...people shooting close to those animals. [LB836]

SENATOR KARPISEK: Okay. Well, thank you, Senator Hansen. I think that's a little bit of how much land does this really take out, especially in the western part, probably not all that much because you have cattle out in pastures more or so you have them on your yard or an abandoned yard. The 400 yards on the eastern side of the state I can see being away from a residence could take up a whole lot of land. I live in town now, but I did live out on the farm for a while after we got married and I was concerned about the hunting being fairly close. I don't know that they were any 200 yards away. I think they were more like 50 yards away and usually it felt like they were shooting at the house, but I am concerned about how close they are to the house or the yard. But I also think that the 400 might really take out a big chunk around those. So I will keep listening. Senator Hansen, I was going to give you some time if you want it. I know your light is up next. Mr. President, I'd yield my time to Senator Hansen if he would like. [LB836]

SENATOR CARLSON: Thank you, Senator Karpisek. Senator Hansen, 2 minutes. [LB836]

SENATOR HANSEN: Thank you, Senator Karpisek. I appreciate that. I want to be clear that I don't live in the eastern part of the state. I don't live in Washington County. I think that part of the problem is the urban sprawl from our cities out to the country. People continue buying 20-acre plots, building a house, a nice yard, big yard, a couple of horses. And if you can't get more than 100 yards away from your property to shoot a

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

Floor Debate
March 17, 2010

deer, there may be too many houses out there. It's kind of late now, but I've heard that deer really like impatiens, the little flower. So I'm sure there's impatiens growing in all these housing units that, you know, the pretty flowers, here come the deer. Well, we have more deer now close to the houses than we've ever had before. We have more houses than we had...than has ever been close to the deer. So it's kind of a, what do we do? Which came first, the deer or the house? But I think it is a problem and I think it continues to be. Thank you. [LB836]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Thank you, Senator Hansen. Senator Fulton, you're recognized. [LB836]

SENATOR FULTON: Thank you, Mr. President, members of the body. I do want to comment on the amendment. I stand opposed to AM2191 with respect to my colleague and friend Senator Hansen. I've heard from some members in the sportsmen's group that there was an accord struck to get to 200 feet (sic) per Senator Lautenbaugh's bill, and that's what we've had on General File. And so that was expressed to me, I felt it appropriate to make that expression here. That's why I'm being opposed to AM2191. I will yield any remaining time to Senator Lautenbaugh if he would so choose to use it. [LB836]

SENATOR ROBERT: Senator Lautenbaugh, 4 minutes 20 seconds. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and briefly. I appreciate Senator Fulton's comments. I appreciate Senator Hansen's comments. I just think this would be an extreme reaction. If there is a problem in the western part of the state with shooting near feedlots, that's maybe something that should be addressed by the Natural Resources Committee next year after hearing with proper input, but we heard nothing at all in committee on this bill, when I was in their committee, about the limit being too small. Quite the opposite. And so I would urge you to vote against this amendment and I would yield the rest of my time Senator Langemeier. [LB836]

SENATOR LANGEMEIER: Can't do that. [LB836]

SENATOR ROBERT: Can't do that, Senator Lautenbaugh. One yield only. Senator Hansen, you are recognized. [LB836]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Would Senator Lautenbaugh yield to a summary? [LB836]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB836]

Floor Debate
March 17, 2010

SENATOR LAUTENBAUGH: Yes, I will. [LB836]

SENATOR HANSEN: Thank you, Senator Lautenbaugh. Could you describe the countryside where all these deer are in your county and around Blair and Washington County, and how close are those houses and if you were 100 yards, 200 yards away, how close would you be to the next house? Can you give me a visualization of that? [LB836]

SENATOR LAUTENBAUGH: Absolutely, Senator. Although I don't know that it will be terribly helpful because as I describe my district in particular, I say it's a microcosm of the state. I have part of the city of Omaha where the houses are very close together. I have my area which is now part of the city of Omaha. There's neighborhoods around mine where the houses become farther apart. Then we have open farm ground. As we go north through northwest Douglas County and up into Washington County, and then we get into acreages and rolling hills as you get close to the river and as you go west, back west in Douglas County...I'm sorry, Washington County, there's more traditional ag land. And then there's the city of Blair, city of Fort Calhoun. There's no real way to answer that question as we have every possible combination you could imagine. [LB836]

SENATOR HANSEN: In the area where the deer...I don't know if they're concentrated or if they're spread out, but in the areas where they have the acreages, if you were 200 yards away from your home and away from business, how close would you be to the next house? [LB836]

SENATOR LAUTENBAUGH: Again, Senator, that's really unanswerable... [LB836]

SENATOR HANSEN: Yeah. [LB836]

SENATOR LAUTENBAUGH: ...because it would depend. Sometimes it would be 50 yards, sometimes it would be inside the next house, sometimes...there's just no way to answer that. [LB836]

SENATOR HANSEN: I think that's the problem I have is why set a distance that is so short? I mean, especially if we're shooting toward, you know, 100 yards away or 200 yards away, whatever it is, are you're just pushing people, pushing hunters closer to another person's home? [LB836]

SENATOR LAUTENBAUGH: Well, Senator, I would tell you the reason for the 100 yards and why we picked it, again, it was not something that we picked out of the blue. It was a number recommended to us by Game and Parks who, I think, who all concede they're the experts in this area. And in dealing them in committee, they said 100 yards was ample for the safety concerns involved. They don't have a history of injuries related

Floor Debate
March 17, 2010

to the 200-yard limit versus the 100-yard limit, and they said this is the way to go. So, I mean, if everything we do is drawing lines and that was where the common-sense line was recommended to be drawn based upon their expertise. [LB836]

SENATOR HANSEN: Okay. Thank you, Senator Lautenbaugh. I still have a problem with discharging rifles, shotguns, anything but bow and arrows and slingshots closer than a mile and quarter shooting deer. And I know we have to do something with the deer population and certainly chasing them down with a car is not a good option. So the deer hunters have to help, have to help out with this problem. But I still think that the distance is a problem. And the reason I think the distance is a problem is because of the percussion when the rifle is shot and then closeness to someone's else's property. When anyone comes up to our place and says, can I hunt deer? We always say: Yeah, sure. Go ahead. Stay at least a quarter of a mile away from the house. It's no big deal. The deer are out there too. So I think the mile and a quarter is reasonable and I think that anything closer with a shotgun or a rifle is too close. Thank you, Mr. President. [LB836]

SENATOR ROBERT: Thank you, Senator Hansen. Senator Langemeier, you're recognized. [LB836]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in opposition to AM2191. The law has been the law for years and years and years and years, set by this Legislature at 200 yards. This bill with LB836 wants to make it 100 yards. Senator Stuthman would like it to go back to 200 yards. I'm going to support Senator Lautenbaugh's, which will be the third amendment we get to, if it's not 4:30 by then, that would take it back to 200 yards but allow 100 yards for bow and arrow. A hundred yards with a bow and arrow is about the capacity of it. So I rise in opposition to AM2191. The 200 yards has been there a long time. We haven't heard complaints. I talked to Game and Parks. That hasn't been an issue to increase it, but we would like to take it back to the 200 and 100 for bow and arrow. And with that, I'm going to wait to support Senator Lautenbaugh's which is the third amendment up and ask you not to vote for AM2191. Thank you. [LB836]

SENATOR ROBERT: Thank you, Senator Langemeier. Seeing no other lights on, Senator Hansen, you're recognized to close on your amendment. [LB836]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I just want to bring some sensibility to distances and ranges, proximity to houses, proximity to animals in a confinement situation, horses running in a field. Let's just use some common sense and stay away from livestock. That's the main idea of this amendment. I would urge you to vote for this. If not, we have some other alternatives there. Just so we don't create a war zone in Washington County. Thank you, Mr. President. [LB836]

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

Floor Debate
March 17, 2010

SENATOR ROBERT: Thank you, Senator Hansen. Members, you have heard the closing to AM2191, the amendments to the committee amendments. The question before the body is, shall the amendment be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB836]

CLERK: 4 ayes, 24 nays, Mr. President, on the amendment. [LB836]

SENATOR ROBERT: AM2191 is not adopted. [LB836]

CLERK: Mr. President, Senator Stuthman would move to amendment with AM2111. (Legislative Journal page 955) [LB836]

SENATOR ROBERT: Senator Stuthman, you're recognized to open on AM2111. [LB836]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. My amendment would take out the portions of the committee amendment that deals with the 100 yards and go back to the original statute of 200 yards. My reason for that is the fact that I think we should keep it simple. We should keep it the same for both. Even the 200 yards, you know, I can accept that. And that's what we have in statute right now. And I have the personal privilege...maybe it's not a privilege, but the experience of what happens, you know, within the 200 yards or at 200 yards. We have had people shoot at like 200 yards from our cattle feedyard. And maybe I should give you people, you know, what my experience is, what I have. I have a farm place, a cattle feedyard. We have land, a very wooded area for about a mile and a half with a lot of deer. And this really effects me if we change this in any way. The 200 yards, we had an individual shoot, you know, it was within the 200 yards, it was about 195 yards because we did measure it off from the feedyard to where he shot because the experience that we had with the shooting at that point. Shooting these deer rifles, these large deer rifles is like a canon going off. And especially in the fall when we ween calves and have a pen of calves that are weened and you shot a canon off, you know where those cattle are ending up at. They're another mile down the road through the fences, through the bunks, through the waterers. They bust everything up. The cattle that are in the yards at a longer period of time, they circle. They just continual circle because they're so scared. And this is the reason that I wanted to keep it at the 200 yards. Now, I know Senator Lautenbaugh, you know, wants 100 yards for the bow. I don't agree with that. If it is just the bow, the shooting of the bow, there is not a lot of sound. No, there isn't. But the fact is, if that deer is shot with a bow, and most generally when you shot the deer with the bow, they could be crippled, they could be wounded, they're not instantly dead. What are you going to do if you have shot that deer at 110 yards from my feedyard or 110 yards from the house, from a residence? You can't shoot that deer, that crippled deer. You have to drag that deer another 90 yards to be out of that 100-yard distance. You have to be 200 yards away from a residence to shoot that deer. I think that just compounds the issue

Floor Debate
March 17, 2010

that we have and it, in my opinion, I don't know what's wrong with leaving it the way we have it right now at the 200 yards. We surely don't want to have it come closer. And Senator Lautenbaugh has agreed, the rifle, we don't want to have that come closer than the 200 yards. Originally he had it moving to 100 yards. You know, that's very close. A hundred yards and a high-powered rifle, if you stood by my office door, 100 yards is the north wall of the hall. That's pretty close for 100 yards. So I think we need to go back to the way we have had it, 200 yards and leave it at that. I know there's a lot of issues of, you know, we need to allow more access to deer hunters. Well, I'm going to tell you, we do allow people to come in to our area to hunt, but we have seen far too many irresponsible deer hunters in our wooded area and we don't appreciate that. It takes one good shot to kill a deer. We have heard time and time again as much as 12 to 15 shots. I mean, I don't know if they're shooting at a flock of geese with these high-powered rifles, but you know those bullets end up somewhere. And we've got houses in the area. We do have people come in that do hunt in our wooded areas. Our area right now at the present time, we have seen as many as, you know, 120 to 150 deer. But they scatter out through the summer when they have their little ones. But in the wintertime they congregate and come back to the area. We have the deer come as close as right up to the cattle feedyard, but I really think that the issue if it was to be changed, why didn't the Game and Parks want to change something that had come from the Game and Parks? I think we should leave it at the 200 yards and just leave it as is. I will say the 400 yards is probably plenty because of the fact there would be a lot of areas where you couldn't hunt. You have a farm place. And within a half mile, there's another farm place, another operation. You couldn't hunt anywhere in between there because it would be a quarter mile to a quarter mile, that would be a half mile you couldn't hunt at all. But I think we really should stay with the 200 yards and that's what I support. I want to give you a little information that I received from an individual. He's from my area and he writes about how many deer that Wisconsin has and kind of how many deer per square mile and how many deer they harvest. You know, Nebraska has 77,000 square miles of land, has a deer population of about estimated at 380,000. Wisconsin has 56,000 square miles or about 72 percent of the size of Nebraska. Wisconsin hunters killed 329,000 deer in 2009. The remaining herd is estimated at 990,000 deer. Wisconsin farmers deal with 23.5 deer per square mile, and Nebraska has about 5 deer per square mile. So the deer, yes, they are maybe overpopulated in Nebraska, but it's really not all that bad and they do some damage, that they do. But I really think, I really think that we should leave this as it is for the 200 yards because when we have the 200 yards that we're used to and what we're accustomed to and now if Senator Lautenbaugh's amendment passes with 100 for the bow and the 200 for the rifle, it just compounds the problem of: were you this far or weren't you that far, and where was the deer when you hit it with the bow and, you know, did you shoot it with the rifle to kill it within that 100 yards or were you out in that 200 yards? So I really think, in my opinion, let's leave it as it is. It's a good distance but, you know, I would never allow, you know, it to be any closer than that 200 yards. With that, I ask for your support on this amendment. Thank you, Mr. President.

[LB836]

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

Floor Debate
March 17, 2010

SENATOR ROBERT: Thank you, Senator Stuthman. Members, you've heard the opening to AM2111, the amendment to the committee amendments. Those wishing to speak, Senators Lautenbaugh and White. Senator Lautenbaugh, you're recognized. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'm going to do something that I think is important here and that is keep my word. We had concerns voiced on General File and I gave my word to people, including Senator Stuthman, that I would change it so that the 200 yards applies still to rifles, 100 for the rest. I have an amendment that's up next to do that. I'd urge you to support it. I would urge you to vote against this one as it's not consistent with what we agreed on General File. It is consistent with what Game and Parks recommends or this amendment is inconsistent with what Game and Parks recommended. It's inconsistent with the committee testimony we heard. It's inconsistent with basically the spirit of the bill as we explained it on General File. And I would urge you to vote no on this amendment. [LB836]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator White, you are recognized. Senator Stuthman, you are the next light on and the only light on. [LB836]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I will use this also as my closing, since there are no other lights, in the essence of time. But the fact is as Senator Lautenbaugh said, yes, he was a man of his word and he said he would change that. Yes, I agree with him there, but I did not agree with the fact that, you know, that I was going to go along with that 100 yards for the bow and I will not go along with that, in my opinion. I just truly think that we should keep it at the 200 yards whether it's bow or whether it's with the rifle. I just think let's leave it as it is and concentrate on that. I don't like to see the changes and I think it's going to create some problems with people that are allowed to hunt in certain areas and the fact of, you know, were you at 100 yards or were you at 200 yards and did the animal run to...when you shot it within...with just over 100 yards with a bow and it isn't dead, are you going to drag it over 200 yards so that you can shoot it with a rifle? Are they going to do that? I don't think they are. I think they're going to shoot it on the spot. They're not going to go to the trouble to drag it the 200 yards to the 200-yard spot. So with that, I would ask your support for this because it just leaves it as it is and, yes, we have a lot of deer but I don't think they're a major problem in our area. And I would just like to ask for your support on this amendment. Thank you, Mr. President. [LB836]

SENATOR ROBERT: Thank you, Senator Stuthman. Members, you've heard the closing to AM2111, the amendment to the committee amendments. The question before the body is, shall the amendment be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB836]

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

Floor Debate
March 17, 2010

CLERK: 4 ayes, 22 nays, Mr. President, on the amendment. [LB836]

SENATOR ROBERT: AM2111 is not adopted. [LB836]

CLERK: Mr. President, the next amendment I have, Senator Lautenbaugh, AM2253. (Legislative Journal page 956.) [LB836]

SENATOR ROBERT: Senator Lautenbaugh, you're recognized to open on AM2253. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of body. This is the amendment that I was referring to earlier. I did adjust it from General File and I'd urge your support of this. Simply put, it does put the limit for rifles back at the existing limit of 200 yards and lowers the rest to 100. I urge your approval. Thank you. [LB836]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Members, you've heard the opening to AM2253. Members wishing to speak, Senator Stuthman, you're recognized. [LB836]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Lautenbaugh a question. [LB836]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question from Senator Stuthman? [LB836]

SENATOR LAUTENBAUGH: Yes, I will. [LB836]

SENATOR STUTHMAN: Senator Lautenbaugh, in this extended season, is this extended only for rifle or is it for rifle and bow? [LB836]

SENATOR LAUTENBAUGH: In the extended season as provided in the amended bill, it would be any weapon. [LB836]

SENATOR STUTHMAN: So in other words, there could be rifle hunters and bow hunters in this extended season at the same time? [LB836]

SENATOR LAUTENBAUGH: It's conceivably possible. [LB836]

SENATOR STUTHMAN: What do we have at the present time? Do we have a designated bow season, a designated rifle season, a designated black powder season? Do we have that now? [LB836]

Floor Debate
March 17, 2010

SENATOR LAUTENBAUGH: We have designated seasons, there may or may not be some overlap. [LB836]

SENATOR STUTHMAN: You state that some of them do overlap so there could be rifle and bow at the same time? [LB836]

SENATOR LAUTENBAUGH: That's conceivable. [LB836]

SENATOR STUTHMAN: No. I don't think so. I will have to check the record but I don't think that is possible because you have a designated rifle season and designated bow season and then there's also a designated black powder season. So this is the question that I have, you know, are we going to have bow hunters if we have this extended season to try to get rid of some of the deer population, are we going to have a season of bow hunters, rifle hunters, hunters able to hunt close to your residence? Some can't be that close. I mean, I would like to get a clarification so I want to know for sure what is in your bill that defines whether it's rifle in the extended depredation season or if it is also bow. [LB836]

SENATOR LAUTENBAUGH: Well, I know in discussions with Game and Parks there is a contemplated overlap of possibility. We've discussed that previously. I can tell you this, that the bow hunters are going to be readily distinguishable from the rifle hunters. The first thing that comes to mind is one of them will have a bow and the other one is going to have a rifle. And regardless of what season we're in, 100 yards is 100 yards and 200 yards is 200 yards. And if you have a rifle, you need to be 200 yards away which is existing law, if you have a bow, you're going to be allowed to be closer. And I don't think there's going to be any difficulty distinguishing between the two and where they are allowed to be. [LB836]

SENATOR STUTHMAN: Well, in...this is still my time, isn't it, Mr. President? [LB836]

SENATOR ROBERT: Yes, 1:47. [LB836]

SENATOR STUTHMAN: The thing that is disturbing to me is the fact that...and I know for a fact there's going to be bow hunters carrying their bow and their arrows and also a rifle. And the reason they carry their rifle is the fact that they may have to shoot the animal to kill the animal after they hit it with a bow. The issue that I have is they're going to be close to a residence, 100 yards, 300 feet from my door to the end of the wall with their bow. [LB836]

SENATOR LAUTENBAUGH: Yeah, I see what you're saying. I kind of messed up there. [LB836]

SENATOR STUTHMAN: And if there's one real close, they'll probably use the bow. But

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

Floor Debate
March 17, 2010

then if it isn't real close, then they use the rifle. I've got real concerns with what we're attempting to do here by making that distance different... [LB836]

SENATOR ROBERT: One minute. [LB836]

SENATOR STUTHMAN: ...between the two and differentiate between the bow hunters and the rifle hunters, and the fact is, is why don't we try to keep it the same or are these bow hunters going to be only bow hunters? Are they going to be close to residences in certain areas where there probably is not feedyards or anything like that and they see some deer and they're real close and they're going to just bow hunt? Is this going to allow more people to bow hunt and also carry a rifle? I just feel that we've got a lot of questions that need to be answered here yet before we continue to move this bill on, in my opinion. [LB836]

SENATOR ROBERT: Time. [LB836]

SENATOR STUTHMAN: Thank you, Mr. President. [LB836]

SENATOR ROBERT: Thank you, Senator Stuthman. Senator Langemeier, you're recognized. [LB836]

SENATOR LANGEMEIER: Mr. President, members of the body, I want to clear a couple of things up here. First of all, we have a rifle season. We also have a bow season. We have a black powder season. The black powder and the bow do overlap. Last year, we had a three-day any form of firearm, three-day hunt in October this year which would allow for bows, black powder, or rifle. We had no problems. They all existed for three days with all weapons out there hunting deer. The purpose of LB836 is to allow Game and Parks at their discretion to extend a season. At that time, they're going to decide whether it's going to be bow season, it's going to be black powder season, it's going to be rifle season, or all weapons. That is up to Game and Parks. They set those rules now. They had a season last year in October for three days. We can continue to let them manage the deer population and determine the seasons that they see fit. And so I just wanted to make sure we got that on the record correctly. And, again, I would ask for your support of AM2253 and LB836. Thank you. [LB836]

SENATOR ROBERT: Thank you, Senator Langemeier. Senator Stuthman, you're recognized. [LB836]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask a question of Senator Langemeier. [LB836]

SENATOR ROBERT: Senator Langemeier, will you yield to a question? [LB836]

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

Floor Debate
March 17, 2010

SENATOR LANGEMEIER: You bet. [LB836]

SENATOR STUTHMAN: Senator Langemeier, you stated there that the Game and Parks can set the season? [LB836]

SENATOR LANGEMEIER: Game and Parks sets all our hunting seasons now, yes. [LB836]

SENATOR STUTHMAN: Okay. Can they set the distance from a feedyard as to what can be shot? I mean, can they set the distance? [LB836]

SENATOR LANGEMEIER: No, that is statutory and that's what we're talking about right here today. [LB836]

SENATOR STUTHMAN: That's in the statute? [LB836]

SENATOR LANGEMEIER: Yup. [LB836]

SENATOR STUTHMAN: And what we're trying to do here is we're trying to change the statute from 200 yards to 100 yards... [LB836]

SENATOR LANGEMEIER: For bows only. [LB836]

SENATOR STUTHMAN: ...for the bow, for just the bow? [LB836]

SENATOR LANGEMEIER: Correct. [LB836]

SENATOR STUTHMAN: But the Game and Parks can do anything else as far as extending the season as to how many deer that you can get or anything like that? [LB836]

SENATOR LANGEMEIER: Yes. [LB836]

SENATOR STUTHMAN: Okay. Thank you. Thank you, Senator Langemeier. The issue that I have is, you know, we're trying to change the statute, but what is wrong with the statute that we have right now? Why do we have to change it from the 200 yards down to 100 yards? What group of people or what organization or what area is really promoting this? That is the concern that I have. I just feel that, you know, there must be something where there must be a housing development where they want to shoot deer with the bow and they can't because of the 200 yards. So I know I don't support this and that's what I will continue to do. So thank you, Mr. President. [LB836]

SENATOR ROBERT: Thank you, Senator Stuthman. Seeing no other lights on, Senator

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

Floor Debate
March 17, 2010

Lautenbaugh, you're recognized to close on AM2253. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I remember a lot of things my contracts professor said in law school, not enough, but one of the things he said that stuck with me was: When you hear hoof beats, don't look for zebras. You should expect horses more than likely. Sometimes the most obvious answer is the correct answer. So, no, the suggestion that there's some specific housing development where there's some problem or some specific thing that's motivating this, I think we've been pretty clear on what the motives are. We need more places for hunters to hunt. We've worked with Game and Parks. We've discussed what safety would dictate, and we brought forward the bill which as advanced lowers everything down to 100 yards. This amendment puts rifles back at 200 as I discussed out of an abundance of caution, abundance of safety for rifles, and that's why we're doing this. And if the question is, what group benefits from this, well, I would say the motoring public benefits because there will be fewer deer. I would say the hunters benefit because there will be more places for them to hunt. And for all the talk we've had on this bill and all the tools we're giving Game and Parks to manage the herd, again, it all comes back down to access and hunting is the preferred way to manage the herd. And I pled with anyone who was listening on General File, if you have land you can grant access to, please do. This amendment and this portion of the bill is part and parcel of that. Access, access, access breeds more hunting; more hunting means fewer deer. I would urge your support of the amendment and advancement of the underlying bill. Thank you, Mr. President. [LB836]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Members, you've heard the closing. The question before the body is, shall we adopt AM2253? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB836]

CLERK: 34 ayes, 1 nay, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB836]

SENATOR ROBERT: The amendment is adopted. [LB836]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB836]

SENATOR ROBERT: Returning to discussion on the bill, is there anybody wishing to speak? Seeing none, Senator Nordquist. [LB836]

SENATOR NORDQUIST: Mr. President, I move LB836 to E&R for engrossing. [LB836]

SENATOR ROBERT: Members, you have heard the motion. The question before the body is, shall LB836 advance to E&R for engrossing? All those in favor signify by saying

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

Floor Debate
March 17, 2010

aye. Opposed, nay. LB836 does advance. According to the agenda, it is 4:30, we'll now move to Select File bills without any amendments. Mr. Clerk. [LB836]

CLERK: Excuse me, Mr. President. The first bill, LB742. Senator Nordquist, I have Enrollment and Review amendments. (ER8193, Legislative Journal page 899.) [LB742]

SENATOR ROGER: Senator Nordquist for a motion. [LB742]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB742. [LB742]

SENATOR ROBERT: Members, you've heard the motion to adopt the E&R amendments. All those in favor signify by saying aye. Opposed, nay. The amendments are adopted. [LB742]

CLERK: I have nothing further on the bill, Senator. [LB742]

SENATOR ROBERT: Senator Nordquist for a motion. [LB742]

SENATOR NORDQUIST: Mr. President, I move LB742 to E&R for engrossing. [LB742]

SENATOR ROBERT: Members, you've heard the motion. Shall LB742 advance to E&R to engrossing? All those in favor signify by saying aye. Opposed, nay. LB742 does advance. [LB742]

CLERK: Mr. President, LB879, E&R amendments first of all, Senator. (ER8174, Legislative Journal page 692.) [LB879]

SENATOR ROBERT: Senator Nordquist for a motion. [LB879]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB879. [LB879]

SENATOR ROBERT: Members, the question before the body is, shall we adopt the E&R amendments to LB879? All those in favor signify by saying aye. Opposed, nay. The amendments are adopted. [LB879]

CLERK: Nothing further on that bill, Senator. [LB879]

SENATOR ROBERT: Senator Nordquist for a motion. [LB879]

SENATOR NORDQUIST: Mr. President, I move LB879 to E&R for engrossing. [LB879]

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

Floor Debate
March 17, 2010

SENATOR ROBERT: Question before the body is, shall LB879 advance to E&R for engrossing? All those in favor signify by saying aye. Opposed, nay. LB879 does advance. Items, Mr. Clerk. [LB879]

CLERK: I do, Mr. President. Senator Nordquist, an amendment to LB1106A; Senator Carlson, LB1057; Senator Heidemann to LB1057; Senator Lautenbaugh to LB728. Senator Cornett offers LR406; Senator Cook LR407 and LR408; Senator Giese LR409. Those will be laid over. Communication from the Governor to the Clerk. (Read re LB258, LB579, LB689, LB735, LB764, LB768, LB770, LB799, LB805, LB821, LB865, LB910, LB910A, LB926, LB1006, and LB1063.) An announcement, Executive Board will meet tomorrow morning at 8:15, Mr. President; Exec Board at 8:15 in the morning in Room 2102. Name adds: Senator White and Christensen and Flood to LB1048, along with Senator Sullivan and Senator Pirsch. (Legislative Journal pages 956-961.) [LB1106A LB1057 LB728 LR406 LR407 LR408 LR409 LB258 LB579 LB689 LB735 LB764 LB768 LB770 LB799 LB805 LB821 LB865 LB910 LB910A LB926 LB1006 LB1063 LB1048]

And I have a priority motion. Senator Flood would move to adjourn the body until Thursday morning, March 18, at 9:00 a.m.

SENATOR ROBERT: Members, you've heard the motion. The question is, shall we adjourn until Thursday, March 18, at 9:00 a.m.? All those in favor signify by saying aye. Opposed, nay. We are adjourned.