

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

Floor Debate
January 28, 2010

[LB147 LB181 LB190A LB190 LB216 LB235 LB552 LB635 LB667 LB689 LB708 LB711
LB747 LB777 LB778 LB800 LB806 LB823 LB836 LB873 LB988 LB990]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifteenth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Rick Johnson, St. Paul's Lutheran Church in DeWitt, Nebraska, Senator Wallman's district. Please stand. []

PASTOR JOHNSON: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Pastor Johnson. I call to order the fifteenth 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: Your Committee on Revenue, chaired by Senator Cornett, reports LB708, LB806, and LB873 to General File, and LB823 indefinitely postponed. I have notice of hearings from the Natural Resources Committee, signed by Senator Langemeier. That's all that I have, Mr. President. (Legislative Journal pages 381-382.) [LB708 LB806 LB873 LB823]

SPEAKER FLOOD: Thank you, Mr. Clerk. (Doctor of the day introduced.) One procedural note on the agenda, due to an absence Senator Pahls will not be with us today. We will be passing over LB762. Again, we will be passing over LB762 under General File today. Please make a note on your agenda. Mr. Clerk, the first bill on General File is an appropriations bill, LB190A. [LB190A]

CLERK: LB190A is a bill by Senator Avery. (Read title.) [LB190A]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Avery, you're recognized to open on LB190A. [LB190A]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I hate to start the day with an A bill, but this is an important one. If you will look at the fiscal note, you

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

Floor Debate
January 28, 2010

will see that the Fiscal Office states in that note, this is revision number 3, the pink copy, that funds are a transfer from the State Settlement Cash Fund to the State DNA Sample and Database Fund, which we created on General File with LB190, and also to the Cash Funds in the Department of Correctional Services and the State Patrol. The Fiscal Office further states that we're only dealing with Cash Funds, not general appropriations. So LB190A appropriates only cash funds, no General Funds are appropriated. It appropriates one-time amount of \$72,800 from the Department of Correctional Services Facilities Cash Fund, that is for 2010-11, to Corrections to use for testing inmates prior to their release. It also appropriates \$176,450 from the Nebraska State Patrol's Cash Fund for 2010-11, and an additional \$73,250 from the State Patrol Cash Fund for 2011-12 to the State Patrol. The Patrol would use these funds for DNA kits and for testing inmates and probationers. This is necessary in order to implement LB190. I understand that Senator Heidemann would like to engage me in a little discussion on this. And I will end my introductory comments and then listen to Senator Heidemann. Thank you, Mr. President. [LB190A LB190]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening on LB190A. Senator Heidemann, as we go to discussion, you are recognized. [LB190A]

SENATOR HEIDEMANN: Thank you, Speaker Flood, fellow members of the body. I do want to start out that I do support LB190. I have been in contact with the Attorney General's Office trying to figure out how this is going to unfold. I understand and I agree with that, as Senator Avery said, we have the first up-front costs covered. I have concerns with the ongoing costs and how they're going to be covered. The issue with the Department of Corrections has been somewhat...it can move forward without a cost, they're going to do it within. I understand that, I agree with that. It's the issue with the State Patrol, probably with the cost of the kits that will be in the out years and how we will pay for that. I understand that this fund will be able to take grant funds. The question is if we don't get grant funds and if we can't get anymore money from settlement Cash Funds, it is our understanding that this would be a General Fund cost at that time. And I would like to ask if that's the way that Senator Avery understand it. [LB190A LB190]

SPEAKER FLOOD: Senator Avery, will you yield to a question from Senator Heidemann? [LB190A]

SENATOR AVERY: Of course. Senator Heidemann, I cannot say definitively that there would never, ever be any need for general appropriation. Let me just say though that you are quite right that the cost is with the State Patrol. But there are a number of things that we need to keep in mind here. And that is, one, that when you have DNA evidence on file then that cuts down on the investigative costs, because we know that most felons are repeat offenders. There is a great...a rather high recidivism rate among felons. So if you already have the DNA evidence on file then that is something that you don't have to do again. And I would also suggest that there might be something we can do, and we'd

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

Floor Debate
January 28, 2010

have to do it on Select File, and that is we could require probationers to pay for their own testing. We already require probationers to pay a lot of fees anyway, and that would cut the cost down. How much, it's impossible to calculate exactly. But the reduced cost because we already have DNA in the database, can help us more quickly establish who committed crimes and cut down on investigative costs. And I think that needs to be taken into account, although we can't measure it exactly. Thank you. [LB190A]

SENATOR HEIDEMANN: What does each kit cost, Senator? Did you say that or... [LB190A]

SENATOR AVERY: It's \$25 to \$30. [LB190A]

SENATOR HEIDEMANN: So that's not significant,... [LB190A]

SENATOR AVERY: No. [LB190A]

SENATOR HEIDEMANN: ...but that cost will be there and ongoing. I mean, you make it sound like, and I agree that the repeat offenders we won't have to retest. But can you say that we are not going to have new felons then? [LB190A]

SENATOR AVERY: No, I cannot say that. (Laugh) [LB190A]

SENATOR HEIDEMANN: Okay. I mean, so every time we get a new felon we will need the cost of a kit at least. [LB190A]

SENATOR AVERY: Correct. And there are...the State Patrol has a fairly significant inventory already of these kits. [LB190A]

SENATOR HEIDEMANN: And I agree. And I've had that conversation that they're trying to almost stock up so that there won't be any cost in the next year or two. But eventually, they're going to run out of those kits. And then it will be a cost and... [LB190A]

SENATOR AVERY: You're right. And the fund is available for grant money, as you pointed out. And the Attorney General has not refused to continue to put settlement money into this. It has to be qualifying settlement money, however. And he can't predict what that will be. [LB190A]

SPEAKER FLOOD: One minute. [LB190A]

SENATOR HEIDEMANN: Okay. I thought it was probably my job to let the body know that this isn't a significant amount of money by any means. But in the times that we're in,

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

Floor Debate
January 28, 2010

I thought it was prudent that I stand up and say that there might be an ongoing cost with this. And if we can figure it out by Select File who will be responsible for it and if it could be a General Fund obligation, I want the body to know that. I will vote green on General File for this bill. But there is work to be done between General File and Select File. And I think Senator Avery understands that. And so at this time I do support, on General File, the A bill on LB190. Thank you. [LB190A LB190]

SPEAKER FLOOD: Thank you, Senator Heidemann. There are no other members wishing to speak. Senator Nelson, you are recognized. [LB190A]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question or two to Senator Avery. [LB190A]

SPEAKER FLOOD: Senator Avery, will you yield to a question from Senator Nelson? [LB190A]

SENATOR AVERY: Yes, I will. [LB190A]

SENATOR NELSON: Thank you, Mr. President and Senator Avery. My recollection is when you were talking about this on the green bill itself that maybe half of the tests were going to be for people on probation. Would that be about right? [LB190A]

SENATOR AVERY: A number of the tests would be on people on probation, correct. [LB190A]

SENATOR NELSON: Right, of the total number. So you're estimating that if on Select we do decide to make the people on probation pay for these tests, is that going to be like \$25 or \$30 for the kit or are there...is it going to be a higher charge, if you know? [LB190A]

SENATOR AVERY: Well, the State Patrol already has a licensed practical nurse on staff to administer the tests, so there wouldn't be an additional cost there. It would be the cost of the kit. And we can require them to make that payment. It would be about \$25 to \$30. [LB190A]

SENATOR NELSON: Twenty-five to \$30 in addition to the other fees that we would charge the probationer. [LB190A]

SENATOR AVERY: Right, correct. [LB190A]

SENATOR NELSON: All right. All right, thank you, Senator Avery. Thank you, Mr. President. [LB190A]

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

Floor Debate
January 28, 2010

SPEAKER FLOOD: Thank you, Senator Nelson. Senator Haar, you are recognized. [LB190A]

SENATOR HAAR: Thank you, Mr. President, members of the body. I, too, would like to ask Senator Avery a question or two, if I could. [LB190A]

SPEAKER FLOOD: Senator Avery, will you yield to a question from Senator Haar? [LB190A]

SENATOR AVERY: Yes, I will. [LB190A]

SENATOR HAAR: Senator Avery, I certainly support your bill. My question is just a technical one. Would this also cover pretrial diversion where people basically, my understanding, admit to a felony but... [LB190A]

SENATOR AVERY: I am not a lawyer, so I will answer it as a layperson. I think a pretrial diversion would probably not be available to felons, probation and incarceration are. But if you do have a circumstance where a felon is allowed pretrial diversion, this would not apply as I understand it. [LB190A]

SENATOR HAAR: Okay. Well, maybe you could find that. And it's okay you're not a lawyer. (Laugh) Thank you. [LB190A]

SPEAKER FLOOD: Thank you, Senator Haar. Senator Hadley, you are recognized. [LB190A]

SENATOR HADLEY: Mr. President, members of the body, I, too, stand in favor of LB190. And I do have some of the same concerns that Senator Heidemann had about the bill and the General Fund implications. Would Senator Avery yield to a question? [LB190A LB190]

SPEAKER FLOOD: Senator Avery, will you yield to a question from Senator Hadley? [LB190A]

SENATOR AVERY: Yes, I will. [LB190A]

SENATOR HADLEY: Senator Avery, just again kind of a procedural question. What happens if an inmate says, I'm not going to give you the sample. Can they do that? [LB190A]

SENATOR AVERY: No. They can do it but they are required. When they go through admission processing, blood is drawn and they are given a choice of a blood test or a cheek swab. Most of them choose the cheek swab. But they will be required, just as

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

Floor Debate
January 28, 2010

they are required to be fingerprinted and photographed. They don't have the option of saying no. [LB190A]

SENATOR HADLEY: Okay, thank you, Senator Avery. Thank you, Mr. President. [LB190A]

SPEAKER FLOOD: Thank you, Senator Hadley. There are no other lights on. Senator Avery is recognized to close on LB190A. [LB190A]

SENATOR AVERY: Thank you, Mr. President. I just want to say to Senator Heidemann and others who are concerned about this A bill, I will work between now and Select File tirelessly to do whatever we can to assure this body that there will be either no General Fund impact or a minimal one. The Attorney General is working with us, Mr. David Cookson, in the Attorney General's Office, also, and Holley Bolen, the chief of staff. We're all working together on this. And I believe that we have enough brainpower in that group to work it out. So I hope that you will advance this to Select File. It's a good piece of legislation but it won't work without this A bill. Thank you. [LB190A]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the closing on LB190A. The question before the body is, shall LB190A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB190A]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of the A bill. [LB190A]

SPEAKER FLOOD: LB190A advances to E&R Initial. Mr. Clerk, we now proceed to Select File. The first bill is LB235. [LB190A LB235]

CLERK: Mr. President, if may, right before that, General Affairs will have an Executive Session at 10:45 under the north balcony; General Affairs at 10:45, north balcony. LB235, Senator Nordquist, I have E&R amendments first of all. (ER8140, Legislative Journal page 266.) [LB235]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB235]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB235. [LB235]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. Mr. Clerk. [LB235]

CLERK: Senator Adams would move to amend with AM1640. (Legislative Journal pages 382-383.) [LB235]

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

Floor Debate
January 28, 2010

SPEAKER FLOOD: Senator Adams, you're recognized to open on AM1640. [LB235]

SENATOR ADAMS: Thank you, Mr. Speaker. Members, what AM1640 does is to clarify and answer the questions that were raised during General File on this bill. This is the bill that would allow the Board of Educational Lands and Funds to enter into wind leases on educational lands. And, I think, if I could summarize generally what the concern was from many of you, what does this do if we enter into these leases to the existing lease arrangements that already exist with ag producers on that land. And what this amendment does is to try clarify all of that. And let me briefly summarize, and I think this will be helpful. Currently, right now any leases that were entered into with Educational Lands and Funds that were entered into beginning with 2009 going forward, those leases already have language in them that will allow Educational Lands and Funds to enter into solar and wind generation leases on top. There are also a segment of leases that have call provisions in them. And those ag producers that entered into agreements with Educational Lands and Funds with that call provision in it, if there is a wind generation project and it's been determined that educational land may be a place for that, those leases will be examined. If there's a call provision they'll be brought in, renegotiated. On all other leases, all other leases, those made prior to 2009, those leases that have no call provision, what this language and this amendment does is to recognize the right of the person leasing the land from Educational Lands and Funds. Now what does that mean? It means this, if Educational Lands and Funds wants to enter into a lease agreement, a 40-year lease agreement for wind generation, they will have to go to the lessee and renegotiate the lease. And if the lessee says, no, I want no part of this, I don't want it renegotiated, Educational Lands and Funds will have to walk away and come back another day. That's the reality of it. There is also language in here to clarify the fact that if a lease is entered into that any loss in acres to the lessee there will be a commensurate reduction in rent and they will be compensated for crop loss, those kinds of things. I hope this clarifies the questions that many of you had. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Adams. Senator Schilz, you are recognized. [LB235]

SENATOR SCHILZ: Thank you, Mr. President. Colleagues, good morning. I would first like to say thank you to Senator Adams for sitting down and listening to our concerns and attempting to address them here in this amendment. And I think...I truly think everything looks pretty good. I just have one question here on Section 4 (3), where it talks about, and I'm not sure if this was in the original bill or not, I don't think it was, where it talks about the priority of water use for the agricultural lease, and then it says, for all other purposes, including wind or solar lessees, they shall be allowed the reasonable use of water. Would Senator Adams yield to a question? [LB235]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Schilz?

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

Floor Debate
January 28, 2010

[LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR SCHILZ: Senator Adams, thank you. Can you explain what that means and what that would mean practically in a situation? [LB235]

SENATOR ADAMS: Yeah, I'll attempt to. Basically, what this is doing is reflecting some similar language we have on land where there are mineral types of leases. And in essence, it's saying that the lessee continues to have the right, the priority right to use the water there on that land. [LB235]

SENATOR SCHILZ: And then, of course, I would guess that during either construction phases or something like that that there may be a necessity for some of that water possibly to be used for that. I take it that that's why that's in there. [LB235]

SENATOR ADAMS: Right. And they would have to sit down with the lessee and work that out. [LB235]

SENATOR SCHILZ: Okay. And that's part of the deal is they'd sit down and figure that out. [LB235]

SENATOR ADAMS: Yes. [LB235]

SENATOR SCHILZ: Okay. Well, I'll tell you what, I think this is something that we probably need to move forward on. I think that most of...all of my concerns as far as the original bill, I think, have been answered pretty much to my satisfaction. So I am going to move ahead and support this. Thank you, Senator Adams. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Schilz. Senator Wightman, you are recognized. [LB235]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I have a couple of questions I might ask Senator Adams, if he would yield. [LB235]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Wightman? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR WIGHTMAN: Senator Adams, I understood you said that first of all that the lessee could fail to not agree to the terms of the state leasing for wind energy or solar

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

Floor Debate
January 28, 2010

energy, and then it would be over. And then there's another clause that said that if they do enter into the lease, I think, or a provision that there would be a pro rata reduction of the rent depending on the number of acres taken. Is that correct? [LB235]

SENATOR ADAMS: There would be compensation to them, yes. [LB235]

SENATOR WIGHTMAN: That compensation could exceed the amount of rent for those acres, I'm assuming, since the lessee has the right not to even allow the wind energy. So he'd be in a position or she would be in a position that they could receive some of the benefits perhaps of that wind lease during the remaining years of the lease. Is that a possibility? [LB235]

SENATOR ADAMS: No, I think if they sat down with the Board of Educational Lands and Funds and all of those become possibilities within that lease negotiation. [LB235]

SENATOR WIGHTMAN: So if they just renegotiated it, perhaps, the per acre amount on the rest of his land may go down or it could be any of a wide range of settlements, I guess. Is that correct? [LB235]

SENATOR ADAMS: Possibilities, right. [LB235]

SENATOR WIGHTMAN: Thank you, Senator Adams. [LB235]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Louden, you are recognized. [LB235]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Adams yield for a question, if he would, please? [LB235]

SPEAKER FLOOD: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR LOUDEN: As I look that over, and of course I want to commend you for coming forwards with this amendment because I think it pretty well answered the questions that we raised the other day. And, of course, you had a briefing with us here the other day with people from the Board of Educational Lands. I guess, I was asking...Senator Schilz already asked about the water down there. And one other question I would ask. Is this pretty well patterned after the leases that they use for minerals, such as it says, reasonable use of water, and like if they're drilling an oil well or something they need water in order to do that. The same way with wind or solar. Now would this include, oh, reasonable use for water for reseeding some of the areas when they, in some of those sandy...if it happened to be in the Sandhills or something like

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

Floor Debate
January 28, 2010

that? [LB235]

SENATOR ADAMS: I think that...yes, yes. [LB235]

SENATOR LOUDEN: Okay. [LB235]

SENATOR ADAMS: And we took your advice on this, Senator. And as my committee staff relooked at this in preparing this amendment, we did go back to those sections in statute and tried to do some modeling. [LB235]

SENATOR LOUDEN: Okay, good. And then as I say...they say if they put in some wind energy or whatever, they would pay the lessees for the damage. That sort...who decides that, when they negotiate that lease and then more or less whatever damages are available, is there a committee or someone that decides how much that damage is worth? How is that done? [LB235]

SENATOR ADAMS: I would say that that would be negotiated between the Board of Educational Lands and Funds, the developer, and probably also the lessee. [LB235]

SENATOR LOUDEN: Okay, thank you, Senator Adams. And I would support this amendment. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Louden. Senator Carlson, you are recognized. [LB235]

SENATOR CARLSON: Mr. President and members of the Legislature. I need to clarify something with Senator Adams based on the question that Senator Wightman asked. I would ask Senator Adams to yield. [LB235]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Carlson? [LB235]

SENATOR ADAMS: I will. [LB235]

SENATOR CARLSON: This is just in concept. I understand that a lessee could receive some damage payments as a result of some development that comes on in regard to wind and destroys crops or whatever. And that's a negotiated amount. I'm okay with that. I thought I heard Senator Wightman talk about perhaps some other ways that the lessee could benefit. And maybe I didn't hear right, but I'm of the conceptual idea that all proceeds from wind energy go to education. And that none of the things from wind, other than payment for damages, goes to the lessee. That's still the case, isn't it? [LB235]

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

Floor Debate
January 28, 2010

SENATOR ADAMS: One of the things that you have to look at, for instance, the amount of land that is being taken out to put the wind tower in. And that...potentially you could reduce the rent by that amount. And they really take up very, very little land. But that would be another reduction right there. [LB235]

SENATOR CARLSON: Okay. Thank you, Senator Adams. I'd like to address Senator Wightman. [LB235]

SPEAKER FLOOD: Senator Wightman, will you yield to a question from Senator Carlson? [LB235]

SENATOR WIGHTMAN: Certainly. [LB235]

SENATOR CARLSON: And in your question that as far as what the lessee might be paid, it would be for damages. And those damages might include the amount of land that was taken away. Is that the extent that you're concerned about? [LB235]

SENATOR WIGHTMAN: Well, it seems to me that they are...if they have the right to renegotiate the terms of the lease, which I understand they would, that maybe there can be some additional compensation, because he's going to lose maybe as much as five or six years, remaining years of his lease, if there could be some compensation in addition to just exactly the number of acres times the per acre price. Number one, they pay a bonus for these leases when they enter into them. I think that needs to be taken into account. I'm not saying they actually get a share of the lease payment. But I think that that payment that the Board of Educational Lands and Funds would be receiving could be a matter to be taken into account in the renegotiation. [LB235]

SENATOR CARLSON: Okay. And I simply have a concern that in this negotiation, mutually agreeable, that would be okay. But the school lands are in a little different position in terms of what do they have to risk versus the farmer, versus the rancher. And I would not like to see school lands, in a sense, give away the farm. I think education needs to benefit most. And any of these revenues as a result of wind energy, above and beyond damages paid, and the negotiated amount certainly should go for education. And I think you're okay with that, aren't you? [LB235]

SENATOR WIGHTMAN: Well, I am, but it's kind of like calculating damages in an eminent domain case. You know, there are a lot of factors to be taken into account. And it may well be that that leasehold was worth more to the lessee than what he's paying. And he probably should be compensated for what he is giving up and not necessarily on the amount that he bid at the time. And certainly it should take into account the bonus that he paid for the lease divided by the number of acres, in addition to maybe just the lease payment. [LB235]

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

Floor Debate
January 28, 2010

SPEAKER FLOOD: One minute. [LB235]

SENATOR CARLSON: Well, thank you, Senator Wightman. And certainly I'm in support of AM1640 and the underlying bill. But I certainly want to see the vast majority of these dollars that may be generated to actually go for education, not expenses in negotiation, and not unfairly to or against the lessee. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Haar, you are recognized. [LB235]

SENATOR HAAR: Thank you, Mr. President, members of the body. I share Senator Carlson's concerns. And I think, though, probably the solution to this really is to leave this up to the Board of Educational Lands and Funds to renegotiate a contract. But in that process, I think, the...you know, certainly my intent is that the proceeds from the renewable energy part of things do go to the schools. Thank you very much. [LB235]

SPEAKER FLOOD: Thank you, Senator Haar. There are no other lights on. Senator Adams, you're recognized to close on AM1640. Senator Adams waives his opportunity. The question before the body is, shall AM1640 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB235]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB235]

SPEAKER FLOOD: AM1640 is adopted. [LB235]

CLERK: Senator Heidemann would move to amend with AM1649. (Legislative Journal page 383.) [LB235]

SPEAKER FLOOD: Senator Heidemann, you're recognized to open on AM1649. [LB235]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. I first want to say thanks to Senator Adams and the Education Committee for all the work that they've done. There was not only a lot of work done on the original bill, but a lot of work done between General and Select File. This is actually an important bill to me, something that I've been working somewhat Senator Adams with. And I actually have a bill that almost mirrors it that is sitting in Education right now which, hopefully, as we move LB235 along, and I think it's going to move along, I think the concerns have been addressed, my bill can go away at that time. All this amendment does, AM1649, it puts the E clause on there. It's a very simple amendment. It says, "Since an emergency exists, this act takes effect when passed and approved according to law." The reason I would like to see this put on there is we have a wind farm being put up in Richardson

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

Floor Debate
January 28, 2010

County. And actually if LB235 had been law already we would have...I would probably, in my district, have wind towers on Educational Lands and Funds ground already. There is still an opportunity there for that to happen. As we see the wind farm going on, I had the group that's putting that up approach me and encourage me to get involved in this because they still think there's a possibility that this might happen. Because there's that opportunity there, I can't guarantee you, I can't stand here and say on the mike and say it's going to happen, but this gives it a better possibility if we put the E clause on here to get this law up and running as fast as possible. And because of that, I urge you to support AM1649, putting the E clause on and also the underlying bill, LB235. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Heidemann. You've heard the opening on AM1649. There are no other lights on. Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is, shall AM1649 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB235]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB235]

SPEAKER FLOOD: AM1649 is adopted. Mr. Clerk. [LB235]

CLERK: I have nothing further on the bill, Mr. President. [LB235]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB235]

SENATOR NORDQUIST: Mr. President, I move LB235 to E&R for engrossing. [LB235]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB235 advances. Mr. Clerk, LB552. [LB235 LB552]

CLERK: LB552, Senator, I have E&R amendments first of all. (ER8146, Legislative Journal 314.) [LB552]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB552]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB552. [LB552]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB552]

CLERK: Senator White would move to amend with AM1629. (Legislative Journal page

Floor Debate
January 28, 2010

384.) [LB552]

SPEAKER FLOOD: Senator White, you're recognized to open on AM1629. [LB552]

SENATOR WHITE: Thank you, Mr. President. Members of the body, this is the prompt pay law. And during the initial debate on that, a number of concerns were raised by Senator Stuthman particularly, but Senator Hansen as well. And this amendment will address those concerns. One of the concerns was initially the fiscal cost identified by the university for complying with a 30-day deadline for payment from the time of substantial completion of work versus the 45-day time, which is in existence right now under the state prompt pay law. In response to that concern, the bill had an initial amendment that was passed that said that we would move everything to 45 days. In other words, it would be 45 days across private industry and state for the initial payments. I agreed with Senator Stuthman, Senator Hansen and others that the tradition in business and the long accepted tradition in Nebraska is you pay within 30 days of being presented with the bill. We worked with the university, and I want to thank them. I also want to thank the General Contractors Association for working so diligently with us. And we have come to an agreement that both allows for 30 days but also removes the fiscal note. The 30 days will apply if this amendment is adopted, will apply to all private industry. The university and the state colleges in the amendment are specifically identified as being governed by the 45-day state statute. This allows us at a critical time to ensure that capital is moving through our general contractors and our subcontractors, and it will assist in the economic recovery in Nebraska of our building industry. Given that all interested parties have agreed, I believe I've talked to the senators who were concerned about it, and I hope that they are in accord. I ask your support for AM1629. Thank you. [LB552]

SPEAKER FLOOD: Thank you, Senator White. (Visitor introduced.) Turning to discussion on AM1629, Senator Stuthman, you are recognized. [LB552]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I do support this amendment. But there's one thing that I would like to get on the record with is the fact that in my opinion the colleges and the universities are the knowledge centers in the state of Nebraska and the fact that, you know, they should be setting the examples. But here, you know, we are allowing them to have that extra 15 days. In my opinion, I would have liked to have seen it everyone on the 30-day. And that is the concern that I have. Although I do support it, we've got this thing taken care of. But in my opinion, you know, it should have been all on the 30-day payment program. So with that, I do support the amendment, but I just wanted to get on the record, you know, stating that, you know, the universities and the colleges, in my opinion, should be setting the example, leading, teaching, and telling the people, not holding back another 15 days. Thank you, Mr. President. [LB552]

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

Floor Debate
January 28, 2010

SPEAKER FLOOD: Thank you, Senator Stuthman. Senator McCoy, you are recognized. [LB552]

SENATOR McCOY: Thank you, Mr. President and members of the body. I rose on General File in support of LB552 and I rise this morning, again, in support not only of the underlying bill but also AM1629. And I want to commend Senator White's diligence and work on this bill and in this area. As I said on General File, the construction industry will help lead us out of this economic downturn that we are now in. And any effort that can be made to help that benefits our state and benefits Nebraskans as a whole. And with that, I would certainly yield the remainder of my time to Senator White, if he so wishes. Thank you. [LB552]

SPEAKER FLOOD: Senator White, you have 4 minutes and 15 seconds from Senator McCoy. [LB552]

SENATOR WHITE: Thank you, Mr. President. Again I appreciate Senator McCoy's words. He has spent a lot of time in the construction industry and understands the industry and the problems caused by a lack of this type of legislation. This is an opportunity for us to really help the economy without impacting the fiscal status of the state. I urge you all to support the amendment and then the underlying bill. Thank you. [LB552]

SPEAKER FLOOD: Thank you, Senator McCoy. Thank you, Senator White. Senator Hansen, you are recognized. [LB552]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. Would Senator White yield to a quick question? [LB552]

SPEAKER FLOOD: Senator White, will you yield to a question from Senator Hansen? [LB552]

SENATOR WHITE: Certainly. [LB552]

SENATOR HANSEN: Senator White, I first want to thank you for working with the contractors and getting this settled. If this bill passes, I go home, this is the 28th of January, I'm going to go home this weekend, it will be the first. I'll get some bills and they'll say on there, you know, billing date January 28, due...payment due on February 10. Can I take 30 days? [LB552]

SENATOR WHITE: No, this bill doesn't relieve you from any contractual obligation. I mean, if for example, Senator Hansen, you had an obligation...you had a contractual obligation with whoever it is that's supplying you the material that they're billing, that you would pay in less time, then you still have the right to do that. You can contract for

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

Floor Debate
January 28, 2010

payment lesser time. But what this bill will allow is that no contract can provide for a payment period longer than 30 days in a construction context. It wouldn't apply, you know, to the provision of grain or anything like that... [LB552]

SENATOR HANSEN: Right. [LB552]

SENATOR WHITE: ...only in construction, first of all. And it would say in construction that after 30 days, when there's been substantial compliance and the money is in good faith owed, as we went through before, if you don't pay it, interest rates run at 1 percent a month to take the profit out of not paying your bills. But if, for example, I know Senator Loudon had a concern that if one of the steel building people said, cash on delivery when we present the material, they have every right under their contract to demand cash on delivery when they present it. And if you don't give them cash on delivery, they have every right to pick up their material and drive away. So it does not decrease the ability of the contracting parties to put in stronger terms, it just really says you will pay within 30 days or you're going to start paying interest. [LB552]

SENATOR HANSEN: Okay. If I'm a state senator and I think that I'm an employee of the state, can I take 45 days to pay all those ones that have construction within the bill... [LB552]

SENATOR WHITE: No, you're not an... [LB552]

SENATOR HANSEN: I withdraw that question. (Laughter) Thank you, Mr. President. [LB552]

SPEAKER FLOOD: Thank you, Senator Hansen. There are no other lights on. Senator White, you're recognized to close on AM1629. [LB552]

SENATOR WHITE: Thank you, Mr. President. What this bill does, again, is set a baseline. It protects our local craftsmen, electricians, carpenters, masons, from being preyed upon largely by outstate, large owners or large general contractors who then get them into a project and use them as a bank instead of paying them promptly for their work. It is a very important piece of legislation. It will protect our local crafts people, our local contractors. It will help our economy. And I urge you to vote yes both on AM1629 and on LB552. [LB552]

SPEAKER FLOOD: Thank you, Senator White. Members, you've heard the closing on AM1629. The question before the body is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk. [LB552]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator White's amendment. [LB552]

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

Floor Debate
January 28, 2010

SPEAKER FLOOD: AM1629 is adopted. [LB552]

CLERK: I have nothing further on the bill, Mr. President. [LB552]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB552]

SENATOR NORDQUIST: Mr. President, I move LB552 to E&R for engrossing. [LB552]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB552 is advanced to E&R for engrossing. Mr. Clerk, LB216. [LB552 LB216]

CLERK: LB216, Senator, I have no amendments to the bill. [LB216]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB216]

SENATOR NORDQUIST: Mr. President, I move LB216 to E&R for engrossing. [LB216]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB216 advances to E&R for engrossing. Mr. Clerk, LB147. [LB216 LB147]

CLERK: LB147, Senator, I have E&R amendments first of all. (ER8147, Legislative Journal page 339.) [LB147]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB147]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB147. [LB147]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB147]

CLERK: I have nothing further on LB147, Senator. [LB147]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB147]

SENATOR NORDQUIST: Mr. President, I move LB147 to E&R for engrossing. [LB147]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The Chair was unable to tell whether or not the Legislature wanted to move the bill to E&R for engrossing. We'll try that again. Senator Nordquist

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

Floor Debate
January 28, 2010

for a motion. [LB147]

SENATOR NORDQUIST: Mr. President, I move LB147 to E&R for engrossing. [LB147]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The bill advanced to E&R for engrossing. Mr. Clerk, LB181. [LB147 LB181]

CLERK: Mr. President, LB181, I have E&R amendments, Senator. (ER8148, Legislative Journal page 343.) [LB181]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB181]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB181. [LB181]

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. [LB181]

CLERK: I have nothing further on LB181, Senator. [LB181]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB181]

SENATOR NORDQUIST: Mr. President, I move LB181 to E&R for engrossing. [LB181]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB181 advances to E&R for engrossing. Mr. Clerk. [LB181]

CLERK: LB190, Senator, I have E&R amendments first of all. (ER8149, Legislative Journal page 344.) [LB190]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB190]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB190. [LB190]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted to LB190. [LB190]

CLERK: Senator Avery would move to amend with AM1621. (Legislative Journal page 373.) [LB190]

SPEAKER FLOOD: Senator Avery, you're recognized to open on AM1621. [LB190]

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

Floor Debate
January 28, 2010

SENATOR AVERY: Thank you, Mr. President. AM1621 is a cleanup amendment that strikes language "especially sex offenses" on page 1, line 16 of the E&R amendment version. This section...the reason for that is that it's redundant, you don't...we don't need to include that language because the language that we have in the bill covers all felonies. The amendment also incorporates language adopted by E&R amendments on General File that will include individuals who have been convicted of a felony offense prior to the enactment of the act and those who are serving sentences of probation. These individuals originally were intentionally excluded during the development of the bill last year in order to keep the fiscal note low. However, in discussions with the Attorney General, monies did become available. We've discussed that extensively and we thought that we could afford to put probationers back in and that it was desirable to do so. This will add an additional 3,500 individuals convicted of felonies serving probation in the state. And I think that it's important and urge you to vote to approve this AM1621. Thank you, Mr. President. [LB190]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening on AM1621. There are no lights on. Senator Avery, you're recognized to close. Senator Avery waives his opportunity. The question before the body is, shall AM1621 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB190]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Avery's amendment. [LB190]

SPEAKER FLOOD: AM1621 is adopted. Mr. Clerk. [LB190]

CLERK: Senator Avery would move to amend, AM1627. (Legislative Journal page 373.) [LB190]

SPEAKER FLOOD: Senator Avery, you're recognized to open with AM1627. [LB190]

SENATOR AVERY: Thank you, Mr. President. AM1627 merely allows transfers from the State Settlement Cash Fund to the State DNA Sample and Database Fund. We talked about that when we discussed the A bill earlier today. This is necessary to clarify that such transfers are authorized under state law. This, again, is part of the agreement we have with the Attorney General who sees an urgent need to kick-start DNA collection in the state, and I agree with that. And I think this amendment is important and I urge you to vote for it. Thank you. [LB190]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening on AM1627. There are no lights on. Senator Avery, you're recognized to close. Senator Avery waives his opportunity to close. The question before the body is, shall AM1627 be

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

Floor Debate
January 28, 2010

adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB190]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Avery's amendment. [LB190]

SPEAKER FLOOD: AM1627 is adopted. The Legislature will stand at ease. Mr. Clerk, we now resume on LB190. [LB190]

CLERK: I have nothing further pending on LB190, Mr. President. [LB190]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB190]

SENATOR NORDQUIST: Mr. President, I move LB190 to E&R for engrossing. [LB190]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB190 advances to E&R for engrossing. Members, we now proceed to General File, LB635. Mr. Clerk. [LB190]

CLERK: Mr. President, may I read a couple of items before we... []

SPEAKER FLOOD: Yes, please. []

CLERK: Thank you. Mr. President, Committee on Agriculture, chaired by Senator Carlson, reports LB667 to General File with amendments. Education Committee reports LB711 to General File. And I have a Reference report referring a gubernatorial appointee to the appropriate standing committee for confirmation hearing. Thank you, Mr. President. (Legislative Journal pages 385-386.) [LB667 LB711]

SPEAKER FLOOD: Thank you, Mr. Clerk. []

CLERK: Mr. President, LB635, a bill originally introduced by Senator Mello, is the bill relating to the Nebraska Political Accountability and Disclosure Act. It changes provision relating to reports to be filed by the political party committees. The bill was discussed yesterday, Mr. President. Committee amendments by the Government Committee were offered. And when the Legislature left the issue, Senator Mello had pending an amendment to that. I do have a priority motion, Mr. President. [LB635]

SPEAKER FLOOD: Thank you, Mr. Clerk. Before we go to the priority motion, Senator Mello, you have two minutes to update the Legislature on the status of your bill and what it does. [LB635]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. LB635

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

Floor Debate
January 28, 2010

is a very simple bill that does a very simple process. It requires that political party committees fill out the same reporting forms that independent committees do, nothing more, nothing less. There is a floor amendment that I have, FA58, that ensures that the law regarding anonymous contributions is not changed. So under the existing, under FA58 the existing law will remain the same. Once again, this is not that complicated. It's a very simple bill with a very simple purpose. More transparency is good for government. More transparency is good for the democratic process. I think in some of the debate that we had yesterday on LB635 there were perspectives that were given that indicates that LB635 was about independent committees and was about independent expenditures. The fact of the matter is, it doesn't...that's not the purpose of the bill and it's not the focus of the bill. The focus is purely requiring two entities that do the same activity to fill out the same reports, nothing more, nothing less. Thank you, Mr. President. [LB635]

SPEAKER FLOOD: Thank you, Senator Mello. Mr. Clerk. [LB635]

CLERK: Mr. President, a priority motion. Senator Lautenbaugh would move to bracket LB635 until April 14, 2010. [LB635]

SPEAKER FLOOD: Senator Lautenbaugh, you're recognized to open on your motion. [LB635]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I don't file this motion lightly. And I'll explain why I do. And honestly, if you thought yesterday's discussion may have strayed from the point of this bill, I don't think so. But if you didn't like yesterday, you won't like today would be my guess as we go forward here. Senator Mello, will you yield to a question? [LB635]

SPEAKER FLOOD: Senator Mello, will you yield to a question from Senator Lautenbaugh? [LB635]

SENATOR MELLO: Yes. [LB635]

SENATOR LAUTENBAUGH: Senator Mello, we did discuss independent committees yesterday, I do recall as well. And did you not describe the process of the independent committees transferring money to the political parties as money laundering? [LB635]

SENATOR MELLO: I do not think I used the exact term money laundering. But I think I specifically said that they could direct money in a laundering kind of way. [LB635]

SENATOR LAUTENBAUGH: (Laugh) Okay. Thank you for that slight correction. (Laughter) I'm just trying to unpack that. I guess, I'll move on. I looked at the campaign statements of the various political parties. And as I read it, only one party actually

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

Floor Debate
January 28, 2010

received money from an independent expenditure committee. And I haven't checked recently but I believe that's the party you're a member of. And I read the details of it. And they received in excess of \$31,000 from independent committees. So my question to you is this, before you brought this bill, did you call, and what is the term from yesterday, the "boss" of your party? Did you call the party boss and say, this is wrong to receive this money that, I'm sorry what was the term again, money that gave the appearance of being laundered? [LB635]

SENATOR MELLO: You know, Senator Lautenbaugh, to answer your question, no, I did not contact my political party or my party bosses in regards to the activities that I pursued on LB635 because, frankly, I don't answer to them. And I think part of the concern that maybe you raise is maybe I'm more than willing to challenge my own political party than other members are. But the point is this, LB635 allows nothing more, nothing less than to ask both political parties to report that. So if only one political party is doing it according to your question, then I have no rhyme or reason why members of this body would be opposed that I'm willing to challenge my own political party. [LB635]

SENATOR LAUTENBAUGH: But, Senator Mello, I'd submit to you that you're correct, you don't answer to them. But they do answer to you, because we don't have party bosses in reality, we have central committees that actually elect the parties. So my questions was, did you call them on that and say that's wrong. And I have your answer. And I understand that. [LB635]

SENATOR MELLO: Yeah. [LB635]

SENATOR LAUTENBAUGH: Of the \$31,000, \$30,000 of it came from Senator White's group that we discussed yesterday, Campaign for Nebraska's Future. Were you aware of that? [LB635]

SENATOR MELLO: No, I was not. [LB635]

SENATOR LAUTENBAUGH: So you wouldn't have called Senator White and said, Senator White, stop transferring all this money, in a way of laundering, to the state Democratic party, apparently, would you have? [LB635]

SENATOR MELLO: I did not contact Senator White about any of his involvement in his independent committee or what they were doing with one political party or another. [LB635]

SENATOR LAUTENBAUGH: So yesterday when you mentioned that that was part of the problem and the reason for this bill that money was being transferred from independent expenditure groups to political parties, you weren't aware of any of the specifics of who was doing it. You just had a vague concern that it was going on?

Floor Debate
January 28, 2010

[LB635]

SENATOR MELLO: Actually, in regards to my reading of the campaign finance laws in Nebraska, that's a very glaring omission in regards to allowing committees to do that under the existing law. And that was the intent of LB635. So I didn't base it off of what one person or one interest group was doing over another. It's a general, I think, if you understand federal election law as well as understand anything about state election law, you see this glaring loophole that is out there. And I'm a believer that we should try to fix loopholes like this. [LB635]

SENATOR LAUTENBAUGH: Well, I just asked because I was unaware that it existed, and you seemed to have some specific knowledge of it because you raised concern. So you weren't concerned about it because it was actually happening, and you had concerns about the transparency of it. You had no knowledge of it actually going on. [LB635]

SENATOR MELLO: Yes, that's correct. [LB635]

SENATOR LAUTENBAUGH: But did you ask any of the party members or Senator White's group if they ever did it? [LB635]

SENATOR MELLO: No. [LB635]

SENATOR LAUTENBAUGH: Didn't you have concerns about it being done? [LB635]

SENATOR MELLO: You know, my concern was less in a sense of independent committees choosing to make contributions to political parties the last 14 days of an election and more at what the purpose of the bill was, Senator Lautenbaugh, which I have a feeling we just generally disagree in regards to political transparency, which is fine, which is making sure that political party committees fill out the same forms that independent committees do. So I didn't base my decision on bringing this legislation forward based on what one independent committee was doing over another. Because once again, this bill has nothing to do with independent committees as much as your questioning is trying to allude to that, as much as Senator McCoy's questions yesterday alluded to it. This simply deals with political party reporting. It has no mention of changing things for independent committees. So I appreciate your questions and I'm more than willing to answer more of them. But I didn't confer with anyone of saying this is what I want to do, and I don't have proof that this is going on or it's not going on, it's more a matter of I think this is good for democracy, I think it's good for government because more transparency is better than having political parties or political party committees operate in the dark. [LB635]

SENATOR LAUTENBAUGH: Thank you, Senator Mello. And in all fairness, you did

Floor Debate
January 28, 2010

bring up independent expenditure committees and the fact that they could transfer money to political parties as a purpose for this bill yesterday. So I think you leaned into this punch, so to speak. And we are where we are. And it was revealing. And so we're going to talk about it for a while. So you didn't talk to your party, despite the fact that I could look up on-line and see what happened. You didn't talk to Senator White about this, despite the fact I can look up on-line and see what happened, but you brought this bill kind of in a vacuum regarding the independent expenditure committees, apparently. Is that safe to say? [LB635]

SENATOR MELLO: Once again, I would say that it's safe to say that I brought this bill forward because I believe that political party committees should be more transparent in the sense that it had no...the whole point of bringing independent committees involved in this debate was purely based on yesterday's conversation and yesterday's dialogue around independent committees and trying to what I would consider the muddying of the waters in regards to the purpose of this bill. So once again, I didn't talk to people engaged with independent committees about the purpose of LB635 because it was not pointed towards them, it was pointed towards requiring political parties to do...to provide more information to the public the 14 days prior to an election. [LB635]

SENATOR LAUTENBAUGH: And that's unfortunate because, you know, had you had the chance to speak to Senator White about this, you could have said, hey, while you're stopping doing this thing that I referred to as money laundering yesterday, you should change the name of your group from Campaign for Nebraska's Future to Senator Tom White Supports These Candidates, because we're all about transparency, as we all know. And we're all sincere about it as we go forward. So that was an opportunity missed. But, you know time marches on and maybe you can correct that omission. Well, I have a theory, Senator Mello, and I want you to tell me if it's off base. [LB635]

SENATOR MELLO: Um-hum. [LB635]

SENATOR LAUTENBAUGH: Is it possible that one political party may not want to send out mailings in one part of the state that say at the bottom, paid for by X political party? [LB635]

SENATOR MELLO: You know, Senator Lautenbaugh, I think that's something that you would have to ask the political parties that question. [LB635]

SENATOR LAUTENBAUGH: Because here's what I'm worried about, we've been told this is all about transparency. But I have a sneaking suspicion that there might be one party that doesn't want to do mailings, say in the third district, that say, paid for by X political party, because that brand might not sell there. So that party might have decided it wants to rely more on independent expenditure groups in certain parts of the state. And this bill was designed to put the parties on par with the independent expenditure

Floor Debate
January 28, 2010

groups. So rather than actually being about transparency, I would suggest this bill might be the polar opposite of transparency. What this is about is trying to equate the established and, by their members, respected and, by the voters, identifiable political parties with these anonymous, faceless attack groups... [LB635]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: One minute. [LB635]

SENATOR LAUTENBAUGH: ...who put them on the same footing--thank you, Mr. President--put them on the same footing and equate them. Because there may have been a decision made to, in certain parts of the state, hide the party brand. Am I off base with that theory? [LB635]

SENATOR MELLO: You know, Senator Lautenbaugh, a wise man once told me that, you know, you're entitled to your own opinions, but you're not entitled to your own facts. And I think what you just described is your opinion. Because the facts of LB635 is very simple, where political parties just have to report the same forms that independent committees do. It's that simple and it's that pure. And it's...it baffles me to the extent that there is this conspiracy theory that's being discussed in regards to the purpose of this bill, it has nothing more than that. It does not change anything that political parties can do. It changes nothing that independent committees can do. All it does is says let people know what you're doing. And if you choose to read into that more than me,... [LB635]

SENATOR LANGEMEIER: Time. [LB635]

SENATOR MELLO: ...that's your decision. [LB635]

SENATOR LANGEMEIER: Thank you, Senator Mello and Senator Lautenbaugh. We return now to discussion on the motion to bracket. The floor is open. Those wishing to speak, we have Senators Louden, McCoy, Lautenbaugh, and Mello. Senator Louden, you're recognized. [LB635]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I usually don't get involved in these accountability laws because out where we run our elections it usually doesn't involve that much money and we usually have to do it ourselves. We don't hire large committees to take care of these things. But that's my concern when we start tinkering around with these laws is, are we going to make this harder for the average person to run for an office? They have the paperwork and everything to file. It gets to be where will the paperwork become more burdensome than actually the campaigning. So whenever we work on these things I'm always somewhat skeptical about what we're trying to do and whether anything really needs to be done. At the

Floor Debate
January 28, 2010

present time, if you don't spend \$5,000, you don't have to file anything or do anything. And that can be a detriment, but at the same time that takes care of a lot of smaller campaigns out there for some of the local county positions and some local positions within our NRDs and that sort of thing and our public power systems. So I have to be very cautious on something like this. And I would consider that whenever you start having to make people file more paperwork we have a problem here. Because I was on a school board for 30 years, and I said when I first went on that school board the whole paperwork was one sheet of paper and a small financial statement that had to be sent into the state. And when I finished up there 30 years later we had to hire people in order to fill out that financial statement every year because you not only had to hire people to do it, but they had to go to a workshop nearly every year because they changed the way the financial papers were made out. And consequently, what it did it just cost people more money to do that with. So when we start tinkering with these accountability laws I think you have to be very careful. So with that, I would support the bracket motion because I think this is something that really does need to be done at the present time. Thank you, Mr. President. [LB635]

SENATOR LANGEMEIER: Thank you, Senator Loudon. Senator McCoy, you're recognized. [LB635]

SENATOR McCOY: Thank you, Mr. President, members of the body. I, too, support the bracket motion and would yield the remainder of my time to Senator Lautenbaugh, if he so chooses. [LB635]

SENATOR LANGEMEIER: Senator Lautenbaugh, 4:50. [LB635]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator McCoy. And, yes, I'll gladly take the time because I was kind of on a tear there. Again, and I don't think I said this in my opening, yes, please vote for the bracket motion. And I was just told I wasn't entitled to my own facts. But I don't think any of the facts I just set forth are in dispute as we all know the lay of the land here. And this bill is supposedly about just telling our constituents what we're up to. Well, I'm happy to tell our constituents what we're up to from time to time when bills like this come forward. And I'm happy to explain why we're doing this. Why a bill would come through committee with one sponsor and no support, but one person, the sponsor, or no opposition, just kind of quietly gliding along under the radar. And I was told by reliable sources, and this isn't a conspiracy, this happened, that one of the committees yesterday was lectured that if you vote against this bill you're going to have to go home to your constituents and explain the vote. Which on a certain level I found was kind of quaint, because I didn't think we were here to listen to our constituents under the new rules. I thought we did whatever we wanted and then rented time during the bowl game to try to justify it. I didn't think we listened to our constituents anymore, but apparently we do. So I'm happy to do that. Here's what I would tell my constituents, were I speaking to them directly,

Floor Debate
January 28, 2010

looking into whichever camera is on, I would say something to the effect of, citizens of District 18, this is the way this body has worked for too long. There is a small group of senators in this body that seem to coordinate and jump up like jack-in-the-boxes, sometimes to attack the Governor, sometimes to attack the State Treasurer, sometimes to attack us when we hold the line on school spending by saying we're forcing a property tax increase. But it's a reliable group and it's a small group. But we're not supposed to believe they're partisans, certainly not. They may be a fantasy football league or something and they got together at the draft party and said, gee, we seem to feel alike on a lot of issues, maybe we should attack the Governor tomorrow. I don't buy that. I think I said the other day I'm not a complete fool. And I think we've all been silent for too long. And when someone in that group stands up and lectures us about the evils of partisanship, well, that's beyond the pale and it's done as far as I'm concerned. I would submit to you this bill is exactly what I said it is. It is not about transparency. It is not about openness. It is about an attempt to allow one party to hide behind independent expenditure groups in a district, in a region of the state where they don't want to put the party name on it. That's not transparency. That's not disclosure. That's hiding and we shouldn't be about that. This has everything to do with the independent expenditure groups. I had a bill that would have limited their ability to raise funds that would have limited them. And that was shouted down by the same people who are pushing this bill and others, but the same people who are pushing this bill. That required immediate disclosure of everything we receive as candidates. That was transparency, that was openness, this is a sham. It's a simple bill, that doesn't make it a good bill. The parties already report. I was able to look up and see what happened. And as I pointed out yesterday, when you get a mailing from the party and it says on the bottom this is from the State Democratic Party, you kind of know who sent it. [LB635]

SENATOR LANGEMEIER: One minute. [LB635]

SENATOR LAUTENBAUGH: And when you get a mailing that says on the bottom, from the State Republican Party, you kind of know who sent it. And you kind of know the market basket of ideas that come with it. And you can either pitch it or read it, depending on what your predilections may be. This bill tries to equate them with independent expenditure groups. And, yes, we require different and greater disclosures from independent expenditure groups, as we should, because they are faceless, they hide in the dark, they spend unlimited money, and they do the dirty work often. That's the difference. It's not a loophole, it's a policy decision. And we're being asked to cast this aside in the name of transparency. Nonsense, this is not about that. This is about something entirely different. I've given you the reasons it's being pushed. I believe in my heart that is the reason this is being pushed and we're being taken for fools here. [LB635]

SENATOR LANGEMEIER: Senator Lautenbaugh, you're now on your time. [LB635]

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

Floor Debate
January 28, 2010

SENATOR LAUTENBAUGH: Thank you, Mr. President. Please vote for the bracket motion. I yield my time to Senator McCoy. [LB635]

SENATOR LANGEMEIER: Senator McCoy, 4 minutes 40 seconds. [LB635]

SENATOR McCOY: Thank you, Mr. President, members of the body. And thank you, Senator Lautenbaugh. I'd ask the members of the body which is more transparent, a political party committee or an independent committee? And I would ask if Senator Mello would yield to a question. [LB635]

SENATOR LANGEMEIER: Senator Mello, would you yield? [LB635]

SENATOR MELLO: Absolutely. [LB635]

SENATOR McCOY: Thank you, Senator Mello. My question to you, Senator Mello, when a Nebraskan receives a mail piece from an independent committee and it has a name on it, somewhat seemingly innocuous name, how would a Nebraskan determine where that came from and who that represented? [LB635]

SENATOR MELLO: Well, I think, Senator McCoy, your question is also...is kind of misleading in a sense that the contract ...Nebraska contractors or the chamber of commerce also are independent committees as well under our existing law. So it's not just innocuous names who make up independent committees. [LB635]

SENATOR McCOY: Senator Mello, that's not the question I asked you. Can you please answer the question that I asked you? [LB635]

SENATOR MELLO: The question was... [LB635]

SENATOR McCOY: How would a Nebraskan go about determining who that group is and what they represent? [LB635]

SENATOR MELLO: I think the current aspects right now that are available or access that people have is to get on the Accountability and Disclosure Web site to see who is the treasurer of that committee and who is contributing to that committee. [LB635]

SENATOR McCOY: Well, I hold in front of you such a search on the Nebraska Accountability and Disclosure Commission Web site and it's very inconclusive when one looks up an independent committee. It's virtually impossible to determine who such independent committees represent and where the money originates from. I would harken back to Senator Lautenbaugh's words earlier, whether or not you agree from a policy standpoint or from a philosophical standpoint in individual mail pieces that go out, when such mail pieces have a political party's name on them you at least know who to

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

Floor Debate
January 28, 2010

call if you have a problem with it. I humbly submit to you that is not the case with independent committees. And I would agree with Senator Lautenbaugh that that is entirely what this is about. Senator Mello, did you or did you not mention yesterday a particular mail piece against a colleague of ours, would have been in 2008, yesterday a piece against Senator Lathrop? [LB635]

SENATOR MELLO: Actually, I did, Senator McCoy, but it was 2009, it was during the last legislative session. [LB635]

SENATOR McCOY: Well, I'm also aware, as I did a search, I am not aware of the piece that you refer to, it's not listed on-line that I'm aware of. There was such a piece in 2008. And you had mentioned that in the realm of within 14 days of an election and you had mentioned that that piece fell within such a time period, did you not? [LB635]

SENATOR MELLO: No, actually I...the piece I think you are confusing is the Republican Party did a piece on Senator Steve Lathrop after this past legislative session in 2009, dealing with his courage to try to work on developmental disabilities. And there was a piece that they did that was attacking him on his work. [LB635]

SENATOR McCOY: Well, I submit to you that under your bill such pieces wouldn't be restricted at all. I'm not sure what the point of mentioning that was, and... [LB635]

SENATOR LANGEMEIER: One minute. [LB635]

SENATOR McCOY: Excuse me, Mr. President. What was... [LB635]

SENATOR MELLO: Well, if you want me to reply, I can reply to your question, if that was a question. [LB635]

SENATOR McCOY: Well, I'd like to continue along this vein, Senator Mello. Thank you. Independent committees, colleagues, are the problem. This legislation does not address that problem. As Senator Lautenbaugh described, going clear back in statute to the foundation of the Accountability and Disclosure Act, Nebraska has put a value on a barrier between what is expected of independent committees and what is expected of political parties. We have long maintained a respect of tradition. And as I described to you, colleagues, yesterday problems do not exist. LB635 is a solution searching for a problem. And frankly, and I can't speak for anyone else's constituents, my constituents sent me here... [LB635]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Time, Senator. [LB635]

Floor Debate
January 28, 2010

SENATOR McCOY: Thank you. [LB635]

SPEAKER FLOOD: Thank you, Senator Mello or thank you, Senator McCoy. Senator Mello, you are recognized. [LB635]

SENATOR MELLO: Thank you, Mr. President. Thank you, members of the Legislature. You know, I think it's good that we get in some of these unique debates regarding bills that whether or not we can agree on the purpose of it or the intentions of it or we can agree or disagree on the different aspects of the bill of what it will do or what it won't do. But I can tell you this, LB635, much to the disagreement that appears to be between Senator McCoy and myself, it doesn't do anything about independent committees. You're right, I said that, exactly what Senator McCoy just said, LB635 doesn't address independent committees. So we agree on something. The fact is, LB635 does deal with political party committees. Now, Senator Lautenbaugh makes some issues that I don't disagree with on his proposed amendment to get rid of our campaign finance laws in Nebraska. I didn't agree with his proposal because it went too far. But I told him last year on the floor and off the floor that I supported his measures to try to increase the transparency of not only individual political campaigns but also independent committees. So through that, I just assumed that before looking for more political transparency from campaigns and independent committees that we would also look for that transparency from political parties. I understand that there's some concern about looking to change our existing campaign finance laws in Nebraska, and Senator Loudon brought up a good point. But this...but this bill, LB635, doesn't affect individual candidates. It doesn't impede a person's ability to run for office. It doesn't affect their ability to file forms. All it does, it states that political party committees provide more information in regards to what they're spending money on, particularly as it relates to the last 14 days of an election. Throughout Senator Lautenbaugh and Senator McCoy's questioning, I did not hear a reason why LB635 is a bad bill. Now they might disagree with it philosophically. They might be concerned that it has a political impact on one political party over another. But from Senator Lautenbaugh's questioning of me, it sounds that that impact would actually have an adverse effect on the political party I represent. So I appreciate his question of saying that one political party might be affected more than the other, and that appears it would be mine. But the fact is this, I don't answer to them. I don't answer to the Democratic State Central Committee or the Republican State Central Committee, because the fact of the matter is this, this is about transparency. Any other argument or any other dialogue we want to have about politics or the political landscape or who's doing what to who or why they're doing what to who, we can have that dialogue. Believe me, Senator White and the comments that were made about his activity with an independent committee is not the...he is not the only member of this body to be engaged in that. He's also not the only elected official in this state to be engaged in that. I could go through the NADC reports as well, but I choose not to because the fact is this: That is not the issue here. The issue is political party reporting, and anyone who tries to bring up other issues besides that is muddling the

Floor Debate
January 28, 2010

debate. Senator McCoy brought up some points in regards to independent committees. I don't disagree that we need to reform the process, but I didn't bring a bill on it this year because I was thinking that this would help on the political party end. Senator Avery, on the other hand,... [LB635]

SPEAKER FLOOD: One minute. [LB635]

SENATOR MELLO: ...did bring a bill that starts to deal with independent committees. My question is, maybe if that bill comes out of the Government Committee we could have a more candid and honest dialogue about independent committees because that will be the bill and the vehicle to do it in. This, on the other hand, is only focused on political party committees. So I respect my colleagues' sense of wanting to try to tackle a difficult issue. I really do. I don't agree with maybe the process in regards to attacking a very simple bill that doesn't deal with independent committees, but I think that we can find some common ground on this. Obviously, I oppose a bracket motion. I think we should have an up or down vote on whether or not we should make political parties provide more reporting requirements. It's a very simple concept. It's discussed all the time in Washington, an up or down vote. I have yet to understand why we don't want to have an up or down vote on this. It's not complicated. [LB635]

SPEAKER FLOOD: Time, Senator. [LB635]

SENATOR MELLO: Thank you, Mr. President. [LB635]

SPEAKER FLOOD: Thank you, Senator Mello. Senator Price, you are recognized. [LB635]

SENATOR PRICE: Thank you, Mr. Speaker and members of the body. When listening to this bill in committee and making a decision to bring it out of committee, I moved that it come out of committee so we could have a good, healthy debate. Never was I completely sold one way or another because debate is always good for us to learn from other people's perspectives. But my concern about the use of the word "transparency," parties have to report. Seems to me the question is the 14-day window. Now for me, the 14-day window and when candidates are reporting is important because public monies are involved. You know, someone who declares, someone doesn't, to abide and someone doesn't, there could be public monies involved and that timing is extraordinarily important. But what a party does doesn't impact that, that decision on that time frame. So it isn't that...and Senator Mello I believe has said it isn't that it isn't transparent, it's just not transparent in the time frame. So in looking and listening, I still think we have a transparent system. I think Senator Loudon brought up good points about muddying things. I believe that the impact for abide and not abide doesn't play here. And with that, I would support this motion and would yield my time to Senator Lautenbaugh, if he should so choose to use it. Thank you. [LB635]

Floor Debate
January 28, 2010

SPEAKER FLOOD: Senator Lautenbaugh, 3 minutes 20 seconds. [LB635]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I don't think Senator Mello understood some of my prior comments so I'm going to try this again. I have a sneaking suspicion that one of the political parties, namely his, has made the decision that they don't want to send mailings out in one of the districts of the state, let's call it the 3rd, with the name paid for by X party on the bottom, because, you know, for whatever reason. They may not think that's a good way to sway voters, depending on the makeup of the registrations out that way. My theory is that this innocuous bill to put parties on the same level as independent expenditure groups would then be of an advantage to the party that's decided to rely on independent expenditure groups, and I surmise that that may very well be the reason for this bill. This is not about transparency. I appreciate the talk about transparency and I'm in the spot I would...you know, Senator Mello and I both have brought up Senator White's group again and I would like to talk about that, but Senator White is not here so it may not be fair to go on about it. But Senator Mello said, well, he's not the only one who does this. Well, I think in the body he is the only one who set up a group. And I sat here last year as the treasurer was attacked in a bill that was all about transparency, transparency, transparency, transparency, and yet this group is called Campaign for Nebraska's Future. So either the passion for transparency is of a relatively recent vintage or it's very selective. And I don't believe that this bill is brought for the purposes stated. I don't believe this is in an abundance of concern for transparency. No one was clamoring for this. I've never heard a single voter say, I got something that said paid for by the state Republican Party and I was confused about who that mysterious group was; are the Republicans something new; I've never heard of them before. That doesn't happen. Similarly, when you get something from the state Democratic Party,... [LB635]

SPEAKER FLOOD: One minute. [LB635]

SENATOR LAUTENBAUGH: ...we've heard of them. And we can talk about partisanship and nonpartisanship, and we can masquerade and pretend that certain things happen and certain things don't. It's ironic. I'm all about being environmentally responsible so I recycle the paper that I don't use. I've got one mailing here with all the Republicans who endorsed me, I've got one here with all the Democrats that endorsed me, and they're on the back of my comments for today. So there is bipartisanship out there. But what I'm saying is, there is a level of partisanship in this body and we ignore it and we pretend that it doesn't happen and we pretend that it's not the same thing over and over and over. And when one of the partisans stands up and starts lecturing us about partisanship, I get upset, upset enough that it's a day later and I'm still upset, obviously, because I'm still on about this. So I don't trust the reasons expressed for this bill and that's why I'm moving to bracket it. [LB635]

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

Floor Debate
January 28, 2010

SPEAKER FLOOD: Time, Senator. Thank you, Senator Lautenbaugh. Senator McCoy, you're recognized. [LB635]

SENATOR McCOY: Thank you, Mr. President and members of the body. I'd like to continue on that vein because, truly, if we are going to talk about transparency, then again we need to get at what the heart of this issue is. I think, as I alluded to earlier and I'll finish my train of thought, my constituents, and while I won't speak for anyone else's constituents, sent me here to work on commonsense legislation that is good for our state and that makes sense and to oppose legislation that does not, and this bill does not. This bill attempts to address, and as Senator Mello refers to it, a simple piece of legislation, which it is not, attempts to address a problem that doesn't exist. We codified in the original Accountability and Disclosure Act a wall between political parties and independent committees for a reason. They have different rules and regulations that they live by for a reason. Because they are easily recognizable, as Senator Lautenbaugh has described, to Nebraskans from border to border, there's no confusion as to who they are. Such, as I indicated earlier, is not the case with independent committees. You may find out an address, you may find out a phone number of who they're filed with on the NADC Web site. Well, strangely enough for a lot of them, it may be a law firm. Many of them have the same address and phone number, surprisingly enough. How transparent is that, I ask you? Nebraskans expect better. They expect us to address the situations as they are. This bill does not, and I submit to you, if Senator Mello wanted to address the true situation here, one, he would have supported Senator Lautenbaugh's bill and as it was attempted to be an amendment last year, because that truly addressed the situation or at least started down that road. Thank you, Mr. President. [LB635]

SPEAKER FLOOD: Thank you, Senator McCoy. Senator Council, you are recognized, followed by Senators Lautenbaugh, McGill, Karpisek, and Mello. Senator Council. [LB635]

SENATOR COUNCIL: Yes, thank you, Mr. President. I had originally planned to be content to sit here and just listen to the debate over this issue, and it's a very serious issue. And had it not been deemed worthy of this kind of debate, it would not have been voted out of the committee. But I felt compelled to rise and at least state my personal opinion about some of the statements that have been made regarding the motivation for this piece of legislation and, quote, who's behind this legislation and this amorphous partisan group of people who are pushing this legislation and if you don't believe that, you're a fool. I don't consider myself a fool and I don't know who this group of people are that was being referred to but I do know that I was not a group of the 12 that Senator Lautenbaugh has made reference to with regard to his bill last year. I do know that. So I don't want to pretend that there aren't motivations, partisan primarily, on most pieces of legislation that come before this body, but, you know, references to members who may or may not support a particular piece of legislation being referred to as fools

Floor Debate
January 28, 2010

does offend me and I would hope that the level of debate about a very serious issue, and that is campaign finance, if it wasn't a serious issue the parties that progressed the case before the U.S. Supreme Court would not have done so. This is a very serious issue and we have an obligation to be open and honest with all of the residents of the state of Nebraska with regard to the discussion of these issues. And with that, and at risk of being leveled and labeled partisan, I yield my time to Senator Mello. [LB635]

SPEAKER FLOOD: Senator Mello, 2 minutes 17 seconds. [LB635]

SENATOR MELLO: Thank you, Mr. President. Thank you, Senator Council. Senator Council spoke some of the words that I was actually going to say so I don't want to repeat myself too much. And to be perfectly honest, I think people know I don't support the bracket so that's nothing new. But I do find it to be offensive that Senator Lautenbaugh would call me a partisan on the floor of the Legislature without giving a reason why. The fact is this: I've made no qualms to members in my district or anyone in the state of Nebraska that I disagree with a lot of the directions that our executive branch is going right now. Does that make me a partisan because I choose not to accept the direction that this state is going? No. And I find it even more offensive that Senator McCoy would label this bill as not common sense or it's, why are we even debating this; that his constituents sent him down here to deal with commonsense solutions that will solve problems. I have introduced roughly now almost 25 bills that deal...range from economic development to energy to good government to healthcare. I think that this is something that we need to discuss. [LB635]

SPEAKER FLOOD: One minute. [LB635]

SENATOR MELLO: This is a solution to a problem that I feel exists in our existing campaign finance law. Obviously, I have disagreements on Senator McCoy's bill, LB777, that changes the awarding of our electoral vote. Is that commonsense solutions? It's not for me to say that because that's not what I do. The fact is you can disagree with this bill without being disagreeable. That's the one thing I try to pride myself on while I disagree with many of my colleagues on issues regarding transparency, spending, and government performance and efficiency, is that we can disagree without being disagreeable. And we can do it without name calling, without trying to allude that someone has an ulterior motive in regards to what they're doing. If you want to bracket this bill, vote to bracket this bill. If you want to continue to debate on government transparency, particularly in regards to political parties, vote no on the bracket. Thank you, Mr. President. [LB635 LB777]

SPEAKER FLOOD: Thank you, Senator Mello. Senator Lautenbaugh. Following Senator Lautenbaugh, we have Senators McGill, Karpisek, Mello, and Christensen. Senator Lautenbaugh, you are recognized. [LB635]

Floor Debate
January 28, 2010

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And for clarity sake, I don't believe I actually called any of us a fool. I think I said we're not a fool. I certainly didn't mean to say Senator Council was a fool. But I don't want to be treated like a fool either and, again, we're going through what I think is a masquerade here at this point. There's a old rule about football, is that the guy who hits back is the one who gets the flag for unsportsmanlike conduct. It's never the guy who does the dirty hit in the pile that gets flagged, it's the guy who hits back. But if anyone is going to stand up here and tell me that they don't know what I'm referring to when I talk about a small group that seems to act in concert and seems to count on our good will and our good nature to just let it go and let it go and let it go time after time after time, because, oh, that's just that group just being partisan. Well, I'm sorry but at some point it has to stop, at some point it has to end. I've had...I mean this is not something that's unique to me. Please don't think I've dreamt this up this morning. I've had reporters ask me about this: What's that group going to say? And I didn't have to ask what group. We all know what we're talking about. This is not some conspiracy. I'm not a member of the John Birch Society, for crying out loud. We all know what I'm saying here and now we're being told, well, you're victimizing us, you're being partisan, you're being unfair. We've always been measured, we were just told, we were...I've always been respectful. I would ask us all if in our dealings with each other and in our dealings with the Speaker and our dealings with our committee and our dealings with our colleagues if we have always been respectful, if we have always been fair, or have we been abusive. Have we got in people's faces because we're passionate about these issues? And again, I'm not going to keep pointing directly. I guess I'll stop and play the game that none...we don't know what I'm talking about here. But it's an absurdity. It is, frankly, an absurdity. A member of a party different than mine once said, and she was very wise in saying this, we all talk about electing the person, not the party, because we're in the majority...or minority, excuse me, and then when we get here we try to behave like partisans and that's a mistake. And it is a mistake and she was right to say it. But it happens and it should stop. And maybe this is the wrong bill to bring this up on, and if any of you really don't know what I'm talking about please come and ask me, but I think I've been very clear and I don't think anyone is genuinely mystified about what I'm talking about. And this bill does nothing. The best reason to vote against this bill is that it is unnecessary and unneeded, and so I vote no. And is there probably an ulterior motive in bringing the bill, unstated? I believe yes and I've laid it out there what I believe it is. I believe it's wrong to equate the two political parties with independent expenditure groups because they function differently and they are different. And so I have to ask myself why is this bill being brought. And I've told you why I think it's being brought. And it's not necessary and I would urge you to vote for the bracket motion. [LB635]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. Senator McGill, you're recognized. [LB635]

SENATOR MCGILL: Mr. President, members of the body, I am Amanda McGill and I am

Floor Debate
January 28, 2010

a Democrat. (Laugh) Everybody in here knows that I'm a Democrat and knows that I am very good friends with other Democrats in this Chamber, just like I am with some of the Republicans in this Chamber. But I'm a Democrat for a list of reasons that I won't get into right here, but I choose to be affiliated with a party because I have those particular beliefs that I share with other members of the Democratic Party. It's not rocket science. This isn't something shocking like Senator Lautenbaugh makes it sound like. Yes, it's a nonpartisan body but I still share the same values I do with many of the Democrats in here. I'm sure I'm part of this group that Senator Lautenbaugh is talking about in terms of, you know, this partisan group that's plotting and scheming against everyone. Well, I see pockets of the other party standing in the back of the Chamber all the time communicating with each other and I don't see anything wrong with that. We share values with people of our own party and with others. I think all of us have worked across party lines here. But this is just...this is politics. This is the way it is. We work together on some issues and we stand apart on some issues. And speaking out against the Governor or against other issues that we're on the other side of, I mean it would be cowardly for us not to say something if it wasn't what we believed in. It would be cowardly to not stand up and say something. I think we've gotten way off track here (laugh) in the discussion of this bill. None of us like independent expenditures. I've been attacked by independent expenditures. We all will be. We all have been. I wish there were something more we could do about them. I don't think Senator Lautenbaugh's bill did anything about that either though. I think no matter what, parties and big money are going to want to spend their money in ways where they don't have to say the party's name, where they don't have to say their group. They're going to try to hide that no matter what. And none of these bills, Senator Mello's or Senator Lautenbaugh's, discourage people in a direct way or make it illegal for them to try to put whatever name they want on it. Neither of these bills address that independent expenditure issue. I think we should continue with this debate. I would like to see it taken to a vote, and I hope that we can stop talking about whether so-and-so is a Democrat or a Republican and plotting and scheming, because we all want to get things done here in the body. We all want to do the best to represent what we think is the best future for Nebraska, and we have to work together whether we're in the majority working together, because when I look at the votes it looks like there are 37 people all the time who vote the same way, or we're in the minority and have to work together to try to get something done. With that, I'll yield some time to Senator Nordquist. [LB635]

SPEAKER FLOOD: Senator Nordquist, 1 minute 56 seconds. [LB635]

SENATOR NORDQUIST: Thank you, Mr. President and members. Thank you, Senator McGill. We heard a lot about the ulterior motive here and I just wanted to address that. Senator Lautenbaugh said it may be favorable for one party to have independent expenditure committees and that's not being transparent. Well, our Governor and our Attorney General set up a independent expenditure committee this last year, raised nearly \$40,000 called the Nebraskans for a Better Tomorrow. Is that transparent? Why

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

Floor Debate
January 28, 2010

didn't they say, these candidates are supported by Dave Heineman, Jon Bruning, and the nine members of this body that contributed to it? Is that...would Senator McCoy yield to a question? [LB635]

SPEAKER FLOOD: Senator McCoy, will you yield to a question from Senator Nordquist? [LB635]

SENATOR McCOY: Certainly. [LB635]

SENATOR NORDQUIST: Senator McCoy, is it transparent that the Governor and Jon Bruning called their independent expenditure committee Nebraskans for a Better Tomorrow? [LB635]

SENATOR McCOY: That's up to them. As I have commented with my amendments that are filed, we can certainly... [LB635]

SPEAKER FLOOD: One minute. [LB635]

SENATOR McCOY: ...talk about that if we'd like. [LB635]

SENATOR NORDQUIST: In your opinion, do you think it is transparent of them to do that or do you think it's better that they would have called it like Senator Lautenbaugh has been encouraging, these candidates are supported by Governor Heineman and Attorney General Bruning? [LB635]

SENATOR McCOY: I think anyone can choose any name they so wish for an independent committee. [LB635]

SENATOR NORDQUIST: Okay. Would you have done that if you were setting up an independent expenditure committee? [LB635]

SENATOR McCOY: I don't have an independent expenditure committee... [LB635]

SENATOR NORDQUIST: All right. [LB635]

SENATOR McCOY: ...so that's a hypothetical question. [LB635]

SENATOR NORDQUIST: Thank you, Senator McCoy. Would Senator Lautenbaugh yield to a question? [LB635]

SPEAKER FLOOD: Senator Lautenbaugh, will you yield to a question from Senator Nordquist? [LB635]

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

Floor Debate
January 28, 2010

SENATOR LAUTENBAUGH: Yes, I will. [LB635]

SENATOR NORDQUIST: Earlier you commented that another independent expenditure committee should have been named something different. Do you think Attorney General Bruning and Governor Heineman and the nine members of this body, who I'm not going to name because I don't think we need to be pointing that out as much, do you think they should have named it that? Would that have been transparent? [LB635]

SENATOR LAUTENBAUGH: I think if they had shown up in this body and lectured us on transparency, they might have appeared disingenuous if they didn't. [LB635]

SENATOR NORDQUIST: Okay. I don't know that anyone who set up an independent expenditure committee this year has been lecturing on transparency but... [LB635]

SENATOR LAUTENBAUGH: I was referring to last year, Senator. [LB635]

SENATOR NORDQUIST: ...thank you for your response. [LB635]

SPEAKER FLOOD: Time, Senators. Senator Mello, you're the last light on. [LB635]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll be brief because I want to yield the remainder of my time to Senator Lautenbaugh to help out with his closing so that, hopefully, we can get a vote on this bracket motion before we adjourn today. You know, I was just talking with Senator Price and I agree with him. Today was not a good day for the Legislature. This is not a conversation that needs to guide us, it's just not. We can disagree about a lot of issues. You can be a member of any political party and accept any political philosophy, but we don't have to make this personal, we don't have to make this partisan, and we don't need to inject both of those in a debate like this on the floor. The fact is you can disagree with my bill because you don't think it does anything. That's fine. I can...we can agree to disagree. But to label people as something that is used around here as an evil word when, frankly, I don't think that they are or I don't think I am because I'm willing to challenge the status quo on an issue, that's concerning. And I hope, one, you vote no on the bracket motion, but two, I hope we learn something from this debate because we have some important issues ahead of us: wind energy, we have budget problems that we're going to be dealing with for years to come, we have issues regarding Workers' Comp, issues dealing with juvenile justice, energy. The last thing any of us should want to see is a distrust that builds in this body. The fact is, whether you voted for him or you didn't, whether you like him or you don't, the President last night said something that sticks with me. We can't have government be a campaign every day. It's not about who wins and who loses. If that doesn't stick with us in this body after we adjourn today, I'm concerned of what we're going to accomplish the remainder of my three years in this body. Because the fact is, that's what makes us different. Senator Lautenbaugh and me

Floor Debate
January 28, 2010

might disagree on this, but he's a cosponsor on a bill of mine I have this afternoon. There's things like that that we know separates us from other states and other bodies of democracy in this country. I hope that we remember that after this debate today because I don't want to have another debate like this again because it doesn't help anyone out. With that, Mr. President, I yield the remainder of my time to Senator Lautenbaugh. [LB635]

SPEAKER FLOOD: Two minutes eighteen seconds. There are no other lights on. You can choose to waive this and go on your own time, Senator Lautenbaugh. [LB635]

SENATOR LAUTENBAUGH: I do waive closing then...or I will waive that and go on to closing, I guess would be the best way to put it. [LB635]

SPEAKER FLOOD: Okay. You have two minutes. You waive all closing? [LB635]

SENATOR LAUTENBAUGH: No. I waive the offer of the time and go on to closing, Mr. Speaker. [LB635]

SPEAKER FLOOD: Okay. You're on your own time. You have 5 minutes. [LB635]

SENATOR LAUTENBAUGH: Thank you, Mr. Speaker, and I will not take all of that. And to be clear, no, this was not a bad day for the Legislature if you understand what the point is I'm trying to make here. We are all of us partisans to some degree. That is not a dirty word. The Legislature is officially nonpartisan but honestly, as I stand here, I don't recall if we have any independents. We may. But we are...I'm being told no from across the room by someone on the other side so, see, we are working together. But the point is this: Don't behave in a partisan manner, as we all do from time to time, and then stand up and decry partisanship, because there's a point at which the body, and I don't think I'm a lone man standing here, there's a point at which the body needs to be respected. We need to respect each other. We need not to try to delude each other. We need not to try to pretend we aren't who we are and just be clear about what we're doing. There's nothing wrong with being partisan. But if you are a partisan, don't pretend you're not and don't decry people who are too. That's the point of this debate. We do have a nonpartisan Legislature. We can debate over whether or not that's a good idea. The largest paper in the state loves the idea that we're a nonpartisan Legislature. I don't know if we function that way in reality, but on paper that's what we are. But it's not something we need to shrink from. And all I'm saying is be who you are, be respectful of our intelligence and be clear about what you're doing and why. And if I offended anyone today, as is possible, that was not my intent. And again it's always, like I said, the guy who hits back who gets flagged, but this has gone on and on and on and on. We work together but sometimes we all hang together for partisan purposes and it's not bad, but at least we need some truth in labeling. And with that, I would urge you to vote for the bracket motion. [LB635]

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

Floor Debate
January 28, 2010

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. Members, you've heard the closing on Senator Lautenbaugh's bracket motion, which would bracket LB635 until April 14, 2010. The question before the body is, shall LB635 be bracketed until April 14, 2010? All those in favor vote aye; all those opposed vote nay. This does take 25 votes in the affirmative to bracket. Senator Lautenbaugh, for what purpose do you rise? [LB635]

SENATOR LAUTENBAUGH: I'd request a call of the house. [LB635]

SPEAKER FLOOD: Members, a call of the house has been requested. All those in favor of putting the house under call vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB635]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB635]

SPEAKER FLOOD: The house is under call. All unauthorized personnel please remove yourself from the floor. All senators please return to the floor. The house is under call. Senators, please check in. Senator Ashford, Senator Price, Senator Cornett, Senator Christensen, Senator Conrad, please check in. Senator Cornett is not excused but unavailable. Senator Lautenbaugh, do you wish to proceed without her? [LB635]

SENATOR LAUTENBAUGH: Yes, I do, Mr. Speaker. [LB635]

SPEAKER FLOOD: Okay. Would you like a board vote? [LB635]

SENATOR LAUTENBAUGH: I'll take call-ins. [LB635]

SPEAKER FLOOD: Call-ins have been requested. Mr. Clerk. Senator Lautenbaugh, for what purpose do you rise? [LB635]

SENATOR LAUTENBAUGH: May I still request a roll call? [LB635]

SPEAKER FLOOD: You may. [LB635]

SENATOR LAUTENBAUGH: I do. [LB635]

SPEAKER FLOOD: Mr. Clerk, please record the roll in regular order. [LB635]

CLERK: (Roll call vote taken, Legislative Journal page 387.) 25 ayes, 12 nays, Mr. President, on the motion to bracket the bill. [LB635]

SPEAKER FLOOD: LB635 is bracketed until April 14, 2010. Mr. Clerk, items for the

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

Floor Debate
January 28, 2010

record? [LB635]

CLERK: Mr. President, Judiciary gives notice of public hearing. Senator Avery, an amendment to be printed to LB190 and to LB190A. Name adds:... [LB190 LB190A]

SPEAKER FLOOD: I do raise the call.

CLERK: ...Senator Dubas to LB689; Senator McCoy, LB747; Senator Nordquist, LB778; Senator Mello, LB800; Senator McCoy, LB836; Senator Nordquist, Cornett, LB988; Senator Cornett to LB990. (Legislative Journal pages 388-390.) [LB689 LB747 LB778 LB800 LB836 LB988 LB990]

And a priority motion: Senator Langemeier would move to adjourn the body until Friday morning, January 29, at 10:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel)