

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

Executive Board Committee
February 04, 2011

[LB576 LR5CA LR44CA]

The Executive Board of the Legislative Council met at noon on Friday, February 4, 2011, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB576, LR5CA, and LR44CA. Senators present: John Wightman, Chairperson; John Nelson, Vice Chairperson; Deb Fischer; Mike Flood; Russ Karpisek; Chris Langemeier; Steve Lathrop; Rich Pahls; and Lavon Heidemann. Senators absent: Mark Christensen.

SENATOR WIGHTMAN: Welcome to the Executive Board Committee hearing. My name is John Wightman; I'm from Lexington. I represent the 36th Legislative District and serve as Chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please turn off your cell phones or silence them. The order of testimony will be, first, the introducer, then proponents, opponents, neutral testimony, and closing. Testifiers sign in. There are testifier sheets by the chair there. Hand in the sign-in sheets to the committee page when you come to testify. Spell your name for the record before you testify. Please be concise. Written materials may be distributed to committee members as exhibits only while testimony is being offered. If you have such exhibits, hand them to the page for distribution to the committee and staff. We'll need 13 copies. If you have written testimony but do not have 13 copies, please raise your hands now so the page can make copies for you before we get to that particular hearing. If you do not wish to testify but would like your position to be a part of the record, you can sign the form found at the testifier's table by the testifier sign-in sheet. Now to introduce the members here today and various members of the committee: To my immediate right is committee counsel Janice Satra; to my left is committee clerk Jessica Shelburn. The committee members with us today, beginning at your far left, are Senator Steve Lathrop, District 12, Omaha; Senator Deb Fischer, District 43, from Valentine, Nebraska; Senator Rich Pahls, District 31, from Millard, Nebraska; Senator Chris Langemeier, District 23, from Schuyler, Nebraska. To my immediate right...or second from right, Senator John Nelson, District 6, Omaha, who also serves as Vice Chair of the committee; to his right, Senator Russ Karpisek, District 32, Wilber, Nebraska; next to him is the Speaker of the Legislature, Mike Flood, District 9, from Norfolk, Nebraska; Senator Christensen from District 44 at Imperial is not with us today; and Senator Lavon Heidemann to my far right, District 1, Elk Creek, Nebraska. So the committee will take up today the bills in the following order: the first one is LB576. And I'll ask Senator Nelson to Chair for awhile as I introduce that bill.

SENATOR NELSON: Thank you, Senator Wightman, and we want to welcome you today to introduce LB576. If you will sign in and state your name, please, for the record.

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SENATOR WIGHTMAN: (Exhibits 1-3) Thank you, Senator Nelson, members of the committee. LB576 creates the Nebraska Statutes Cash Fund. All money received from the sale of supplements and reissued or replacement volumes of the state statute would be credited to this fund under LB576. Currently, any money received from such sales goes into the General Fund. The process for distributing supplements and reissued or replacement volumes is set forth in state law, and that's why we have the bill here today. The Revisor of Statutes Office prepares statutes, supplements, and reissued or replacement volumes for publication. With approval from the Chair of the Executive Board, the Revisor enters into a contract for the printing of these books. The books are then sold and distributed by the Supreme Court for the price recommended by the Revisor and approved by the Chair of the Executive Board. Pursuant to Section 49-707, the price is to be "sufficient to recover all costs of publication." However, Section 49-617, a copy of which I will hand out and will be handed to you by the page, provides for the free distribution of statutes to about 1,000 individuals and entities. This means that we do not actually recoup the cost of all the books that are printed. LB576 simply would allow the Legislative Council to get back those funds from the books that are actually sold to help offset the cost of publishing the books. I have had drafted an amendment for your consideration which I will hand out. The amendment adds language to clarify the Nebraska Statutes Cash Fund would be used to offset the charges for the publication of the supplements and reissued or replacement volumes. Finally, the Court Administrator's Office has sent a letter, a copy of which is in your book, requesting an amendment to authorize the price of the supplements and reissued volumes to include not just publications but distribution costs. It is my understanding that currently the court includes a handling fee when distributing the books. They do not have clear authority to do so. This amendment would clarify that they can charge a handling or distribution fee. The amendment also creates the Nebraska Statutes Distribution Cash Fund to receive that share of the funds. Eric Asboe, the fiscal analyst for the Court Administrator Office, is available to answer questions regarding their amendment. If you have any questions, I would be happy to try to answer them. Scott Harrison from the Revisor's Office is also here if you have any questions for the Revisor's Office. So the purpose of this would be to create the cash fund that would receive these funds, and then that would be available to offset the printing costs, but it would be a separate fund. [LB576]

SENATOR NELSON: Are there any questions for Senator Wightman? Yes, Senator Lathrop. [LB576]

SENATOR LATHROP: Yes. Senator Wightman, this is a little off the topic. But since we handed out 49-617, do we want to, while we're engaged in this process, look at who we're giving these copies out...hard copies out? [LB576]

SENATOR WIGHTMAN: I think it would be... [LB576]

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SENATOR LATHROP: Two copies to each state senator, for example. I'm wondering, now that so many people are doing their research on-line, if we can't pare down this list of people that get an extra...get a free copy? [LB576]

SENATOR WIGHTMAN: I think that would probably be something we could take a look at and we would have to amend probably...I guess we're looking at the section. We're amending it anyway, so we could certainly... [LB576]

SENATOR LATHROP: Section 49-617, right? [LB576]

SENATOR WIGHTMAN: We could certainly take a look at that. [LB576]

SENATOR LATHROP: Okay. [LB576]

SENATOR WIGHTMAN: Any... [LB576]

SENATOR NELSON: Any other questions for Senator Wightman? [LB576]

SENATOR LATHROP: None from me. [LB576]

SENATOR NELSON: All right. Thank you then. Are there other proponents here to testify before the committee? Are there any opponents? Is there any neutral testimony? If not, then we will close the hearing on LB576. [LB576]

SENATOR WIGHTMAN: Thank you, Senator Nelson. Our next item on the agenda is LR44CA, and Senator Pirsch will introduce that bill...or the resolution. Senator Pirsch, you're recognized.

SENATOR PIRSCH: Thank you, Chairman Wightman, members of the committee. If I could just take a couple hours of your time here to explain my bill idea. There's two ideas enclosed in this bill and both are designed to increase the pool of candidates eligible to serve in the Legislature. Also, as a by-product, both ideas save the state money and lead to more efficient government operations. The two ideas are conceptually simple. First, have the Legislature meet every other year on odd-numbered years instead of every year as we do now, unless of course there's a need to meet and the Governor calls a special session. The second concept pushes the start date of the session to the first Wednesday in February instead of the first Wednesday after the first Monday in January. With respect to the first concept, several other states meet every other year, including Texas, a state with 24 million people. Obviously they encounter a plethora of complex issues that probably surpasses, because of the vastness of their state and the population, those issues that we encounter--and again they do so with a two-body legislature instead of a simple Unicameral as we operate. It's a realistic concept I guess is the point. The premise is that an additional pool of talented

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individuals would be able to serve in this body, if we could cut back all the time-killing frills inherent in meeting every year, so that these individuals could maintain viable employment while serving. Yes, there may be some changes to the way we operate if this bill does pass--I would posit changes for the better. A senator like me may not end up introducing the 19 bills such as I did this past session, and bills of marginal importance--and I won't delve into those examples--but they may tend not to find floor time as they perhaps have in the past, as we've had sufficient time with the annual session to entertain those. Staffing may be able to be reduced in some ways. The second concept that I would mention that affects many senators, I have found--I'll be brief on this--I've talked to many who because of the ice and snow and other dangerous winter driving conditions have had accidents or have nearly had accidents in driving to the Capitol. At the very least, drive times have been doubled on many occasions, or more, all affecting the legislative operations. One or two absent and tardy senators can change the result of committee votes, and snow days can make finding a quorum and receiving 25 votes, on occasion, difficult. We've had situations where the Legislature is open for business but the weather is so poor that the State Patrol has closed the gate to access to the interstate and the highways. Just as the Governor recently indicated he had no interest in serving in Washington, away from his home and family for long stretches at a time, so too are qualified people needlessly deterred from public service by obstacles of time and distance--and that includes this body. We should carefully examine each obstacle on a state level and ask: Do we really need to keep this obstacle in place? Does it play a useful function such that we should keep it? Or are we just keeping obstacles in place because that's always the way we've done things? These obstacles are real, I posit, not theoretical. Just thinking back a few years, a candidate in Omaha actually won the primary in District 9 and was, by a vast margin--really it was clear sailing for him--and he backed off. He thought about it and said: No thank you; I can't do this. He cited an inability to maintain his livelihood, given the time constraints that sessions, modern-day sessions, now demand. There are many more examples. Our goal should be to allow as many Nebraskans as possible the opportunity to bring their talents and experiences to serve in the Unicameral. We in Nebraska always have been willing to try new things that make sense: witness the Unicameral and nonpartisan nature of the body. I would ask you to give serious consideration to these two proposals and vote to advance this LR to the floor as a whole for consideration. Thank you for your time. [LR44CA]

SENATOR WIGHTMAN: Thank you, Senator Pirsch. Any questions? Senator Heidemann. [LR44CA]

SENATOR HEIDEMANN: Did you look at how North Dakota does this, and I don't know if Texas does it too, but how they handle their deficit? We have a biennial budget built in here the first year, which we're in right now, and then the next year is our deficit year. How do they handle that? [LR44CA]

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SENATOR PIRSCH: You know, I'm not exactly certain. I'll look into that for you, Senator. I do know North Dakota, you're right, does it, and Texas does do it as well, so it can be done. Obviously, if it gets to the severity that a special session need be called, then you can handle it in that manner. [LR44CA]

SENATOR HEIDEMANN: Well, are those states more prone to special sessions? [LR44CA]

SENATOR PIRSCH: I haven't...from the brief amount of research I've done into that, I've not heard any comments that would suggest that. So I...from the Governor Rick Perry, my understanding is that he's quite happy with the way things are going under that measure. [LR44CA]

SENATOR WIGHTMAN: Any other questions? Senator Pahls. [LR44CA]

SENATOR PAHLS: Senator Pirsch, then I'm to assume that the major concept behind what you're proposing, or the idea, is to allow more people to serve. Is that the primary...? [LR44CA]

SENATOR PIRSCH: To be eligible to serve. I think a lot of people are, because of their circumstances, just right from the git-go it's not a realistic plan for them to even consider running for the Legislature. And, you know...and I would think that it would lead to better results if we had a larger pool. Not to say that...you know, obviously I'm in the pool currently and I, you know, I'd like to think that I and all my colleagues are extremely experienced and bright, but there are some people who are excluded from the pool currently simply because of time constraints that I would consider to be, if you could chip back some of this, that they're needless and that you could chip back on it and widen the pool to a greater number of Nebraskans. [LR44CA]

SENATOR PAHLS: You know, I can see the merit of that idea. But I'm going to tell you, right now, in my...people know I'm up, but I know of at least five people, and they're not retired people, who are seeking District 31. So I'm just being honest with you. [LR44CA]

SENATOR PIRSCH: Yeah. Could be ten though, so. [LR44CA]

SENATOR PAHLS: That's true. Good point. Thank you. [LR44CA]

SENATOR WIGHTMAN: Anyone else have questions? Senator Nelson. [LR44CA]

SENATOR NELSON: Thank you, Senator Wightman. Do you think it would enable people like this every other year that they give them a full year in which to earn their full amount of income and that would help them subsidize the loss that they incur because of the 90 days in the odd-numbered session? [LR44CA]

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SENATOR PIRSCH: A great deal of the public, I would posit, works as an employee for a company or is self-employed in such position that they can't take off that great of amount of time. So yes, the more...I mean we're talking about significant amounts of time, if this is employed, that could be freed up for people to maintain a livelihood. And I would posit that...or maintain that, you know...and it's a balance. You know, what are you giving up in exchange for that? I think that we are...that in the greater balance of things we're slightly off kilter that there are things, activities, that we engage in that could safely be given up that won't jeopardize the quality of the body. [LR44CA]

SENATOR WIGHTMAN: Senator Langemeier. [LR44CA]

SENATOR LANGEMEIER: Thank you, Chairman Wightman. Thank you, Senator Pirsch. Since we had a lot of discussion about one word yesterday, I'm going to ask about one word today. One page 2, line 11, you take out...it talks about the majority of the members. The old language said the "majority of the members elected to the Legislature shall constitute a quorum." And you took "elected to" out and put the word "of," so the "majority of the members of the Legislature shall constitute a quorum." What does that change do? I mean what were you thinking on that? [LR44CA]

SENATOR PIRSCH: That's a Bill Drafters, I think, technical correction. It... [LR44CA]

SENATOR LATHROP: It might be because some of them aren't elected. [LR44CA]

SENATOR WIGHTMAN: I think that's exactly the point. [LR44CA]

SENATOR LATHROP: I got four people here now or a number of people that are not elected. [LR44CA]

SENATOR PIRSCH: Yeah. I think that that is a...it has nothing to do inherently with either of the proposals embedded in my LR concept, but I think it is something that in Bill Drafters that they have noticed to be maybe a little bit problematic languagewise. So very good catch, but not something that I'm principally concerned. However you want to decide that issue is fine with me. [LR44CA]

SENATOR LANGEMEIER: Okay. Thank you. [LR44CA]

SENATOR PIRSCH: Yeah. [LR44CA]

SENATOR WIGHTMAN: And I suspect we may have been operating under rules that we considered everybody to be elected when, in fact, some of them were appointed. [LR44CA]

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SENATOR PIRSCH: Okay. Yet another good reason to pass this bill, huh? Very good. [LR44CA]

SENATOR WIGHTMAN: Any other questions of Senator Pirsch? If not, thank you for being here. [LR44CA]

SENATOR PIRSCH: Thank you. I will waive my closing if I might. [LR44CA]

SENATOR WIGHTMAN: Okay. [LR44CA]

SENATOR PIRSCH: I'm not sure (inaudible). [LR44CA]

SENATOR WIGHTMAN: (Exhibit 4) And do we have other proponents of LR44CA? Do we have anybody in opposition to LR44CA? We do have a letter that I'll refer to and then...from a Susan Smith that writes in opposition to it. And so we will--and she's from Omaha--and we'll ask that it be made part of the record. Any other...anybody else in opposition? Anybody in a neutral capacity? If not, we'll close the public hearing on LR44CA. And Senator Krist was going to be here I think; I don't know. I guess we'll have to wait. He had another meeting I think. [LR44CA]

SENATOR PAHLS: Right. The Omaha delegation is meeting so he may have to go to that room.

SENATOR WIGHTMAN: Right. So in the meantime we'll await his presence. What? Senator.

SENATOR PAHLS: Well, I was just wondering, do you know what room the Omaha delegation is meeting?

SENATOR LANGEMEIER: Room 1023.

SENATOR PAHLS: You may have to go down there if we want him.

SENATOR WIGHTMAN: His staff was supposed to let him know when we were getting close is what he told me. So he may be here momentarily.

SENATOR FLOOD: Is there anybody here that's going to testify on this bill?

SENATOR WIGHTMAN: Is there anybody here that would testify either for or in opposition at this point, just a show of hands, with regard to LR5CA? Nobody. In a neutral capacity? Well, I think he could be here in....because he had told me he was going to have his staff alert him as we got close to it, so. (Pause) Senator Krist, we got to you a littler earlier than I thought we might, so will you...?

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SENATOR KRIST: (Exhibits 5 and 6) As soon as I catch my breath. Thank you for your indulgence. Thank you, Chairman Wightman, members of the Executive Board. My name is Bob Krist, K-r-i-s-t, and I represent the 10th Legislative District in Omaha. I appear before you today in introduction and support of LR5CA. LR5CA amends Article III, Section 10 of the Constitution of Nebraska to reduce the maximum number of days for the regular legislative session to 60 days in the odd years and 45 days in the even-numbered years. And I understand that this testimony is probably...or the subject matter is probably not new to anyone except Senator Lathrop, but I'll go through my rationale. In 1970, Nebraska voters established the maximum number of days for the regular legislative session as 90 days in odd-numbered years and 60 days in the even-numbered years. For over 100 years, even dating back to the days of the legislative Territorial Legislature, the Legislature convened only every other year until 1970. To preface, I want to draw your attention to the, ah-ha, buff-colored handouts. Notwithstanding the Governor's ability to call the Legislature into a special session, we as a body reserve the right to call ourselves into a special session at any time when needed. Nebraska Statute 50-125 states that when ten or more members of the body file a petition with the Secretary of State, and two-thirds of the members agree, the Legislature will convene a special session. Also, during a legislative session, if the body is unable to complete its work, Article III, Section 10 of the constitution allows for the session to be extended with a supermajority vote of the members. Nothing in LR5CA changes either of these two existing provisions. I believe having 150 legislative days over a biennium, in our part-time Legislature, is excessive. And if I could comment on that one point. I've not been here as long as many of you, but I don't consider this to be a part-time job. I've been down here many, many, many days, and I think that we all do that, so the actual time that we are in session is probably in relative proportion less than half the time we actually do...are working within our own structure. I distributed a handout, a graphic showing the number of state legislatures across the country that meet fewer than 150 days over a biennium. The eight states with full-time or year-round legislatures are shown in black so they are not confused with the part-time legislatures such as ours. Twenty states currently meet fewer days than Nebraska, and Wyoming and Alabama accomplish their work in 60 legislative days over a biennium. Virginia, a state with four and a half times Nebraska's population, meets 60 fewer days than Nebraska. Historically, if you look at the number of days you see the same issue come before you as a legislator, a reduction in legislative days is most reasonable. I believe a reduction in legislative days will bring forward more meaningful bills and allow members to narrow the focus of their legislation. With longer interims and the ability for us and our staff to investigate and research potential bills and their impact on stakeholders, I believe the end result will give us better legislation being produced and introduced. While the Legislature is a coequal branch of the government, alongside the executive and judicial branches, members of the other branches can devote 100 percent of their attention to their respective jobs since they are full time. We, on the other hand, the public servants who serve in part-time positions in a citizen legislature, serving 150

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legislative days keeps us away from the ranch, farm, law firm, our communities, businesses, families more than necessary, and it should be our choice, and it is our choice in most cases, to be here as needed. Another benefit would be the fiscal impact savings resulting from a reduction in the number of legislative days. As you are aware, constitutional amendments must be approved by the voters and subsequent statutory language introduced prior to the fiscal note being available on this proposal. But based on brief conversations with staff in both the Legislative Fiscal Office and the Legislative Accounting Office, cost savings estimated per reducing the number of legislative days by one-third possibly could save us near a half-million dollars--\$400,000 to \$500,000. In closing, I hope you will review this as a starting point in a discussion. I'll remain open for your thoughts and amending my proposal. Many have asked, why not 60-60? I would propose to you that in the beginning of a biennium there's always movement on committees, and 60 days appropriately to spin up a new committee base and then in the subsequent session, a 45-day session might be sufficient, any cut in the number of days will result in savings and narrowing the focus and potential legislative process. I thank this committee for their consideration of LR5CA and respectfully ask you to advance it to the General File where I think we could have a meaningful discussion on cost savings across the board. I apologize for being out of breath. It's not that Mayor Suttle is more important than this subject, but I felt that I needed to be present at that other discussion as well, and I thank you for your indulgence. [LR5CA]

SENATOR WIGHTMAN: Thank you, Senator Krist. Do we have any questions from the committee? Senator Heidemann. [LR5CA]

SENATOR HEIDEMANN: I don't know how it would work for any other committee, but just speaking for Appropriations I don't see anything less than a 90-day working when you are building in the first year of the Legislature to build our budget. We've been, up to this time, building our preliminary budget. From that point on, for the next month or a little over a month, we're in committee hearings. Then we literally we're up on the floor, and in Appropriations after we adjourn from the Legislature, and the Speaker so graciously at times adjourns early so we can start at 4 o'clock. Then we start working at that time, you know, after the Legislature is meeting full days. I don't know when we would have time to be able to build a budget in 60 days. [LR5CA]

SENATOR KRIST: Senator Heidemann, you above all people are the expert in that field. Although I, as a reference point for me as a brand-new senator, it seemed that we got an awful lot done in a very short period of time during the special session where we're cutting. And I think most of that, as I think you would concur, happened in the weeks prior to that special session coming together. I don't think it's going to be easy but I think that potentially there could be some savings in the number of days. [LR5CA]

SENATOR HEIDEMANN: And there wasn't anything that was dug deep during that special session. We did across the board cuts and some transfers, and that's the reason

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that worked. And I agreed it was pretty well set, somewhat, what we was going to do before that. There was a tremendous amount of work not only on the administration side but in the legislative side prior to that. And we actually adjourned, the special session, the Appropriations Committee worked at least one day when everybody else wasn't here to make that work. [LR5CA]

SENATOR KRIST: And I respectfully, again I say that you know that process better than anyone, but I think one of my major points here is we can call this a part-time job but many of us are here beyond, as you say. How much time we actually spend together donating our time on the floor and to the legislative process I think is what I'm speaking to. I think there are plenty of committees, those that I'm familiar with, those that I've been on, that will meet as required throughout the entire year to build it. So again I defer to your judgment in that area, but I would respectfully say that we're asking for consolidations and cuts and compromises and efficiencies, and so I bring you this. [LR5CA]

SENATOR HEIDEMANN: And I look at your map, and it's a good map and then I wonder how they're able to do it. So I'm trying to put myself on your side, and my question is, do they have to have a public hearing on every bill? And in our case, every agency, because every agency comes in and has a public hearing. So if you want to go with an idea like this, we might have to change how we handle things. [LR5CA]

SENATOR KRIST: Absolutely. I know I would say that just out of...my immediate response would be, in talking to the folks in Pierre...in Missouri and South Dakota and North Dakota and Montana, there are some big differences. The most glaring, obviously, is not having to have public hearings because of the two-house process. So there is a point to be made for that. On the other hand, the time spent, you know, in terms of committee work, goes far beyond...before and beyond the actual legislative process in almost every one of the states, so. Thank you again for your comments. [LR5CA]

SENATOR WIGHTMAN: Thank you, Senator Heidemann and Senator Krist. Senator Langemeier. [LR5CA]

SENATOR LANGEMEIER: Not that I want to use up any more time, but I'm going to ask a question and I'm not sure it's directed to you. But the budget has to come out on a certain number of days in our session. Does that...is that in rule or is that in statute, they would have to be fixed somewhere too to match up to this? Does anybody know? [LR5CA]

SENATOR HEIDEMANN: I think it's by rule. [LR5CA]

SENATOR LANGEMEIER: By rule? Okay. [LR5CA]

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SENATOR WIGHTMAN: I guess one thing that comes to mind is and that would only occur once every ten years is redistricting that would come up and could be an issue as far as shortening the number of days, and that has occurred during a long session but, so. [LR5CA]

SENATOR KRIST: It could very well be that every ten years we do a special session that's dedicated to redistricting, which would be a two-week period or a week period. And that, as I referenced the rules, we could call ourselves or the Governor could call us in, obviously, so. [LR5CA]

SENATOR WIGHTMAN: (Exhibit 7) Thank you, Senator Krist. Anybody else, any other member of the committee have a question? If not, we thank you for your presence. We did pull--and I assume the information is still the same. We have a letter that we want to put in, in opposition. Oh. Well, I was going to ask that. All right. We asked if there were any proponents. Are there any at this point? Is anybody in opposition? We do have a letter in opposition from the same party that, Ms. Susan Smith, which we'll make a part of the record in opposition to the change, suggested change in LR5CA. Anybody want to testify in a neutral capacity? If not, we adjourn the hearing on LR5CA. Oh, do you want to close? [LR5CA]

SENATOR KRIST: I think we've said it all. Thank you very much for your time. [LR5CA]

SENATOR WIGHTMAN: Okay. Thank you. With that, we have no further business. We'll be adjourned. [LR5CA]